

No. 25-183

IN THE

Supreme Court of the United States

THOMAS CROWTHER & MACHELLE JOSEPH,

Petitioners,

v.

**BOARD OF REGENTS OF THE
UNIVERSITY SYSTEM OF GEORGIA, *et al.*,**

Respondents.

**ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

**BRIEF FOR NATIONAL WOMEN'S LAW
CENTER, GWENDOLYN MINK,
MEMBERS OF CONGRESS,
AND GENDER JUSTICE ADVOCATES
AS AMICI CURIAE
IN SUPPORT OF PETITIONERS**

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INTERESTS OF AMICI CURIAE

The **National Women’s Law Center** (NWLC) is a nonprofit legal advocacy organization that fights for gender justice in the courts, in public policy, and in our society. NWLC’s work spans the issues that are central to the lives of women and girls—especially women and girls of color, LGBTQI+ people, and low-income women and families. Since its founding in 1972, NWLC has worked to secure equal opportunity in education and employment for girls and women through full enforcement of constitutional protections, Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972, among other state and federal statutory vehicles. This work has included advocacy with federal policymakers and participation in numerous Title IX and Title VII cases as counsel and amicus curiae, including before this Court, to ensure that rights and opportunities in education, in the workplace, and elsewhere are not unlawfully restricted based on sex.¹

The **American Association of University Women** (AAUW) is a nonpartisan, nonprofit organization founded in 1881 that advances equity for women and girls through research, education, and advocacy. AAUW has long supported robust enforcement of Title IX and related civil rights protections, including by joining prior amicus briefs defending equal educational opportunity and opposing sex discrimination. AAUW joins this brief

¹ Pursuant to Rule 37.6, no counsel for any party authored this brief in whole or in part and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief.

because Title IX's promise cannot be fulfilled if the women and workers who teach, lead, coach, and support students are denied the ability to enforce their own rights against sex discrimination.

Equal Rights Advocates (ERA) is a national civil rights advocacy organization dedicated to protecting and expanding economic and educational access and opportunities for people of all marginalized gender identities. Since its founding in 1974, ERA has practiced Title IX, Title VII, and related laws, leading efforts to combat sex discrimination and advance gender equality through litigation, policy reform, community education and outreach, and providing free legal assistance to individuals experiencing discrimination at work and in school. ERA has filed hundreds of suits and appeared as *amicus curiae* in numerous cases to defend and enforce gender equity protections in state and federal courts, including before this Court. ERA strongly asserts that Congressional intent requires broad application of Title IX in education programs and activities, including as it applies to employees and employment conditions, in order to effectuate the original purpose and intent of Title IX.

Legal Momentum, the Women's Legal Defense and Education Fund (Legal Momentum) is the nation's first and longest serving women's rights advocacy organization. For over 55 years, Legal Momentum has used the law to advance gender equity and expand economic opportunity for women and girls. It has extensive experience litigating and participating as *amicus curiae* in cases involving the interpretation and enforcement of laws prohibiting

sex discrimination, including Title VII and Title IX. It has advocated before this Court, including in cases addressing Title IX's protections against sex discrimination and harassment in education. Through its litigation, amicus and policy advocacy, Legal Momentum has developed expertise in the interpretation and enforcement of federal civil rights laws prohibiting sex discrimination and therefore has a strong interest in the Court's resolution of the questions presented.

Public Justice is a national public interest advocacy organization that fights against abusive corporate power and predatory practices, the assault on civil rights and liberties, and the destruction of the earth's sustainability. Public Justice has, for decades, litigated and advocated on behalf of workers and students who have experienced discrimination, including sexual harassment. From its significant experience, Public Justice recognizes that judicial enforcement of federal sex discrimination laws that is consistent with the statutes' full breadth and promise is crucial to ensuring students and employees who have endured discrimination receive the redress they deserve.

The **Women's Law Project ("WLP")** is a Pennsylvania-based public interest legal organization working to defend and advance the rights of women, girls, and LGBTQ+ people in Pennsylvania and beyond. WLP leverages impact litigation, policy advocacy, public education, and direct assistance and representation to dismantle discriminatory laws, policies, and practices and eradicate institutional biases and unfair treatment based on sex or gender.

WLP's advocacy efforts include equity in education, including athletics. Throughout its history, WLP has played a leading role in efforts to eliminate sex discrimination in athletics and education, representing student athletes in their efforts to achieve equal treatment and equal opportunity and pursuing public policy and educational initiatives aimed at realizing Title IX's goal of equality in athletics.

Gwendolyn Mink is the daughter of the late Congresswoman Patsy Takemoto Mink of Hawai'i, for whom Title IX was renamed in 2002. As a woman working in academia, whose scholarship centers on law, politics, and gender, Gwendolyn Mink has benefitted firsthand from the critical work her mother did to secure opportunities for all women working in education. From 1980 to 2001, she was a professor of politics at the University of California at Santa Cruz, where she chaired the Status of Women Committee for ten years. From 2001 to 2008, she was a professor of women's studies at Smith College, where she held the Charles N. Clark Chair. She also chaired the steering committee of the Women's Committee of 100 in the 1990s, a group of academics, activists, and policy experts committed to advising members of Congress on welfare reform. She has written about her mother's groundbreaking contributions to the fight for gender equality as a key legislative champion of Title IX in her most recent book, *Fierce and Fearless: Patsy Takemoto Mink, First Woman of Color in Congress*. Through the work she has done to carry forward her mother's legacy, Gwendolyn Mink has a strong interest in the Court's resolution of the question presented.

Senator Mazie K. Hirono is a U.S. Senator and the first Asian American woman and first woman senator from Hawai‘i. She was a close friend of the late Congresswoman Patsy T. Mink, for whom Title IX was renamed in 2002, and has been the lead Senate sponsor since 2019 of the Patsy T. Mink and Louise M. Slaughter Gender Equity in Education Act to strengthen implementation of Title IX. In 2022, she sponsored and secured the passage of the Speak Out Act, which protects employees who experience sexual harassment from being silenced by nondisclosure agreements. That same year, she also introduced the Students’ Access to Freedom and Educational Rights Act, which would strengthen Title IX’s protections against sex harassment, and the Survivor Outreach and Support on Campus Act, which would bolster sexual assault prevention and response in institutions of higher education. In June 2026, she led a bicameral resolution commemorating the 54th anniversary of Title IX’s passage. Having dedicated her career to championing strong Title IX protections and safeguarding all individuals, including employees, from sex discrimination, Senator Hirono has a strong interest in ensuring that this Court properly considers Title IX’s purpose and legislative intent in deciding this case.

Senator Lisa Blunt Rochester is a U.S. Senator from Delaware. In 2026, she cosponsored the Bringing an End to Harassment by Enhancing Accountability and Rejecting Discrimination (BE HEARD) in the Workplace Act, which would strengthen civil rights protections against workplace harassment. As a member of the House of

Representatives, she cosponsored the Ending the Monopoly of Power Over Workplace Harassment through Education and Reporting Act, which would, among other things, ban non-disclosure agreements as a condition of employment, promotion, or compensation, and she advocated to protect the EEOC's collection of demographic data. In June 2026, she co-led a bicameral resolution commemorating the 54th anniversary of Title IX. As a champion of strong protections against workplace sex discrimination, Senator Blunt Rochester has a strong interest in ensuring this Court affirms that employees may avail themselves of all available remedies under Title IX.

Congresswoman Adelita S. Grijalva proudly represents Arizona's 7th Congressional District, making history as the first Latina elected to represent Arizona in the U.S. Congress. Throughout her career in public service, she has been a steadfast advocate for educational equity, gender equality, and civil rights. Before her election to Congress, she served for 20 years on the Tucson Unified School District Governing Board and four years as Pima County District 5 Supervisor. In both roles, she championed inclusive education policies, strong investments in public schools, and the protection of students' rights. Since taking office, Congresswoman Grijalva has continued that commitment by co-leading a letter to the Department of Education urging the restoration and vigorous enforcement of Title IX protections for survivors of sexual harassment and assault. She also led a bicameral resolution commemorating the 54th anniversary of Title IX's enactment. As a member of Congress, Representative Grijalva remains committed to

advancing and defending Title IX's promise. She has a strong interest in ensuring that this Court fully considers the statute's purpose and legislative intent in resolving this case.

INTRODUCTION

As a would-be full-time professor of counseling, psychology, and economics in the late 1960s, Dr. Bernice “Bunny” Sandler was, by every objective measure, as qualified as the men hired over her. Yet, when she sought a faculty position at the University of Maryland in 1969 after completing her doctorate, she was rejected, and a faculty member—a man—explained it was because she “comes on too strong for a woman.” Bernice Resnick Sandler, *Title IX: How We Got It and What a Difference It Made*, 55 Clev. St. L. Rev. 473, 474 (2007). Dr. Sandler initially believed this assessment, blaming herself for participating in class and speaking up as a graduate student. She continued to be passed over for other full-time faculty positions. One interviewer explained to Dr. Sandler that he would not hire women because they stayed home to care for sick children. An employment agency counselor dismissed her as “not really a professional” and “just a housewife who went back to school.” *Id.*

Dr. Sandler soon recognized these rejections for what they were—sex discrimination—and she discovered that she was far from alone. She collected stories from women across the country and, after learning that many universities were doing the same to other women, filed federal discrimination charges against “about 250 schools” and a class action against all universities in the United States. *Id.* at 475–76.

Her research for the House Special Subcommittee on Education in Congress produced the first federal report documenting sex discrimination in education in the United States, and her work became a foundation for the vast legislative record on which Congress built Title IX. For her groundbreaking work, which all started because she faced employment discrimination in academia, Dr. Sandler, who passed away in 2019, is affectionately known as the “Godmother of Title IX.” 165 Cong. Rec. E817 (2019).

If she were alive today, Dr. Sandler would have much to be proud of. Our nation’s women and girls stand on her shoulders, and they continue to benefit from her legacy in education. But neither Dr. Sandler nor the Congress that passed Title IX would understand why, all these years later, this Court is now questioning whether the statute covers sex discrimination against employees in educational settings. This Court should stay the course that Congress set in 1972 and that the overwhelming majority of courts, including this Court, have followed since.

SUMMARY OF THE ARGUMENT

As this Court has recognized on more than one occasion, the contemporaneous legislative histories of Title IX and Title VII make clear that Congress intended educational faculty and staff to have redress under *both* statutes, not one or the other. Title IX’s language and legislative history make clear that Congress intended the law to sweep broadly to address the rampant sex discrimination in

educational institutions it had observed, including discrimination against faculty and other employees in pay, hiring, and promotions. Further, that Congress enacted both Title IX and the Equal Employment Opportunity Act of 1972, which removed Title VII's original exemption for educational institutions, at the same time reflects that Congress understood these provisions to work together as parts of a whole. This Court has relied on this legislative history repeatedly to reach the same conclusion: Title IX was intended to, and does, protect against a broad swath of sex discrimination in education, including against educational employees.

The Eleventh Circuit's decision below failed to account for this important context and was wrongly decided. Effectuating Title IX's broad remedial purpose is just as important today as it was at the time of the statute's enactment because individuals, particularly women, working in educational settings continue to face sex discrimination in employment. This Court should honor Congress's intent and reaffirm that employees of educational institutions have a private right of action to enforce Title IX.

ARGUMENT**I. CONGRESS ENACTED TITLE IX TO PROVIDE INDIVIDUALS WITH BROAD PROTECTION AGAINST SEX DISCRIMINATION IN EDUCATION PROGRAMS AND ACTIVITIES.**

During the hearings and debates leading to Title IX's passage, Congress extensively documented and considered the profound employment discrimination that women at educational institutions were facing. Witnesses, including women's rights advocates, academics, and school administrators, offered testimony during the 1970 Congressional hearings on discrimination against women in educational programs that was replete with examples of employment discrimination in schools. *See Discrimination Against Women: Hearings Before the Special Subcomm. on Educ. of the House Comm. on Educ. & Labor, 91st Cong. 242 (1970).*

In introducing Title IX, Senator Birch Bayh articulated that the "impact of this amendment" was meant to be "far-reaching," 118 Cong. Rec. 5111, 5808 (1972), as it was "designed to root out, as thoroughly as possible at the present time, the social evil of sex discrimination in education." *Id.* at 5804. The testimony and data before Congress at the time of Title IX's creation and passage make clear that the "social evil of sex discrimination in education" that Congress intended Title IX to "root out" necessarily included discrimination against women employees. The statute's text reflects this broad purpose, and this Court has made it crystal clear that, because

Congress used expansive language in drafting Title IX, the statute demands an equally expansive interpretation to eliminate all forms of sex discrimination against *any person* who participates in or is denied the benefits of an education program. This includes guaranteeing employees the ability to seek redress for sex discrimination in private litigation.

A. Title IX’s Legislative History Confirms Congress’s Intent to Eliminate Discrimination Against a Broad Class of Individuals, Including Employees.

Title IX provides that “[n]o *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) (emphasis added). As the legislative record—filled with testimony, congressional remarks, and data—makes plain, Congress intended for Title IX to protect women, like Dr. Sandler, who faced rampant employment discrimination by educational institutions.

In 1970, as Chair of the House Special Subcommittee on Education, Representative Edith Green introduced Title IX’s direct precursor, Section 805 of H.R. 16098, the Omnibus Postsecondary Education Act, and convened the first congressional committee hearings on sex discrimination in education. Due in large part to Dr. Sandler’s research and the extensive record of employment discrimination in higher education that she compiled

and placed before Congress, those hearings, spanning seven days, focused heavily on the discriminatory landscape women faced in academic employment. Dr. Sandler and other witnesses documented colleges' and universities' refusal to hire, promote, or give tenure to women, as well as institutions' refusal to pay women working as full-time faculty or provide them with benefits or even office space merely because their husbands taught at the same institution.

Dr. Sandler's testimony underscored that sex discrimination was "ingrained" in our society and negatively impacted women's ability to secure faculty positions, their opportunities for advancement in education, and their salaries. Across educational institutions, women were consistently underrepresented as faculty, with few achieving tenure. *Id.* at 299 (at Harvard's Graduate School of Arts, "of the 411 tenured professors ... *not one* is a woman"; at the University of Connecticut, while 33% of the instructors are women, only 4.8% of the full professors are women; at University of Massachusetts, only two of sixty-five women have tenure). She lamented that "[t]he higher the rank, the lower the percentage of women" represented. *Id.* (pointing to a study of 188 sociology departments that showed women made up 30% of doctoral candidates; 27% of the full-time instructors; 14% of the assistant professors; 9% of the associate professors; 4% of the full professors; and fewer than 1% of the department chairs). Dr. Sandler also demonstrated that women were significantly underpaid compared to men at all levels, noting "numerous national studies" documented that women working as instructors,

assistant professors, associate professors, full professors, and deans all made less than men in the same positions. *Id.* at 301.

Dr. Sandler explained that sexist stereotypes influenced the prevailing attitude on campuses that women were simply not fit to be professionals. 91st Cong. 242, 326 (“A professor in my own department ... sees nothing wrong in telling his students, men and women, that ‘women shouldn’t be professionals.’”); *see also id.* at 300 (women are denied job opportunities because of attitudes that “if a woman is not married, she’ll get married. If she is married, she’ll probably have children. If she has children, she can’t possibly be committed to a profession.”). “Essentially,” she concluded, “our universities punish women for being women.” *Id.* at 325.

Other witnesses’ testimony sounded similar themes. For example, Dr. Ann Sutherland Harris, a professor at Columbia University, said “[t]he higher in terms of rank, salary, prestige, or responsibility, the fewer the number of women to be found.” *Id.* at 244–25. *See also id.* at 253 (noting that Princeton tenured a woman for the first time in 1969, and that as of 1970, Yale had tenured only three women professors and Harvard had no women full or associate professors). Drawing from statistics of women’s distribution in faculty positions, she concluded that sexist attitudes impacted the way women were treated in employment. *Id.* at 244; *see also id.* at 253, 254 (explaining that universities often refused to hire women if their husbands worked in the same department and “[t]he idea that women,

married or single, don't really need jobs or need them as much as men do is a hard one to kill"). Similarly, Dr. Ann Scott, Chairwoman of the National Organization of Women's Coordinating Committee and a Professor at University of Buffalo, noted "the progressive evaporation of women as we climb the academic ladder, until at the top women simply disappear." *Id.* at 210. She pointed to a 1970 survey of her university showing that women constituted 20% of assistant professors, 17% of associate professors, 5% of full professors, and fewer than 1% of the top administration. *Id.* Dr. Scott named "the cultural attitude" that made discrimination against women "acceptable" as the culprit. *Id.*

Other witnesses testified that sexist stereotypes about women's leadership were just as common at elementary and secondary schools. As Daisy K. Shaw, Director of Educational and Vocational Guidance of New York City, remarked in her testimony, "the majority of teachers" in "schools across the country" were usually women and the principal was usually a man, owing to the fact that "[w]hen people think of a leader they more generally tend to think of a man in that position because of a long process of conditioning." *Id.* at 445. She also noted that "male superintendents usually select male executive assistants" because "they feel more comfortable working with men," and that both men and women "dislike working for a woman." *Id.* And Virginia R. Allan, Chairwoman of the President's Task Force on Women's Rights and Responsibilities, noted the "gross discrimination against women in education" made apparent by the "depressing" statistics from a National Education Association

study: men held 75% of elementary-school principal positions in the 1966-1967 school year, 96% of the junior-high-school principal positions in the 1964-1965 school year, and 90% of the high-school principal positions in the 1963-1964 school year. *Id.* at 452. Employment discrimination was not a peripheral concern of the 1970 Hearings; it was their centerpiece. That record was squarely before Congress when it enacted Title IX.

Representative Patsy Mink—who would go on to cosponsor Title IX with Representative Green and is known today as the “Mother of Title IX” for her advocacy, leadership, and authorship of the legislation—also testified at the 1970 Hearings about the discrimination faced by women who worked in academia. She told the committee: “Discrimination against women in education is one of the most insidious forms of prejudice extant in our nation ... Universities discriminate against women in hiring faculty,” which “reinforces the system of prejudice on our campuses that systemically deprives women of equal education.” *Id.* at 433. She described the discrimination: “when employed, women faculty members are frequently paid less than their male counterparts even though equally competent and equally experienced. Women faculty members are promoted less frequently than men. Even administration reflects the same pattern; deans of women are frequently paid less than deans of men.” *Id.* And she left no doubt about its cause: “[c]learly, these differences do not occur by accident. They are the direct result of consciously discriminatory policies....” *Id.* at 434.

Representative Mink’s testimony carries particular interpretative weight. As a member of the Education and Labor Committee, she became a key champion of Title IX, cosponsoring the legislation in 1971 and helping secure its passage in 1972. 143 Cong. Rec. H4217–18 (1997). Indeed, Congress itself has commemorated her Title IX leadership: in 2002, it passed a Joint Resolution, H.J. Res. 113, to rename Title IX as the “Patsy Takemoto Mink Equal Opportunity in Education Act.” Patsy T. Mink Equal Opportunity in Education Act, Pub. L. No. 107-255, 116 Stat. 1734 (2002). That one of the statute’s primary sponsors and eventual namesake made employment discrimination part of her testimony is especially telling: the evil at which Congress meant to strike included discrimination against women *working* in academia, not only those studying there.

Even the members who sought to narrow Title IX’s coverage understood—and assured their colleagues—that the statute would protect employees. In 1971, during House debate on amendments to the Higher Education Act, Representative John Erlenborn proposed exempting undergraduate admissions from the sex discrimination prohibition of Title X of the House bill, the provision that became Title IX. 117 Cong. Rec. 39248–63 (1971). In urging its adoption, Representative Erlenborn stressed how much his amendment would leave intact: it would still “allow the effects of nondiscrimination in this title to apply *to faculty, to employees*, and to admission practices in the graduate schools so that the *entry to the professions* would be protected,” and it would withdraw only “provision against sex discrimination in the case of undergraduate admissions.” *Id.* at

39260 (emphases added). (Congress ultimately adopted a narrower version of his amendment limited to admissions at private undergraduate institutions. 20 U.S.C. § 1681(a)(1).)

Senator Bayh, who introduced the language ultimately enacted as Title IX during the Senate’s debate on the Education Amendments of 1972, told his colleagues that “sex discrimination reaches into all facets of education—admissions, scholarship programs, *faculty hiring and promotion, professional staffing, and pay scales....* The only antidote is a comprehensive amendment such as the one now before the Senate,” which “would cover such crucial aspects as admissions procedures, scholarships, and *faculty employment, with limited exceptions.*” 118 Cong. Rec. 5111, 5803 (1972) (emphasis added).

Senator Bayh could not have been clearer about the statute’s application to employment discrimination. He named “employment practices for faculty and administrators” *first* on his list of areas of coverage “where abuse has been mentioned.” *Id.* at 5807. When Senator Claiborne Pell inquired further about coverage, Senator Bayh responded that it included, among other things, “discrimination in employment within an institution, as a member of faculty or whatever.... In the area of employment, *we permit no exceptions.*” *Id.* at 5812 (emphasis added). And in fact, employment is notably absent from Title IX’s narrow list of specific enumerated exemptions. *N. Haven Bd. of Educ. v. Bell*, 456 U.S. 512, 521–22 (1982) (“in fact, the absence of a specific exclusion for employment among the list of exceptions tends to

support the ... conclusion that ... ‘person[s]’ does extend to employees”).

Senator Bayh also cited numerous statistics demonstrating how women faculty were treated as second-class citizens in hiring, promotions, and pay. Indeed, the Congressional Record documenting the debate devotes an entire section to “Discrimination in Hiring and Promotion of Faculty and Administrators.” *Id.* at 5804. He referenced a study examining the gender makeup of faculty within thirty-six law schools from 1968-1970, which showed dramatic disparities between rates of hire for women and men. *Id.* at 5805 (noting that “out of a total of 1,625 faculty members, only 35 or 2.1 percent were women”). In Bayh’s words, this study reflected “the rule ... that once hired, women do not receive advancement as often as men.” *Id.* (observing that while almost half of the men at these schools were working as full professors, only 10% of women achieved the same status). Bayh said it was “just as clear” that there was a “[p]reference for men over women to fill administrative posts” at all levels of education, lamenting the significant dearth of women principals and superintendents in K-12 schools or top administrators at colleges and universities. *Id.* (referencing statistics from the 1970 Hearings showing that women make up only 22% and 4% of elementary school principals and high school principals, respectively; only two of 13,000 school superintendents; and “less than 1 percent of top administrators” at institutions like the University of Buffalo). Bayh also cited the gross gender disparities in pay at all levels of university employment. *Id.* (citing a 1970 factsheet from the Women’s Bureau of

the U.S. Department of Labor finding that, from 1965-1966, women working as instructors were paid \$410 less than men; paid \$576 less as assistant professors; paid \$742 less as associate professors; and paid \$1,119 less in full professorships).

Strikingly, even though Congress passed Title IX mere months after passing the Equal Employment Opportunity Act of 1972, which removed Title VII's original exemption for educational institutions, Congress never suggested withholding Title IX's remedial protections from employees. In fact, history points the other way. During the debates on the Education Amendments of 1972, Senator Bayh introduced the language that became Title IX alongside provisions mirroring Title VII's extension to educational institutions. He presented them as a single, integrated package, as a response to "the simple, if unpleasant, truth" that "we still do not have in law the essential guarantees of equal opportunity in education for men and women." 118 Cong. Rec. 5111, 5803-08. As noted, in summarizing the portion of his amendment prohibiting "sex discrimination in federally funded education programs," "employment practices for faculty and administrators" were first on Senator Bayh's list of areas of coverage "where abuse has been mentioned." *Id.* at 5807. As to the other portion of his amendment prohibiting "education-related employment discrimination," he explained that it "would apply Title VII's widely recognized standards of equality of employment opportunity to educational institutions." *Id.* Senator Bayh plainly understood the two statutes would do different work even where they overlapped: Title VII would supply familiar employment standards, and Title IX would

independently prohibit employment discrimination as a condition of federal funding. Congress enacted both. The presence of one remedy was never meant to extinguish the other.

At no point did Senator Bayh—or anyone else—suggest that Title VII’s newly extended coverage of educational institutions displaced Title IX’s protections for employees. Congress meant Title VII and Title IX to be complementary regimes for protecting employee rights in education programs, as this Court has recognized for decades. That Congress enacted Title IX three months after it amended Title VII does not mean that Congress somehow, *sub silentio*, intended for only one of the statutes to provide a remedy for employment discrimination by educational institutions.

If the legislative history predating Title IX’s enactment were not clear enough, Congress’s actions post-enactment reaffirm the statute’s broad reach. In 1975, Congress reviewed the Title IX regulations issued by the Department of Health, Education, and Welfare (HEW)—the Department of Education’s predecessor—to ensure they were “consistent with the objectives” of the statute. Sex Discrimination Regulations: Review of Regulations to Implement Title IX: Hearings Before the Subcomm. on Postsecondary Educ. of the H. Comm. on Educ. & Lab., 94th Cong. 467 (1975). Among other things, those regulations detailed how Title IX protects employees from discrimination by federally funded educational institutions—protections that remained in the regulations after Congress’s review. Indeed, as this Court recently emphasized, these “regulations

took effect on July 21, 1975, and they remain in place today. Because HEW’s interpretation of Title IX was ‘issued contemporaneously with the statute’ and has ‘remained consistent over time,’ it is ‘especially useful in determining the statute’s meaning.’” *West Virginia v. B. P. J.*, 609 U.S. ___, slip op. at 9 (2026) (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024)).

Congress also rebuffed additional efforts to narrow the statute’s coverage. During debates on the Education Amendments of 1976, for example, Senator James McClure sponsored an amendment to restrict the definition of “educational program or activity” to the “curriculum or graduation requirements of the institutions” receiving federal funds, which the Senate rejected. 122 Cong. Rec. 28136, 28147 (1976). Senator Bayh opposed the amendment in part because it “would exempt those areas of traditional discrimination against women that are the reason for congressional enactment of title IX,” including “employment and employment benefits.” *Id.* at 28144. Again, by 1976, Congress had already extended Title VII to employees of educational institutions—yet, neither Senator Bayh nor the Senate treated that coverage as any reason to read employment out of Title IX.

From the testimony that inspired the statute to the sponsors who wrote it and the Congress that refused to narrow it, the legislative record speaks with one voice: Title IX was enacted to combat a wide swath of sex discrimination in federally funded education programs and activities. That swath unquestionably includes discrimination against the

women and the many other employees who work in our nation's schools.

B. This Court Has Repeatedly Affirmed that Congress Wrote Title IX Using Expansive Language to Protect a Broad Class of Individuals, including Employees.

Time and time again, this Court has affirmed that, because of Title IX's broad language, its scope is expansive and applies to individuals experiencing sex discrimination in a federally funded educational program or activity—including employees. Seven years after Congress passed Title IX in 1972, this Court held in *Cannon v. University of Chicago* that the statute includes an implied private right of action to enforce the prohibition on sex discrimination in education programs or activities. 441 U.S. 677 (1979). This Court came to this conclusion in part because it found that Geraldine Cannon—a graduate student who alleged she was denied admission to medical school because of her sex—was an intended beneficiary of the statute, which “confers a benefit *on persons* discriminated on the basis of sex.” *Id.* at 690–94 (emphasis added). This Court also relied on Title IX's legislative history to conclude that Congress intended to create a private remedy under the statute. *Id.* at 694–703. Notably, in recognizing that remedy, this Court made no distinction as to the category of “person[s]” entitled to invoke it—much less suggest that it is not available for employees. This was because, as the *Cannon* Court observed and the legislative history makes clear, one of Congress's key purposes in enacting Title IX was “provid[ing] *individual citizens* effective protection against

[discriminatory] practices,” 441 U.S. 677, 705 (1979). (emphasis added)—not students alone.

To make matters even clearer, this Court held a few years later, in *North Haven*, 456 U.S. at 521, that school employees are “persons” to whom Title IX applies. In so holding, this Court acknowledged there is “no doubt that ‘if we are to give [Title IX] the scope that its origins dictate, we must accord it a sweep as broad as its language.’” *Id.* Like in *Cannon*, this Court focused again on Title IX’s use of the word “person” to hold that the 1975 HEW regulations detailing Title IX’s protections against employment discrimination were consistent with the plain text of the statute. *Id.* at 520 (Title IX’s “broad directive that ‘no person’ may be discriminated against on the basis of gender appears, on its face, to include employees as well as students.”). In particular, this Court noted that “Congress easily could have substituted ‘student’ or ‘beneficiary’ for the word ‘person’ if it had wished to restrict the [statute’s] scope.” *Id.* at 521. The legislative history confirmed what the text said. Reviewing Senator Bayh’s statements—and recognizing that remarks from the statute’s sponsors are “an authoritative guide to the statute’s construction”—the Court found that Bayh had described the amendment as reaching discrimination in employment at educational institutions. *Id.* at 526–27.

Adding together *Cannon*’s recognition that any “person” has a private right of action under Title IX plus *North Haven*’s holding that educational employees are “persons” yields only one possible sum: this Court has already decided that employees can

vindicate their rights under Title IX through private lawsuits. Yet, according to the Eleventh Circuit, only students have a private right of action because of the statute’s “focus on educational institutions and programs,” whereas somehow Congress’s intent to provide employees the same remedy is less evident because it is “less obvious” how they participate in or benefit from education programs. *Crowther v. Bd. of Regents of the Univ. Sys. of Ga.*, 121 F.4th 855, 868 (11th Cir. 2024). But this distinction lacks any basis in Title IX’s plain text, Title IX’s legislative history, this Court’s precedent, or indeed reality—particularly given the vast amount of information before Congress about employees’ experiences with sex discrimination in education programs.

First, as explained above, *Cannon* recognized that individuals have a private right of action under Title IX because of the statute’s focus on “persons” rather than educational institutions; notably, this Court did not distinguish between employees and students. 441 U.S. at 690–91. Second, Title IX protects individuals who are “excluded from participation in,” “denied the benefits of,” or “*subjected to discrimination* under any education program or activity” on the basis of sex. 20 U.S.C. § 1681 (emphasis added). The explicit statutory protections are not limited to those who “participate” in or “benefit from” education programs. Third, even if the statute limited its scope to those who “participate in” or “benefit from” education programs, this Court in *North Haven* already answered the Eleventh Circuit’s question of how employees participate in or benefit from educational programs: “[e]mployees who directly participate in federal

programs or who directly benefit from federal grants, loans, or contracts clearly fall within the first two protective categories described in [the statute].” *North Haven*, 456 U.S. at 520; *see* 20 U.S.C. § 1681(a) (listing these categories as “person[s]” who may not be (1) “excluded from participation in” or (2) “denied the benefits of ... any education program or activity receiving Federal financial assistance”). At no point did *North Haven* limit its rationale to the administrative-enforcement context, and it would be nonsensical to suggest that its textual analysis of the word “person” would change depending upon the avenue of relief an employee is pursuing. Because employees are “persons” under Title IX, they are undeniably members of the “benefited class” who enjoy a private right of action under the statute.

Jackson v. Birmingham Board of Education further underscores that Title IX’s broad language guarantees educational employees a private right of action for discrimination. In finding a coach, Roderick Jackson, could bring suit for retaliation after he complained to his school about unequal treatment of the girls’ basketball team, this Court held it was immaterial that the statute did not mention retaliation, because it has “repeated[ly] ... constru[ed] ‘discrimination’ under Title IX broadly” to prohibit various forms of misconduct not expressly enumerated, including sexual harassment. 544 U.S. 167, 174, 175 (2005) (citing *Franklin v. Gwinnett Cnty Pub. Schs.*, 503 U.S. 60, 74–75 (1992)); *see also id.* at 175 (noting that Congress used the “broad term” “[d]iscrimination,” which “covers a wide range of intentional unequal treatment” to “g[i]ve the statute a broad reach”) (citing *North Haven*, 456 U.S. at 521).

This Court acknowledged that Title IX’s cause of action was implied, derived from the statute’s “broadly written general provision on discrimination, followed by specific, narrow exceptions to that broader provision.” *Id.* at 175. Because Congress did not enumerate any specific discriminatory practices, “its failure to mention one such practice does not tell us anything about whether it intended that practice to be covered.” *Id.*

Critically, Coach Jackson was not a student but an employee—a fact that gave this Court no pause whatsoever. Its analysis rested entirely on the breadth of the statutory text, *not on the identity of the person invoking it*. Ensuring employees have a private right of action for sex discrimination is consistent with *Jackson*’s understanding of Title IX as striking at a wide spectrum of discrimination against a broad class of individuals in educational institutions. Conditioning an employee’s ability to bring private suits on the existence of a more specific directive in the statute cannot be reconciled with *Jackson*, or with the text of Title IX itself.

Taken together, *Cannon*, *North Haven*, and *Jackson* stand for the proposition that Title IX’s expansive nondiscrimination mandate confers a private right of action on educational employees for sex discrimination they experience. Indeed, every federal appellate court to consider the question since *Jackson*—save the Eleventh Circuit below—has recognized that employees and other non-

students may bring private lawsuits under Title IX,² many so holding precisely because of this Court’s decisions reaffirming that Title IX’s language sweeps broadly. *See, e.g., Vengalattore v. Cornell Univ.*, 36 F.4th 87, 106 (2d Cir. 2022) (“[G]iven the Supreme Court’s Title IX rulings ... we must honor the breadth of Title IX’s language.”); *Snyder-Hill v. Ohio State Univ.*, 48 F.4th 686, 707 (6th Cir. 2022) (citing *North Haven*, 456 U.S. at 521) (noting that *North Haven* “did not limit the statute” to students, “thus, Title IX’s plain language sweeps more broadly.”) The two federal appellate courts that held otherwise issued their decisions about a decade before this Court decided *Jackson. Lakoski v. James*, 66 F.3d 751 (5th Cir. 1995); *Waid v. Merrill Area Pub. Schs.*, 91 F.3d 857 (7th Cir. 1996). This Court should reaffirm the conclusion it already reached in *Jackson*, not only as a matter of *stare decisis*, but also because it is most consonant with Title IX’s text and Congress’s unmistakable intent in passing the statute.

II. SINCE TITLE IX’S ENACTMENT, SEX DISCRIMINATION IN EDUCATION HAS REMAINED PERVASIVE.

To be sure, since Dr. Sandler began advocating against sex discrimination in education decades ago, there have been significant advancements for women

² *See also Doe v. Mercy Catholic Med. Ctr.*, 850 F.3d 545, 562 (3d Cir. 2017); *Campbell v. Hawaii Dep’t of Educ.*, 892 F.3d 1005, 1023 (9th Cir. 2018); *Hiatt v. Colo. Seminary*, 858 F.3d 1307, 1316–17 (10th Cir. 2017); *Lipsett v. Univ. of Puerto Rico*, 864 F.2d 881, 896–97 (1st Cir. 1988); *Preston v. Virginia ex rel. New River Cmty. Coll.*, 31 F.3d 203, 206 (4th Cir. 1994); *O’Connor v. Peru State Coll.*, 781 F.2d 632, 642 n.8 (8th Cir. 1986).

and girls in education. Yet, sex discrimination in education remains rampant a half-century after Title IX was enacted—and nothing about the discrimination stops at the line separating students from staff. To the contrary, the discrimination that women and girls experience as students often follows them into, and intensifies within, the educational workforce. For example, more than one in five girls ages 14 to 18³ and nearly two in five women in college⁴ are sexually assaulted, with girls and women of color being more likely to be sexually harassed and then ignored or punished by their schools because they are disbelieved or blamed when coming forward.⁵ Sexual harassment continues unabated when former students reenter schools as educators. K-12 teachers face high rates of sexual harassment from their colleagues and students alike.⁶ And rates of sexual harassment in academia are as high as 58% among

³ Kayla Patrick & Neena Chaudhry, Nat'l Women's L. Ctr., *Stopping School Pushout for Girls Who Have Suffered Harassment and Sexual Violence* 1 (2017), https://nwlc.org/wp-content/uploads/2017/04/final_nwlc_Gates_HarassmentViolence-1.pdf.

⁴ David Cantor *et al.*, Ass'n of Am. Univs., *Report on the AAU Campus Climate Survey on Sexual Assault and Misconduct*, Table 33, A7-54 (revised Jan. 17, 2020), <https://www.aau.edu/key-issues/campus-climate-and-safety/aau-campus-climate-survey-2019>.

⁵ Elizabeth Tang *et al.*, Nat'l Coalition for Women & Girls in Educ., *Title IX at 50*, 10 (2022), <https://nwlc.org/wp-content/uploads/2022/06/NCWGE-Title-IX-At-50-6.2.22-vF.pdf>.

⁶ Alieza Durana *et al.*, New America, *Sexual Harassment: A Severe and Pervasive Problem* 39 (Sept. 26, 2018), <https://www.newamerica.org/insights/sexual-harassment-severe-and-pervasive-problem>.

faculty and staff—higher than any other work environment except for the military.⁷

Pregnancy discrimination also harms students and school employees alike. Pregnant and parenting students of all ages face many barriers to completing high school and college, including lack of accommodations and supportive school policies.⁸ Likewise, women who have children within five years of earning a PhD are less likely to receive tenure than men or women who delay or forgo childbirth,⁹ and women faculty who have a child pre-tenure are 20% less likely than men to receive tenure.¹⁰ When women professors of color become pregnant, even their teaching evaluations suffer noticeably.¹¹

⁷ Anais Lorens *et al.*, *Gender bias in academia: A lifetime problem that needs solutions*, 109:13 *Neuron* 2047, 2063 (July 7, 2021), <https://doi.org/10.1016/j.neuron.2021.06.002>.

⁸ Josia Klein *et al.*, Nat'l Women's L. Ctr., *Best Practices: Supporting Pregnant and Parenting Students in Middle Schools and High School* 9-10 (2024), https://nwlc.org/wp-content/uploads/2024/12/v2_singlepgs_nwlc_BestPracticesReport_PPS.pdf.

⁹ Catherine D. Clark & Janeen M. Hill, *Reconciling the tension between the tenure and biological clocks to increase the recruitment and retention of women in academia* 3 (2010), <https://files.eric.ed.gov/fulltext/EJ903572.pdf>.

¹⁰ Jeanine L. M. Skorinko *et al.*, *Overlapping Stigmas of Pregnancy, Motherhood, and Weight: Policy Implications for Employment and Higher Education*, 7:2 *Pol'y Insights from Behavioral & Brain Scis.* 123, 125 (2020), <https://doi.org/10.1177/23727322209432>.

¹¹ Ronke M. Olabisi, *The pregnancy drop: How teaching evaluations penalize pregnant faculty*, 8:253 *Humanities & Social Scis. Comms.* 1 (2021), <https://doi.org/10.1057/s41599-021-00926-3>.

On the playing field, students and school employees face sex discrimination as well. Schools often invest less in women's and girls' sports, providing them with less and lower-quality equipment, uniforms, and fields to play on compared to the men's and boys' teams.¹² While the gap is not as stark as when Title IX was enacted in 1972, girls and women still receive significantly fewer opportunities—about one million less—to play school sports compared to boys and men, and this disparity is only exacerbated for girls of color.¹³ The disparities persist when student-athletes graduate and become coaches. Among National Collegiate Athletics Association (NCAA) member schools, women only lead 41% of women's teams and 6% of men's teams.¹⁴ Despite the growing popularity of women's basketball, the highest-paid women's basketball head coach among NCAA teams is paid only 37% of the highest-paid men's head coach, which is less than the forty-fourth highest-paid men's head coach.¹⁵

Sex discrimination impacts both students' and school employees' ability to succeed in the science,

¹² Tang, *supra* note 5, at 34.

¹³ *Id.* at 33–34.

¹⁴ Nat'l Collegiate Athletic Ass'n, *Demographics Data*, Executive Summary: Demographics Database (2024-25), <https://www.ncaa.org/sports/2013/11/20/demographics-data.aspx>.

¹⁵ *Men's Basketball Head Coach Salaries*, USA Today (last updated Apr. 8, 2026), <https://sportsdata.usatoday.com/ncaa/salaries/mens-basketball/coach>; *Women's Basketball Head Coach Salaries*, USA Today (last updated Mar. 13, 2024), <https://sportsdata.usatoday.com/ncaa/salaries/womens-basketball/coach>.

technology, engineering, and mathematics (STEM) fields. Longstanding sex stereotypes discourage girls and women from studying STEM subjects, resulting in women earning only 35% of all STEM degrees.¹⁶ Again, sex discrimination does not end after graduation. For instance, women principal investigators receive only 40% of all research grants awarded by the National Institute of Health.¹⁷

It is no surprise, then, that sex discrimination deeply impacts school employees' ability to make a living and advance in their careers. Women teachers in K-12 schools are paid \$2,200 less annually than male teachers, despite comprising 77% of the profession.¹⁸ Similarly, women who are full-time faculty members are paid eighty-four cents on the dollar compared to their male peers.¹⁹ Women are only 36% of high school principals²⁰ and 26% of school district superintendents²¹ in K-12 schools. In higher

¹⁶ Dep't of Educ., Nat'l Ctr. For Educ. Stats., *Science, Technology, Engineering, and Mathematics (STEM) education, by gender* (last visited June 26, 2026), <https://nces.ed.gov/fastfacts/display.asp?id=899>.

¹⁷ Nat'l Inst. of Health, *NIH Data Book*, Data by Sex, Research Grants: Awards by Sex and Percentage to Female (last updated Jan. 2026), <https://report.nih.gov/nihdatabook/category/16>.

¹⁸ Madeline Will, *The Gender Pay Gap Is a Problem for Teachers, Too*, Ed Week (Mar. 13, 2023), <https://www.edweek.org/teaching-learning/the-gender-pay-gap-is-a-problem-for-teachers-too/2023/03>.

¹⁹ *Id.*

²⁰ Soheyila Taie *et al.*, Dep't of Educ., Institute of Educ. Scis., *Characteristics of 2020–21 Public and Private K–12 School Principals in the United States* 3 (Dec. 2022), <https://files.eric.ed.gov/fulltext/ED624617.pdf>.

²¹ Christopher H. Tienken *et al.*, AASA: The Sch. Superintendents Ass'n, *2024-2025 Superintendent Salary &*

education, women faculty members are less likely to be promoted,²² be tenured or tenure-track, or hold a full-time position,²³ and they comprise only 37% of full-time professors.²⁴ Only 33% of university presidents are women,²⁵ and at least ten of the top 146 research universities named their first woman president in 2023.²⁶

What makes these discrepancies more egregious is that women comprise the majority of undergraduate and graduate students: in fall of 2022, women made up about 8.3 million college students and 1.8 million graduate students (whereas men made up 6.1 million and 1.1 million, respectively).²⁷ Yet, once women enter the educational workforce,

Benefits Study, Non-Member Version, 11 (Mar. 2025), <https://files.eric.ed.gov/fulltext/ED671882.pdf>.

²² Katie Spoon *et al.*, *Gender and retention patterns among U.S. faculty*, 9:42 *Sci. Advances* 2 (Oct. 20, 2023), <https://doi.org/10.1126/sciadv.adi2205>.

²³ Glenn Colby & Ruben Guzman, *Data Snapshot: Women Faculty and Faculty of Color, Fall 2023*, 2 (Oct. 2025), https://www.aaup.org/sites/default/files/2025-10/Data_Snapshot_Women_and_Faculty_of_Color_final.pdf.

²⁴ *Id.*

²⁵ Am. Council on Educ., *Women in the College Presidency* (2023), <https://www.acenet.edu/Documents/Women-Presidents-ACPS-2023.pdf>.

²⁶ Jessica Bryant, *Percentage of Women Presidents at Elite Research Universities Is Increasing, Report Finds*, *Best Colleges* (June 8, 2023), <https://www.bestcolleges.com/news/analysis/number-of-women-presidents-increase-at-elite-research-institutions>.

²⁷ Lyss Welding, *Women in Higher Education: 5 Key Facts and Statistics*, *BEST COLLEGES* (Apr. 6, 2023), <https://www.bestcolleges.com/research/women-in-higher-education-facts-statistics/-fn-7>.

their participation, particularly in leadership positions, evaporates. Sexist attitudes and discrimination that women face as they climb the academic ladder have persisted since Title IX's enactment and are a major contributing factor for these outcomes.

Over fifty years after Congress confronted pervasive employment discrimination against women in education, that discrimination endures, and Title IX's promise remains unrealized. That promise can only be meaningful for women who work in education if they can enforce their right to be free from sex discrimination, including in court.

CONCLUSION

The record before Congress leading up to its creation and passage of Title IX and this Court's decisions in *Cannon*, *North Haven*, and *Jackson* all, unequivocally, point the same way: Title IX protects every person—including students and employees alike—from sex discrimination in federally funded education programs, and educational employees may enforce that guarantee in court. The discrimination women and girls still face today confirms how much this guarantee matters. Half a century after Dr. Sandler placed the evidence of employment discrimination in education before Congress, the work she began is far from finished. Stopping short of guaranteeing Title IX's promise to educational employees would be a tragic step backwards and would break faith with the statute, with Congress's unmistakable purpose, with decades of this Court's precedent, and with the legacy of tireless advocates

like Dr. Sandler, Representative Mink, Representative Green, Senator Bayh, Ms. Cannon, and Coach Jackson. This Court should reverse the judgment below.

Respectfully submitted,

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