

No. 25-183

IN THE
Supreme Court of the United States

THOMAS CROWTHER AND MACHELLE JOSEPH,
Petitioners,

v.

BOARD OF REGENTS OF THE
UNIVERSITY SYSTEM OF GEORGIA AND
GEORGIA TECH ATHLETIC ASSOCIATION,
Respondents.

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

**BRIEF OF AMICI CURIAE
WOMEN'S SPORTS FOUNDATION, ET AL.
IN SUPPORT OF PETITIONER**

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INTEREST OF AMICI CURIAE¹

Amici Curiae are the organizations Women's Sports Foundation, Alliance for Girls, Billie Jean King Enterprises, California Women's Law Center, Clearinghouse on Women's Issues, Eyekon Sports League, Women's Basketball Coaches Association, Female Coaching Network, Feminist Majority Foundation, For All Mothers+, National Association of Commissions for Women, National Association of Women Lawyers, National Fastpitch Coaches Association, National Field Hockey Coaches Association, National Women's Political Caucus, The Drake Group, Voice In Sport Foundation, Women Win, and Women's Gridiron Foundation, Inc., and the individuals Anna Johannes, Billie Jean King, Bridget A. Belgiovine, Brienne Smith, Carole A. Oglesby, Chardonnay Hope, David Sadker, Jazmine Smith, Lisa Bluder, Nicole M. LaVoi, Samantha Benzing, Tammi Gaw, Stephanie Wheeler, Tahirah Abdul-Qadir, LaChina Robinson, Vanese Barnes, and Vanessa Fuchs. These 36 amici consist of organizations, current and former coaches, professional and former athletes, current and former athletics directors, former athletic trainers, and academics who share a longstanding commitment to Title IX and, more broadly, to equity for all in education and athletics.

Amici curiae share a commitment to expanding opportunities for girls and women to participate in sports and believe it is important to draw the Court's attention to the crucial role of women's coaches in

¹ No counsel for a party authored any part of this brief; no party or party's counsel made a monetary contribution intended to fund the preparation or submission of this brief; and no person other than amicus curiae, its members, or its counsel made a monetary contribution to this brief's preparation or submission.

advocating for the rights of girls and women in athletics and in enforcing violations of Title IX.

Amici curiae hope to help the Court understand that while Title IX has expanded opportunities for girls and women, significant discrimination persists. That inequity will increase if coaches and employees of schools and universities are not able to bring claims under Title IX for sex discrimination in employment.

SUMMARY OF ARGUMENT

When coaches are protected, student athletes are protected. When advocates can raise concerns without fear of retaliation, educational institutions become stronger, more accountable, and more equitable. My own experience reinforced that Title IX is not merely a legal framework—it is a safeguard that helps ensure every young woman has a fair opportunity to pursue excellence through education and athletics. Protecting those who speak on behalf of student-athletes preserves the integrity and purpose of Title IX for future generations.

Jazmine Smith, Founder and CEO of Eyekonz Sports League, Former College Athlete and Coach

Barring coaches and other employees from bringing Title IX claims will leave pervasive discrimination unaddressed, deny women and girls the wide-ranging benefits of athletic participation, and severely weaken one of the nation's most consequential civil rights statutes. The Court should reverse the decision below and confirm that Title IX's protections extend to all students and employees of educational institutions who act to vindicate the statute's guarantee of equality in education.

For more than five decades, Congress has left undisturbed the mandate in Title IX to end discrimination in education against any person on the basis of sex. Most significantly, Title IX has resulted in massive benefits for women and girls in athletic programs. When the statute was enacted in 1972, women's participation in NCAA college sports stood at approximately 30,000; today, that figure has increased to 240,000 women.² In high school sports, there has been an over 1000% increase in the number of women and girls participating since 1972.³ These expanded opportunities have yielded profound returns, not just in competitive sports, but also in academic performance, professional advancement, and lifelong physical and mental health. Research consistently demonstrates that girls and women who participate in athletics earn higher grades, graduate at greater rates, ascend to leadership positions in business, and experience lower rates of depression and chronic disease. These gains depend on access to athletic programs free from discrimination, which is precisely what Title IX guarantees.

Yet Title IX's guarantee is a work in progress and vigorous enforcement remains essential to fulfill its intent. More than half a century after Title IX's passage, approximately 1.2 million fewer girls participate in high school sports than boys.⁴ At

² Nat'l Collegiate Athletic Ass'n, *Demographics Dashboard*, NCAA.org, <https://www.ncaa.org/what-we-do/research/demographics-dashboard/> (last visited July 15, 2026).

³ Ellen Staurowsky et al., *50 Years of Title IX: We're Not Done Yet*, Women's Sports Found., 7 (May 2022), https://womenssportsfoundation.org/wp-content/uploads/2022/05/13_Low-Res_Title-IX-50-Report.pdf.

⁴ Nat'l Fed'n of State High Sch. Ass'ns, *High School Athletics Participation Survey: Based on Competition at the High School*

the collegiate level, women’s programs continue to be shortchanged in participation opportunities and athletic scholarships.⁵ A 2024 Government Accountability Office (“GAO”) report found that around 93% of 2,008 colleges and universities with athletics programs and 65% of 11,400 high school athletics programs are likely to be out of compliance with Title IX with respect to participation rates between men and boys versus women and girls.⁶

Coaches, in particular, serve a unique and necessary function in the enforcement of Title IX. They remain with athletic programs across seasons, interact with administrators, and gain the high-level perspective required to identify disparities between men’s and women’s teams. Coaches possess the institutional knowledge and long-term exposure necessary to detect systemic inequities and to be willing to pursue multi-year litigation against their schools. For students, on the other hand, the fear of retaliation is compounded; athletes who speak up risk losing scholarships, playing time, and professional eligibility. Recognizing this reality, the Supreme Court held in *Jackson v. Birmingham Board of Education* that Title IX’s private right of action extends to employees who face retaliation for reporting sex discrimination. 544 U.S. 167, 171 (2005). Without such protection, students

Level in the 2024-25 School Year, 57 (2025), <https://aus.storyblok.com/f/1022696/x/85a6414d04/2024-25-nfhs-high-school-athletics-participation-survey.pdf>.

⁵ Donna Lopiano et al., *The Drake Group Position Statement: Title IX Athletics: Solving the Problem of Lack of Enforcement by the Department of Education Office for Civil Rights*, The Drake Grp., 1 (Aug. 2024), <https://www.thedrakegroup.org/wp-content/uploads/2024/08/FINAL-TDG-Response-to-2024-GAO-REPORT.pdf>

⁶ *Id.* at 10.

alone would bear the burden of enforcing the statute, whether by lodging informal complaints against their school, filing complaints with the Office for Civil Rights (“OCR”), or bringing lawsuits.

The decision below impairs Title IX’s enforcement structure and disregards the on-the-ground realities of women and girls in sports. By holding that employees of federally funded educational institutions cannot invoke Title IX’s private cause of action for sex discrimination in employment, the Eleventh Circuit broke with more than two decades of precedent and stripped coaches of the legal protection that enables them to advocate for their athletes without fear of reprisal. The consequences are especially acute for women coaches, whose presence is critical both as role models for female athletes and as institutional actors with the knowledge and incentive to expose systemic inequities affecting women’s and girls’ programs.

Title VII does not fill the gap. The Supreme Court itself has recognized that “Title VII...is a vastly different statute from Title IX.” *Jackson*, 544 U.S. at 175. Title VII’s exhaustion requirement, compressed filing deadlines, and capped damages impose burdens poorly attuned to the realities of educational employment. Coaches, whose professional lives revolve around mentorship, education, practices, and competition, cannot easily divert their attention to Equal Employment Opportunity Commission (“EEOC”) proceedings within tight timelines. More critically, the delays inherent in Title VII’s exhaustion process mean that affected athletes may graduate before any meaningful relief is achieved. Recognizing these differences, Congress enacted Title IX to operate alongside Title VII, not to be displaced by it.

ARGUMENT**I. Protection Of Coaches Is Required To Achieve Congress' Mandate For Title IX****A. Coaches of Women's Sports Are Included In Title IX's Broad Mandate, Which Serves To Outlaw Sex-Based Discrimination In Educational Programs, Including Athletics**

Protecting coaches' ability to raise and remedy violations of Title IX is crucial to honoring the intent of Title IX and preserving the far-reaching benefits it provides for women and girls. Enacted in 1972, Title IX was passed as a broad mandate with the goal of prohibiting sex-based discrimination in federally funded educational programs and activities. The intent behind Title IX is clear on the face of its text: "No person in the United States shall, on the basis of sex, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."⁷

The Eleventh Circuit erred by holding that employees of federally funded educational institutions may not invoke Title IX's private right of action to enforce the statute's protections against sex discrimination. Such a decision goes against Supreme Court precedent and sets Title IX jurisprudence back decades.

In accordance with Title IX's sweeping language, this Court has long held that Title IX protections

⁷ 20 U.S.C. § 1681. Congress enacted Title IX under its constitutionally prescribed spending powers. U.S. Const. art. I, § 8, cl. 1; see *Cummings v. Premier Rehab Keller*, P.L.L.C., 596 U.S. 212, 218 (2022).

extend beyond students and include coaches. *North Haven Board of Education v. Bell*, 456 U.S. 512, 520–21 (1982). In *Jackson*, the Court held that Title IX’s private right of action may be invoked by employees of federally funded institutions who suffer retaliation for reporting or opposing sex discrimination. 544 U.S. 167, 171 (2005). The Court has “consistently interpreted Title IX’s private cause of action broadly to encompass diverse forms of intentional sex discrimination.” *Id.* at 183.

B. Title IX Provides Important Benefits to Women and Girls And Should Therefore Be Protected, Not Weakened, as Violations of Title IX Remain Widespread

By ensuring opportunities for women and girls to participate equitably in athletics, Title IX produces innumerable associated benefits for women and girls. As the Court recently acknowledged,

“[p]articipation in sports has enabled countless American women and girls to be on a team, to take part in the human drama of athletic competition, to overcome the agony of defeat and know the thrill of victory. And those lessons and experiences in sports have empowered millions of American women who have gone on to thrive in all aspects of American life.”

West Virginia v. B.P.J., 609 U.S. ---, 2026 WL 1868739 (June 30, 2026), at *5; *see also id.* at *16 (“[Women athletes] form lifelong friendships and lifetime memories. They savor their athletic accomplishments and cherish them for years, even decades, after their playing days are over.”); *id.* at *20 (“Playing sports can lead to benefits that are immeasurable....”) (J.

Sotomayor concurring in part and dissenting in part).⁸ Denying women equal athletic opportunities, treatment, and benefits is, in effect, to deny them access to crucial developmental, academic, mental, and physical health benefits that contribute to a well-rounded and successful education and life.

Despite significant progress, violations of Title IX in women's athletics remain widespread, proving that enforcement protections remain necessary. To be sure, there have been positive developments in women's athletics in the last 54 years. In many ways, Title IX has been transformative for women in athletics by providing them with opportunities that have yielded significant benefits previously reserved largely for men.⁹ Since Title IX was enacted in 1972, girls' and women's participation in school sports has grown exponentially. More girls and women are enjoying the educational, career, and health benefits, and girls' participation rates in high school sports have

⁸ See also, Elizabeth A. Sharrow, Ellen J. Staurowsky & Bridgette M. Davis, *Play to Lead: The Generational Impact of Sports on Women's Leadership*, Women's Sports Found., 8–9 (Sept. 2024), <https://www.womenssportsfoundation.org/wp-content/uploads/2024/09/Play-to-Lead-Report-2024.pdf> (“Half of women (48.6%) credit the skills acquired through sports for their leadership development”); Ernst & Young Glob. Ltd., *Why Female Athletes Make Winning Entrepreneurs* (2017), https://www.ey.com/en_nz/athlete-programs/why-a-female-athlete-should-be-your-next-leader (“94% of women in the C-suite played sport, 52% at a university level”).

⁹ See Nat'l Coal. for Women & Girls in Educ. (NCWGE), *Title IX Athletics Policies: Issues and Data for Education Decision Makers* (May 10, 2007), <https://www.ncwge.org/PDF/TitleIXReport-5-10-07.pdf>; see also *West Virginia v. B.P.J.* at *1 (“Title IX transformed American sports and American life. Enacted in 1972, that landmark law promoted equal opportunity for female student-athletes and has facilitated the extraordinary growth of women's and girls' sports over the past 54 years”).

increased from approximately 300,000 in 1972, to approximately 3.5 million today.¹⁰ In NCAA college sports, women's participation rates have increased from approximately 30,000 in 1972, to approximately 240,000 today.¹¹

But significant imbalances persist. Girls and women still lag behind their male counterparts in athletic participation and resources. During the 2024–25 school year, nearly 84,000 more men participated in NCAA championship sports than women (approximately 319,000 men, compared to approximately 235,000 women).¹² Collegiate women athletes continue to receive significantly fewer participation opportunities and recruitment dollars, and they are short-changed on athletic scholarships and compensation for their coaches.¹³ For example, in the 2023–24 academic year, women's collegiate sports received approximately \$500 million less in athletic scholarships than men, and approximately \$190 million less in recruitment dollars.¹⁴

¹⁰ Nat'l Fed'n of State High School Ass'ns, High School Athletics Participation Survey 57, https://ncaaorg.s3.amazonaws.com/research/sportpart/2025RES_SportsSponsorshipParticipationRatesReport.pdf. (last visited Nov. 4, 2025).

¹¹ *NCAA Demographics Dashboard*, NCAA, <https://www.ncaa.org/what-we-do/research/demographics-dashboard/> (last visited July 15, 2026).

¹² NCAA, *NCAA Sports Sponsorship and Participation Rates Report (1956-57 through 2024-25)* 94 (Sept. 4, 2025), https://ncaaorg.s3.amazonaws.com/research/sportpart/2025RES_SportsSponsorshipParticipationRatesReport.pdf; see also *NCAA Demographics Dashboard*, *supra* note 11 (finding approximately 73,000 more men than women participating in sports overall).

¹³ Staurowsky et al., *50 Years of Title IX*, *supra* note 3, at 9.

¹⁴ *Gender Equity Dashboard*, Accelerate Equity, <https://accelerateequity.net/gender-equity-dashboard/> (last visited July 16, 2026).

Glaring imbalances between recent men’s and women’s college basketball tournaments, particularly in the weight rooms and training facilities, serve as another stark example of ongoing gender discrimination.¹⁵ At the 2021 NCAA championships, men’s teams had top-tier weight racks and lifting set-ups, whereas the women received yoga mats and a single tower of dumbbells.¹⁶ While not as visible, there were other disparities too, including the food, recreational opportunities, and gifts.¹⁷ Muffet McGraw, the former head coach of women’s basketball at the University of Notre Dame, confirmed from firsthand experience that, during her tenure from 1987 to 2020, women’s teams also have inferior support staff; her team had “interns, while the men [had] employees.”¹⁸

¹⁵ Emine Yücel, *Men’s and Women’s NCAA March Madness Facilities, Separate and Unequal, Spark Uproar*, NPR (Mar. 19, 2021, at 21:15 ET), <https://www.npr.org/2021/03/19/979395795/mens-and-womens-ncaa-march-madness-facilities-separate-and-unequal-spark-uproar>.

¹⁶ *Id.*; Gabriella Levine, *NCAA March Madness Drops the Ball for Women’s Basketball with Sexism Outrage*, NBC News (Mar. 23, 2021, at 04:34 ET), <https://www.nbcnews.com/think/opinion/ncaa-march-madness-drops-ball-women-s-basketball-sexism-outrage-ncna1261775>.

¹⁷ Kaplan Hecker & Fink LLP, *NCAA External Gender Equity Review, Phase I: Basketball Championships*, 7 (Aug. 2, 2021), <https://heckerfink.app.box.com/s/6fpd51gxxk9ki78f8vbhqcq0b00950xq>.

¹⁸ Interview with Muffet McGraw (July 14, 2026). McGraw served as head coach for the women’s basketball team at Notre Dame for 33 seasons, making her one of the longest-tenured coaches in NCAA Division I basketball history. McGraw led her teams to win two national championships, and has taken nine trips to the NCAA Women’s Final Four. In 2017, she was inducted into the Naismith Memorial Basketball Hall of Fame. McGraw was part of the first generation of women’s college basketball

Although the NCAA has worked to correct these inequalities, including by hiring law firms to conduct massive investigations, there still is not parity in resources or prize money in NCAA championship tournaments.¹⁹

Pervasive inequities also persist in high school athletics. Although the number of girls participating in high school sports has grown substantially, a large gap in participation between girls and boys remains. In 1972, only 294,000 girls competed in high school sports, a mere 7.4 percent of all high school athletes, compared to 3.67 million boys.²⁰ In the 2024–25 school year, approximately 1.2 million more boys than girls participated in high school sports (approximately 4.7 million boys and 3.5 million girls).²¹ As a result of

players to compete after Title IX’s passage, having played at Saint Joseph’s from 1973 to 1977. She has also been outspoken about gender equity in coaching and compliance.

¹⁹ See, e.g., Wynston Wilcox, *Explaining March Madness Payouts and How Schools Make Millions*, FanSided (March 16, 2026), <https://fansided.com/ncaab/explaining-march-madness-payouts-and-how-schools-make-millions> (stating that in 2026 for NCAA basketball, “The men’s tournament will have a prize pool of \$220 million to divvy up, while the women’s share is around \$20 million”).

²⁰ Women’s Sports Found., *Title IX 50th Anniversary Infographic* (Apr. 28, 2022), https://www.womenssportsfoundation.org/wp-content/uploads/2022/04/FINAL6_WSF-Title-IX-Infographic-2022.pdf; see also *50 Years of Title IX: We’re Not Done Yet*, *supra* note 3.

²¹ High School Athletics Participation Survey, *supra* note 10, at 57; see also, Elizabeth A. Sharrow, Ellen J. Staurowsky & Bridgette M. Davis, *Play to Lead: The Generational Impact of Sports on Women’s Leadership*, at 8-9 (Women’s Sports Found., Sept. 2024), <https://www.womenssportsfoundation.org> (establishing that high school girls in the 2022–23 season still had fewer opportunities than high school boys had at the passage of Title IX).

these differences, girls and women continue—more than 50 years after Title IX’s enactment—to lose out disproportionately on the critical academic, health, and leadership benefits of participating in sports.²²

C. Title IX Is Primarily Enforced Through Complaints By Private Individuals, Including Coaches and Employees

Individual complaints remain the primary enforcement mechanism for Title IX. According to the GAO, 96% of Title IX cases opened between the 2008–09 and 2021–22 academic years were initiated in response to complaints.²³

And even when an individual does file a complaint, delays abound throughout the OCR’s case manage-

²² See, e.g., Nat’l Coal. for Women & Girls in Educ. (NCWGE), *Title IX at 45: Advancing Opportunity through Equality in Education*, 41, 42 (2017) (girls and women who play sports report levels of self-confidence and psychological well-being, and that these benefits contribute to their success in the workforce); Women’s Sports Foundation, *Teen Sport in America, Part II: Her Participation Matters*, Women’s Sports Found. (Apr. 15, 2021), https://www.womenssportsfoundation.org/articles_and_report/teen-sport-report-ii/ (sports participation was correlated with higher self-reported self-esteem, self-efficacy, and social support, and with lower levels of self-reported depression, loneliness and suicidal thoughts); Ellen J. Staurowsky et al., *Chasing Equity: The Triumphs, Challenges, and Opportunities in Sports for Girls and Women* 28-29, Women’s Sports Found. (Jan. 2020), https://www.womenssportsfoundation.org/articles_and_report/chasing-equity-the-triumphs-challenges-and-opportunities-in-sports-for-girls-and-women/. (girls and women who participate in sports have higher grades, academic achievement, and graduation rates than their non-athlete peers).

²³ U.S. Gov’t Accountability Off., GAO-24-105994, *College Athletics: Education Should Improve Its Title IX Enforcement Efforts* (2024), <https://www.gao.gov/products/gao-24-105994>.

ment process. In the GAO’s audit of 14 years of OCR Title IX enforcement activity, it found that the OCR took an average of six months to respond following submission of athletics monitoring reports, and in 44 out of 332 reports, did not respond for a year or more.²⁴

Individual enforcement of Title IX via private rights of action has become even more important in light of funding cuts to the OCR,²⁵ and the administration’s recent announcement that many of the OCR’s functions will be transferred to the Department of Justice, leaving the future enforcement actions of Title IX violations initiated by the OCR uncertain.

Consistent with these statistics, the Court has acknowledged that whistleblower complainants are essential to Title IX’s enforcement. In *Jackson*, the Court reasoned, “[r]eporting incidents of discrimination is integral to Title IX enforcement and would be discouraged if retaliation against those who report went unpunished. Indeed, if retaliation were not prohibited, Title IX’s enforcement scheme would

²⁴ Donna Lopiano et al., *The Drake Group Position Statement: Title IX Athletics: Solving the Problem of Lack of Enforcement by the Department of Education Office for Civil Rights*, at 6, The Drake Grp., Aug. 2024, <http://thedrakegroup.org/>.

²⁵ Rebecca Carballo, Mackenzie Wilkes and Bianca Quilantan, *Trump to shift more programs out of Education Department in latest move to shutter agency*, POLITICO (June 16, 2026), <https://www.politico.com/news/2026/06/16/trump-to-shift-special-ed-to-xx-in-latest-move-to-shutter-education-department-00963237> (“The [] administration has slashed Education Department’s civil right office’s workforce by half and has shuttered 7 of the 12 regional offices nationwide. Hundreds of civil rights staffers were let go during the government-wide reduction in force last year. Many did not return even after the department started calling workers back, while other employees have chosen to leave in recent months . . .”).

unravel.” 544 U.S. 167, at 180 (2005). Whistleblower coaches are thus vital to Title IX’s enforcement scheme, which is reliant on such complainants. Stripping these coaches of their private right of action would eliminate one of Title IX’s most effective enforcement mechanisms and leave schools free to retaliate against employees who advocate for equal treatment, severely weakening the effect and reach of the statute.

II. Protecting Coaches From Retaliation Under Title IX Is Vital To Upholding Title IX’s Purpose

A. Students Face Unique Challenges Relative to Coaches and Employees When Bringing Title IX Complaints Against Their Own Schools

Given their short tenure at educational institutions and the perceived risk of retaliation, athletes alone cannot shoulder the burden of Title IX enforcement, particularly as it relates to systemic discrimination.

Coaches are far better positioned than students to identify systemic, ongoing discrimination, especially where, under Title IX, the discrimination must be evaluated to determine if it affects an entire program rather than a single student or team.²⁶ As this Court recognizes, students may be unaware (in comparison to their coaches, for example) of their rights under Title IX in the context of athletics or of the

²⁶ Erin E. Buzuvis, *Sidelined: Title IX Retaliation Cases and Women’s Leadership in College Athletics*, 17 Duke J. Gender L. & Pol’y 1 at 45 (2010) (“[c]oaches are uniquely situated to perceive whether the resources their teams receive are adequate and fair and to present evidence of disparities”).

mechanisms available to enforce them. *Jackson*, 544 U.S. 167, 181 (2005). Unlike students, whose time with a program is limited to several years, coaches may remain for decades. Coaches observe patterns across seasons, interact regularly with administrators, and understand how resources are distributed across men’s and women’s teams. McGraw noted that “as a coach, you have more information than your players.”²⁷ McGraw had information about “budgets, the way [the team] travel[s], hotels, meals” for both “[her] program and the men’s program” and therefore, was “in a better spot to compare” than her athletes, who “only [saw] what’s public.” She also observed that athletes did not feel “confident enough to raise issues of inequity with anyone other than the coach.” As the primary intermediary between athletes and the administration, a coach is best positioned to detect systemic inequities that unfold at the institutional level over time, allowing them to vindicate the rights of all affected athletes and future students who will be harmed by the same conduct.

Relative to coaches and other employees, students face greater obstacles as enforcers of Title IX in athletics. For example, over a typical four-year college career, students see only a narrow slice of a program’s history and may not have visibility into recurring or systemic inequities that take place over time or at the administrative level. Tellingly, most Title IX cases brought by students originate when a team is cut rather than when a team is more subtly subjected to unequal opportunity or treatment. *See Parker v. Franklin County Cmty. Sch. Corp.*, 667 F.3d 910, 916 (7th Cir. 2012) (“...a majority of litigation under Title

²⁷ *See* Interview with Muffet McGraw, *supra* note 18.

IX has focused on ‘accommodation’ claims where plaintiffs assert that schools have failed to establish athletic programs to meet the interests and abilities of the underrepresented sex.”) There have been few cases brought by students that “have focused on ‘equal treatment’ claims seeking substantial equality in program components of athletics.” *Id.* This trend exists because students are not necessarily privy to systemic, program-level inequality when it occurs outside of their direct experience on a specific team.

The length of time from complaint to resolution also undermines a student’s incentives to bring a Title IX complaint. The OCR database currently lists 199 pending Title IX athletics cases at elementary-secondary and post-secondary schools, with some cases as old as 19 years.²⁸ Litigated cases are no more efficient, frequently spanning years and outlasting a student’s tenure in the athletic program she seeks to protect. *See, e.g., Fisk v. Bd. of Trs. of the Cal. State Univ.*, 2026 U.S. Dist. LEXIS 86711 (2026) (covering events which occurred from 2018 to 2025 and settling in April 2026, after many class members had already graduated). A four-year high school or college student may never receive a final outcome before graduation, at which point she forfeits the benefits of any equitable remedies. Because resolution so often outlasts enrollment, students have reduced incentives to file system-level discrimination complaints.

Even where students are willing to file a complaint, the risks of doing so are significant. In addition to the unlikelihood that they will enjoy the remedies at the

²⁸ *Pending Cases Currently Under Investigation at Elementary-Secondary and Post-Secondary Schools*, Off. for C.R., U.S. Dep’t of Educ., <https://ocrcas.ed.gov/open-investigations> (last visited July 16, 2026).

heart of their complaint, students risk retaliatory consequences while a complaint or lawsuit is pending.²⁹ Athletes who file a Title IX complaint risk their reputation with the administration, and as a result, their scholarships and financial aid, participation time in competitions, transfer opportunities, graduate school admissions, and professional eligibility. Even if ultimately compensated by a resolution years after the fact, students who bring complaints may jeopardize their entitlement to the rights of athletes that the Court recently enumerated in *West Virginia v. B.P.J.*: appearing on the roster or the starting lineup, adequate playing time, and striving for a medal. 609 U.S. ---, 2026 WL 1868739, *23 (2026).

Students are integral but transient members of any athletic program. Title IX relies on coaches and long-term employees to hold programs accountable when they fail to meet the statute’s mandate of equality.

B. Coaches Must be Protected from Retaliation Under Title IX if they are to Continue Enforcing Compliance

Title IX’s enforcement mostly relies on individuals to identify and report discrimination.³⁰ Coaches, particularly women coaches, are understandably wary

²⁹ See, e.g., Deborah L. Brake, *Retaliation*, 90 Minn. L. Rev. 18 at 37 (2005) (noting that fear of retaliation is among the primary reasons students do not report sexual harassment); *Perez v. Quinnipiac Univ.*, No. 3:2026cv00898, 2026 U.S. Dist. LEXIS 145339, at *6 (D. Conn. 2026) (alleging the women’s team was demoted to club status partially because their coach “...repeatedly raised concerns that the University treated women’s programs, female coaches, and female student athletes unequally”).

³⁰ U.S. Gov’t Accountability Off. *supra* note 23.

of the retaliation that may follow their Title IX claim.³¹ In a 2013 study, 17% of athletics coordinators who participated responded “Yes” or “Maybe” to the statement “You could lose your job for advocating for Title IX,” with more women than men answering “Yes.”³² In light of such threatened and perceived harms, Title IX’s protection against retaliation is vital.³³ Losing Title IX’s protective mechanism would further increase the anxieties of coaches who notice inequity but fear retaliation. Ceasing to protect whistleblower coaches would further encourage coaches’ reticence, with athletes paying the price in the form of weakened Title IX enforcement.

Jazmine Smith, a non-profit founder and field hockey and lacrosse coach, described this connection between coach protection and student-athlete welfare from firsthand experience³⁴:

³¹ See *Perez v. Quinnipiac Univ.*, *supra* note 29.

³² See Buzuvis, *supra* note 26 at 7 (“[Under Title IX, a] whistleblower coach will be more likely to challenge the reprisal against her even if she would not (or could not) have directly challenged the discrimination she perceived due to legal or evidentiary weaknesses inherent in such claims”).

³³ *Id.*

³⁴ Written Statement by Jazmine Smith submitted to the Women’s Sports Foundation (July 13, 2026). Smith is the founder and CEO of Eyekon Sports League, established in 2013 to bring field hockey and lacrosse to African American girls in the Philadelphia area. Having been an athlete and served as a coach herself, Smith is a long-time advocate of increased athletic opportunities for young women and girls of color to expand their worldview and develop discipline. Her work at Eyekon will be the subject of a documentary by the USA Olympic Field Hockey Association.

“When coaches are protected, student-athletes are protected. When advocates can raise concerns without fear of retaliation, educational institutions become stronger, more accountable, and more equitable. My own experience reinforced that Title IX is not merely a legal framework—it is a safeguard that helps ensure every young woman has a fair opportunity to pursue excellence through education and athletics. Protecting those who speak on behalf of student-athletes preserves the integrity and purpose of Title IX for future generations.”

Muffet McGraw echoed Smith’s sentiment, describing advocacy as an obligation coaches owe to their athletes, not the reverse: “If we don’t have the ability to fight for our own rights, according to the law, then what are they expecting? The players fight for us? It should be the other way around; we should be fighting for them. We’re the adults in the room.”³⁵

Coaches are among the most impassioned advocates for their players, and Title IX’s protections empower them to speak up when inequities arise. Without protection from retaliation, coaches will be discouraged from raising claims on behalf of their athletes, and student athletes will ultimately bear the harm.

C. Stripping Coaches of Title IX Remedies Will Chill Enforcement

Women coaches, in particular, rely on Title IX’s protections and yet women coaches—like all women and girl athletes—have yet to realize the promise of Title IX. Women coaches challenge societal notions of

³⁵ See Interview with Muffet McGraw, *supra* note 18.

exclusion and model belonging for female athletes.³⁶ Their presence helps college athletes see a future for themselves in athletics leadership and makes inequities in athletic programs more visible to those charged with addressing them.

Women coaches are among the few institutional actors with both the knowledge and incentive to identify inequities affecting women's teams. If coaches are chilled from raising concerns, schools lose an internal mechanism for identifying and correcting discrimination before litigation becomes necessary.

Since Title IX's passage in the 1970s, the percentage of women coaching girls' teams has declined.³⁷ Removing coaches' private right of action to challenge retaliation would compound that problem. Although male and female coaches would both lose the same cause of action, the effects would fall disproportionately on women. Because women already coach at lower rates and appear more prone to leaving the profession, added exposure to retaliation may deter women from entering coaching or push current women coaches out. In other words, stripping coaches of their right to challenge sex discrimination in employment under Title IX would undermine the equality the statute is meant to achieve.

³⁶ Women's Sports Found., *Coaching Through a Gender Lens: Maximizing Girls' Play and Potential* (2019), <https://www.womenssportsfoundation.org/wp-content/uploads/2019/04/coaching-through-a-gender-lens-report-web.pdf>.

³⁷ Peg Pennepacker, *Sports Participation Barriers for Girls – Challenges and Solutions*, NFHS (January 13, 2026), <https://nfhs.org/stories/sports-participation-barriers-for-girls-challenges-and-solutions>.

**D. The Distinction Between Students and
Employees Is Not Useful or Administra-
ble In The Title IX Context**

The experiences of students and coaches cannot be neatly disentangled. In athletics, a coach's working conditions and student-athletes' educational opportunities are deeply intertwined. The same disparities in facilities, budgets, staffing, scheduling, recruiting support, and institutional respect that burden coaches' abilities to do their job also diminish the experience and opportunities of the students they coach. Athletes whose coaches toil under lower pay, worse facilities, or a retaliatory administration necessarily experience those same inequities through the resulting burden on their coaches.

Athletes are entitled to properly supported coaches because their success and experience is shaped by their coaches' ability to do their job well. Separating the experience of athletes and coaches into distinct harms obscures how discrimination actually operates within athletic programs. Congress acknowledged this interdependence by enshrining the right of the athlete to a fairly-treated coach within Title IX, which expressly includes the "opportunity to receive coaching" and "assignment and compensation of coaches" among the factors used to evaluate the equal treatment of women athletes.³⁸ Moreover, stripping coaches of their private right of action under Title IX creates a distinction that is contrary to its statutory text, which explicitly states that "[n]o *person*...shall, on the basis of sex...be denied the benefits of, or be

³⁸ 34 C.F.R. § 106.41(c)(5)-(6).

subjected to discrimination under any education program or activity...” (emphasis added).

E. Treating students and coaches as categorically separate may produce absurd results

If university employees are stripped of their private remedy under Title IX, the effectiveness of Title IX will be further threatened. College-athletes are pursuing employee status in court, *see, e.g., Johnson v. National Collegiate Athletic Association*, 108 F.4th 163 (3d Cir. 2024). Additionally, numerous bills have been introduced at the federal and state level that seek to classify college athletes as employees. If that occurs, depriving employees of their private right of action under Title IX could produce a perverse result: college-athletes deemed employees of their school would lose the right to sue under Title IX. It is difficult to imagine an outcome further from Congress’s vision for Title IX. Courts, schools, coaches, and athletes should not have to litigate threshold questions about whether challenged retaliation is more closely tied to an individual’s student or employee status, or is dependent on the evolving legal status of athletes, before Title IX protections can apply.

Given the tight and intertwined relationship between the coach’s experience of discrimination or retaliation and the student’s experience, a clear rule tied to the underlying discrimination in education programs, rather than the status of the party bringing the lawsuit, is more administrable and more faithful to Congress’s vision of Title IX.

III. Title VII Is Not A Practical Substitute For Title IX In This Context

A. Title VII Has A Different Reach Than Title IX

From the perspective of athletes and coaches, Title VII and Title IX work very differently from one another and pursue different aims.³⁹ Title IX operates on a much broader scale than Title VII. As poignantly stated by the great Billie Jean King, Title IX is “one of the most important pieces of legislation of the 20th [c]entury.”⁴⁰ Proponents have long viewed the legislation as “a fundamental step forward in advancing women’s rights.”⁴¹ Described as “the legislative equiva-

³⁹ Legally speaking, too, these statutes are different. Although the issue of sex discrimination is addressed by both Title VII and Title IX, as this Court has observed, “Title VII . . . is a vastly different statute from Title IX.” *Jackson*, 544 U.S. 167, 175 (2005). Importantly, Title VII excluded educational institutions when it was first passed in 1964. Congress, for its part, attempted to close this gap through the Equal Employment Opportunity Act of 1972, which removed the exemption and granted the EEOC investigative power and the ability to bring civil actions against employers. And still, Title IX was enacted just three months later.

⁴⁰ Greg Garber, *Billie Jean King: Title IX Was a Landmark Moment, But More Must Be Done*, WTA (June 23, 2022), <https://www.wtatennis.com/news/2653801/billie-jean-king-title-ix-was-a-landmark-moment-but-more-must-be-done>; see also Celene Reynolds, *The Mobilization of Title IX Across U.S. Colleges and Universities, 1994–2014*, 66 Soc. Probs. 245, 245 (2019) (referring to Title IX as “one of the most significant steps toward gender equality in the last century”).

⁴¹ Elisa Van Kirk, *Title IX and Its Impact on Opportunities for Women in NCAA Coaching and Administrative Leadership*, *The Sport Journal* (2024), <https://thesportjournal.org/article/title-ix-and-its-impact-on-opportunities-for-women-in-ncaa-coaching-and-administrative-leadership/>.

lent of a Swiss Army knife,”⁴² Title IX was designed to address systemic gender discrimination in all aspects of education. Congress recognized that the effects of employment discrimination were “potentially more devastating in [the educational] context than in any other”⁴³ and designed Title IX’s sweeping provisions to “fill the void left...by the important, but usually piecemeal”⁴⁴ provisions of Title VII.

B. Title VII Differs From Title IX In Both Its Remedies And Procedural Requirements, Making It Particularly Ineffective For Coaches And Student-Athletes

1. *Remedies*

For both coaches and athletes, Title VII and Title IX differ materially in the remedies they provide and the procedures they impose. First, Title VII does not provide the equitable relief necessary for addressing sex-based discrimination in athletics. Injunctive relief under Title VII is limited to the employment relationship; it cannot, for example, compel an institution to provide more opportunities for girls and women to participate in athletics, upgrade girl’s and women’s sporting facilities, increase the number of women’s teams, or otherwise improve the conditions affecting female coaches and athletes. Title IX, however, permits equitable relief directed at the discriminatory program as a whole. *See Cannon v.*

⁴² Natalie Miller, *Too Strong for a Woman: How Bernice Sandler Created Title IX to Break Barriers for Female Faculty in Higher Education*, 54 Hist. Tchr. 131, 136 (2020).

⁴³ Note, *Eliminating Sex Discrimination in Educational Institutions: Does Title IX Reach Employment?*, 129 U. Pa. L. Rev. 417, 440 (1980).

⁴⁴ *Id.* at 445.

University of Chicago, 441 U.S. 677, 705 (1979) (holding that a court may order funding recipient to cease discriminatory policy); *see also Franklin v. Gwinnett County Public Schools*, 503 U.S. 60, 72 (1992) (clarifying that “Congress did not intend to limit the remedies available in a suit brought under Title IX”).

The history of successful Title IX enforcement illustrates why this distinction matters in a practical sense for coaches and athletes. Title IX lawsuits have required institutions to construct athletic facilities for women, as when the Owasso Independent School District in Oklahoma was required to build a softball complex after years of refusing to remodel the girls' field.⁴⁵ And Title IX cases have compelled high schools and universities to add new women's sports programs: for example, Sweetwater Union High School District was ordered to add girls' teams after a court found that the Castle Park athletics program suffered from a “systemic problem of gender inequity.” *Ollier v. Sweetwater Union High School District*, 768 F.3d 843, 864 (9th Cir. 2014). Louisiana State University was ordered to add women's softball and soccer teams after a court found its athletics system “grossly discriminatory.” *Pederson v. Louisiana State University*, 213 F.3d 858, 881 (5th Cir. 2000). Just this last year, there have been many settlements and court injunctions resulting in schools reinstating women's teams that had been unfairly cut. *See Myers v. Stephen F. Austin State University*, No. 9:25-cv-00187 (E.D. Tex. Aug. 1, 2025) (granting preliminary injunction reinstating women's teams); *see also Anders v. Cal.*

⁴⁵ See Feminist Majority Foundation, *Winning Title IX Cases: Angry Father Demands Equity in High School Athletics*, <https://feminist.org/our-work/education-equity/take-action/winning-title-ix-cases/> (last visited July 8, 2026).

State Univ., No. 1:21-cv-00179-KJM-BAM, 2025 U.S. Dist. LEXIS 580946, *2 (E.D. Cal. Nov. 18, 2025) (approving settlement agreement to add new women’s varsity team if participation gap between male and female athletes exceeds specific numerical thresholds over consecutive academic years); *see also Grant v. Concordia University Irvine*, No. 8:25-cv-01793, 2025 U.S. Dist. LEXIS 265665, *1-2 (C.D. Cal. Oct. 24, 2025) (granting preliminary injunction reinstating women’s teams pending litigation). Also, many times, cases are settled once a lawsuit is brought to bring about equity.⁴⁶ It is unlikely that these outcomes—new facilities, added teams, increased budgets, department-wide reform—would be available under Title VII, which is confined to remedies for the individual employment relationship.

The difference in available remedies is also critical because coaches often experience discrimination that is inseparable from the injustices suffered by their athletes. As academic scholarship has documented, “compared to male student-athletes, girls and women play on worse fields and in second-rate gyms, receive inferior uniforms, and play games and practice at inconvenient times when [loved ones] struggle to attend.”⁴⁷ Indeed the same disparities that burden

⁴⁶ ACLU of Haw., *Settlement Agreement Reached in Landmark Title IX Gender Equity Lawsuit against Hawai‘i High School*, ACLU Haw. (Oct. 31, 2023), <https://www.acluhi.org/press-releases/settlement-agreement-reached-landmark-title-ix-lawsuit-hawaii/> (reporting that parties reached settlement expanding sports opportunities for girls across Hawai‘i five years after lawsuit was filed).

⁴⁷ Kim Turner, *The Rights of School Employee-Coaches Under Title VII and Title IX in Educational Athletic Programs*, 32 ABA J. Lab. & Emp. L. 229, 235 (2017).

coaches' ability to do their jobs impair the experience and opportunities of their athletes. Only Title IX remedies can address both sets of circumstances.

While Title VII provides both punitive and compensatory damages, they are capped according to employer size.⁴⁸ Title IX does not provide punitive damages, *see Barnes v. Gorman*, 536 U.S. 181, 187 (2002), but there is no cap on compensatory damages.⁴⁹ “These seemingly inconsequential distinctions can amount to substantial differences in plaintiffs’ recoveries.”⁵⁰ For coaches who have suffered years of discrimination before filing suit, statutory caps on damages can make a significant difference in the sufficiency of relief and affect their willingness to bring suit in the first place.

2. *Procedural Requirements*

Title VII also erects several procedural roadblocks that Title IX does not, which inhibits the practical gains a coach can achieve under Title VII relative to Title IX. Under Title VII, an employee must first file a charge with the EEOC (or a state counterpart) within 300 days of the discriminatory act, or just 180 days in states lacking such an agency.⁵¹ The EEOC then investigates, and either dismisses the charge or attempts informal resolution.⁵² If it cannot reach an agreement and decides not to sue on the employee’s

⁴⁸ 42 U.S.C. § 1981a(b)(3).

⁴⁹ McKenzie Miller, *Is Title VII > IX?: Does Title VII Preempt Title IX Sex Discrimination Claims in Higher Ed Employment?*, 68 Cath. U. L. Rev. 401, 414 (2019).

⁵⁰ *Id.* at 423.

⁵¹ *See* Turner, *supra* note 47, at 240.

⁵² *Id.* at 240-41.

behalf, it issues a right-to-sue letter, after which the employee has only 90 days to file suit.⁵³

This procedural framework is uniquely burdensome for coaches in educational settings. As Judge Rosenbaum recently explained:

Title IX’s longer filing deadlines are especially important because the class of plaintiffs for this cause of action is teachers...[T]hese educators don’t have spare time to quickly file EEOC complaints...[T]eachers may also need time to develop the courage to come forward. Indeed, the scrutiny of close-knit campus communities can amplify teachers’ fears in a way that other work environments generally don’t.

Joseph v. Board of Regents of University System of Georgia, 133 F.4th 1284, 1303-4 (11th Cir. 2025) (Rosenbaum, J., dissenting from denial of rehearing en banc).

Social science research confirms Judge Rosenbaum’s insight. Title VII’s procedural requirements leave “little room for gaps in knowledge, hesitation in responding, or fears of retaliation to delay rights-claiming.”⁵⁴ This presumption of prompt rights-assertion “contrasts starkly with extensive...research on how people perceive and respond to discrimination in the real world.”⁵⁵ Studies demonstrate that targets of bias often do not immediately recognize when they

⁵³ *Id.* at 241.

⁵⁴ Deborah L. Brake & Joanna L. Grossman, *The Failure of Title VII as a Rights-Claiming System*, 86 N.C. L. Rev. 859, 859 (2008).

⁵⁵ *Id.*

have been discriminated against, “and even when they do..., they rarely challenge it promptly, if at all.”⁵⁶ Moreover, aggregate data, which is necessary to perceive inequities across men’s and women’s programs, may take a substantial amount of time to obtain, making it unrealistic for coaches to perceive, identify, and report systemic violations within Title VII’s narrow windows.⁵⁷

These same requirements also directly harm athletes. The delay inherent to Title VII’s many requirements means that, by the time a coach obtains a right-to-sue letter and files suit, the students who were victims of the underlying discrimination may have graduated.⁵⁸ Therefore, coaches suffering from employment discrimination must be able to utilize Title IX to remedy harms promptly, so they can continue to provide effective support and mentorship to their athletes.

In contrast, Title IX imposes no exhaustion requirement⁵⁹ and affords complainants a significantly longer limitations period.⁶⁰ In fact, plaintiffs in most jurisdictions have at least two years to file suit under Title IX, and effectively longer for ongoing violations.⁶¹ This extended timeline is particularly impactful for coaches of women’s sports; it gives them a greater

⁵⁶ *Id.* at 887.

⁵⁷ *Id.* at 891.

⁵⁸ *See supra* Part II.A.

⁵⁹ *See Cannon*, 441 U.S. 677, 706 n.41 (1979). Aggrieved employees may file suit directly in federal court.

⁶⁰ McKenzie Miller, *supra* note 49, at 413 (“courts have held that Title IX claims are governed by states’ respective statutes of limitation for personal injury actions”).

⁶¹ *Id.*

opportunity to observe and reflect on the programmatic disparities that Title IX was meant to address, whereas the 300-day window under Title VII provides, at most, one season of personal experience.

Title IX also allows institutions time to achieve compliance and contemplates ongoing assessment of programs of concern. In the athletics context, OCR evaluates adherence across thirteen different factors, including facilities, equipment, and coaching, and requires years of data to observe patterns that amount to a violation.⁶² As such, Title VII's condensed processes simply do not successfully target the same kinds of discrimination.

C. Title IX Is Meant To Be A Parallel Remedy To Title VII

Legislative history affirms that Congress intended Title IX to provide *parallel* coverage alongside Title VII for employees of educational institutions. Although it could have simply amended Title VII to cover such employees, Congress did more than that.⁶³ After the 1970 hearings before the House Subcommittee on Education, when faced with testimony about rampant employment discrimination against women in educational institutions, Congress chose global reform

⁶² U.S. Dep't of Educ., *Title IX and Athletics*, <https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination/title-ix-key-issues/title-ix-and-athletics> (last visited July 8, 2026).

⁶³ Lynn Ridgeway Zehrt, *Title IX and Title VII: Parallel Remedies in Combatting Sex Discrimination in Educational Employment*, 102 Marq. L. Rev. 701, 745 (2019).

through Title IX, offering systemic remedies to a systemic problem.⁶⁴

Furthermore, until at least 2024, the Department of Justice recognized Title VII and Title IX as separate enforcement mechanisms.⁶⁵ In its Title IX Legal Manual, the Department expressly stated that “[i]ndividuals can use both statutes to attack the same violations.”⁶⁶ It recognized that the position was consistent with both Supreme Court precedent and the distinct constitutional bases for the two statutes.^{67,68}

Finally, this Court has repeatedly recognized that Congress can provide overlapping remedies to eradicate discrimination, and that the availability of one remedy does not foreclose another. *See North Haven*, 456 U.S. at 535 n.26 (holding that Congress can provide overlapping remedies for employment discrimination). In *Johnson v. Railway Express Agency, Inc.*, this Court held that “remedies available under Title VII and under § 1981, although related, and although directed to most of the same ends, are separate, distinct, and independent.” 421 U.S. 454, 461 (1975). The Court “specifically rejected the...argument that allowing actions under § 1981, thereby circumventing Title VII’s administrative requirements, would trans-

⁶⁴ *Id.* at 744.

⁶⁵ Alexandra R. Johnson, *Against the Work-Study Boundary: Synthesizing Title VII and Title IX Protections for Student-Employees*, 134 Yale L.J. 947, 959 (2025).

⁶⁶ *See* C.R. Div., *Title IX Legal Manual*, § IV.B.2.b, U.S. Dep’t Just. (Sept. 14, 2023), <https://www.justice.gov/crt/title-ix> [<https://perma.cc/RJE6-MP2Z>].

⁶⁷ *Id.*

⁶⁸ The current administration does not appear to have a comparable Title IX Legal Manual.

gress Congress’s intent.”⁶⁹ Similarly, in *Fitzgerald v. Barnstable School Committee*, this Court held that Title IX does not preclude § 1983 suits alleging unconstitutional gender discrimination in schools, explaining that Title IX’s remedies do not constitute the kind of “unusually elaborate” or “restrictive enforcement” scheme that would preclude parallel claims. 555 U.S. 246, 255 (2009). The same logic applies here: Title IX was not designed to be an exclusive mechanism for addressing sex discrimination in education, and Title VII’s availability does not, and should not, foreclose the parallel remedy that Congress envisioned.

⁶⁹ McKenzie Miller, *supra* note 49, at 419.

CONCLUSION

The Eleventh Circuit's decision to strip coaches and other educational employees of their private right of action under Title IX undermines the statute's core purpose and threatens the hard-won gains in women's athletics to date. Without the ability to bring Title IX claims, coaches cannot expose the systemic discrimination that still denies women and girls equal opportunities in sports. Amici respectfully request that the Court rule in favor of Petitioners.

Respectfully submitted,

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