

IN THE
Supreme Court of the United States

K.M.K., By Her Next Friend and Mother, STEPHANIE LYNNE BROWN,
APPLICANTS,

v.

WASHINGTON INTERSCHOLASTIC ACTIVITIES ASSOCIATION, ET AL.,
RESPONDENTS

On Application for Injunction to the Honorable Elena Kagan
Associate Justice of the United States Supreme Court
And Circuit Justice for the Ninth Circuit

**BRIEF *AMICAE CURIAE* OF JESSICA AND SOLEIL HOEFER IN
SUPPORT OF APPLICANTS' EMERGENCY APPLICATION FOR AN
INJUNCTION PENDING APPEAL**

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INTEREST OF *AMICAE CURIAE*¹

Amicae are Soleil Hoefer and her mother, Jessica Hoefer. Soleil is a sophomore who plays soccer at Walla Walla Community College in Washington. Her many years of hard work and sacrifice enabled her to succeed in high-school athletics and eventually compete in college on a scholarship. During her senior year of high school, however, Soleil was forced to compete against a biological male athlete at the track and field state championship. Jessica offers the distinct perspective of a parent who has supported Soleil throughout her athletic career and who has a direct interest in ensuring that the laws and policies governing school sports protect student athletes like Soleil. Together, their experiences afford them a unique understanding of how female athletes' limited competitive opportunities, once lost, cannot be restored. Committed to protecting girls from discrimination in sports and ensuring them fair competitive opportunities, *Amicae* provide their personal experiences to clarify why K.M.K.'s situation requires immediate relief.

Soleil attended Prosser High School, a Washington Interscholastic Activities Association (WIAA) member school,² where she starred on the girls' soccer team and

¹ Under Rule 37.6, no counsel for any party authored this brief, in whole or in part, nor did any party or counsel for any party make a monetary contribution intended to fund this brief in whole or in part. No person or entity other than *Amicae* and counsel for *Amicae* contributed monetarily to this brief's preparation or submission.

² Letter from Katherine L. Anderson et al., Alliance Defending Freedom, to U.S. Dep't of Educ., Off. for C.R., ¶¶ 2, 4 (Apr. 2, 2025) [hereinafter OCR Complaint], <https://adflegal.org/wp-content/uploads/2025/04/ocr-2025-04-02-complaint-title-ix-1.pdf>.

was named Female Track and Field Athlete of the Year for three consecutive years. The 400-meter dash was among her strongest events, and during her senior year her 4x400-meter relay team won the district championship, broke the school record, and qualified for the state championship. At state, Soleil's relay team was scored against another school's relay team that included a biological male. That male athlete ultimately won the gold medal in the 2025 WIAA Class 2A girls' 400-meter dash for the second consecutive year.³

Amicae hope to aid the Court's understanding of the harmful effects of WIAA's policy on young women and their families. As a scholarship collegiate athlete, Soleil knows that the harm is not merely a lost place on the podium but potentially a lost college education, career, and opportunity to build a future. Jessica understands those same harms from a parent's perspective: parents entrust schools and athletic associations with protecting their children and preserving fair opportunities earned through years of sacrifice. Those harms are not merely theoretical to *Amicae*—they remain concerned for Soleil's younger sister and female friends who still play sports at Prosser High School, where WIAA's policy may require them to compete against biological male athletes with inherent physical advantages. As long as that policy exists, it can deprive girls of the benefits of their sacrifices, the thrill of victory, and the results of their hard work. As K.M.K.'s circumstances

³ Tim Clouser, *Rural School Officials, Advocates Respond to Trans Athlete Winning State Title*, Center Square (June 2, 2025), https://www.the-centersquare.com/washington/article_68206cab-9429-4d08-a694-5f8d0f04828a.html.

illustrate, the policy may also require female athletes to choose between competing under conditions they regard as unsafe and surrendering irreplaceable athletic opportunities.

Amicae also believe their perspectives will shed light on why urgency matters for K.M.K. Her athletic season will not be put on pause while her appeal awaits disposition. She has only a limited number of chances to compete, each potentially providing recognition, recruitment opportunities, and memories that could last a lifetime. Absent an emergency injunction, K.M.K. risks losing irreplaceable moments and opportunities. *Amicae* know firsthand how important those opportunities can be and have personally experienced how WIAA's policy disadvantages young women seeking them.

SUMMARY OF ARGUMENT

I. WIAA's policy causes concrete harm that reaches well beyond a single race or athlete. Soleil's experience shows how: the policy diminished years of preparation, changed the outcome of competitions, and consumed high-school opportunities that can never be restored. Those harms repeat across athletes, events, and sports, costing girls placements, team points, medals, and confidence. The injuries are neither isolated nor hypothetical.

II. WIAA has kept its gender-identity participation policy for nearly two decades, despite knowing the harm it causes. Its guidance presumes eligibility based on asserted gender identity, discourages verification, and dismisses lost opportunities for girls as ordinary competitive variation. The result is that female athletes are displaced, losing recognition, team points, records, and chances to compete,

while fear of criticism or institutional consequences discourages them and their coaches from objecting. Girls are left to compete under the challenged conditions, forfeit opportunities they cannot recover, or speak out at personal cost. Nothing in WIAA's entrenched approach suggests it will change course before K.M.K. suffers those losses.

III. The injury to K.M.K. will be irreparable. Every forfeit counts as a loss that can affect her advancement, rankings, championship eligibility, recognition, recruitment, and scholarships. And because officials will not tell her whether an opponent is male, the policy may force her to sit out the entire season. That season begins in mid-November, and its matches will pass long before ordinary appellate review concludes. No later ruling can replay a match, restore a place in a bracket, recreate a championship, or return a lost high-school season. Immediate relief is therefore necessary before K.M.K.'s finite competitive opportunities disappear.

ARGUMENT

This case concerns injuries that the ordinary course of appellate review cannot repair. Since 2007, WIAA has implemented Rule 18.16.0, "Gender Identity Participation," which requires that all students "have the opportunity to participate in WIAA athletics and/or activities in a manner that is consistent with their gender identity."⁴ Applicants seek interim protection before this policy forces them to

⁴ Wash. Interscholastic Activities Ass'n, *2025–2026 WIAA Handbook*, Rule 18.16.0, at 41 [hereinafter WIAA Handbook], <https://www.wiaa.com/wiaa-handbook/>; see also App.5a.

choose between competing under conditions they contend are unfair or unsafe and forfeiting matches that can never be restored—effectively, sitting out the entire season when officials will not say whether an opponent is male. (*See* Appl. 1, 37–38.) Soleil’s experience proves that choice is real and consequential: unfair competition costs athletes confidence, recognition, and recruiting opportunities. This brief therefore explains that WIAA’s policy imposes concrete harms on female athletes, that WIAA has entrenched its policy despite its awareness of those harms, and that an injunction is necessary before K.M.K.’s finite athletic opportunities, and their concomitant advantages, disappear forever.

I. WIAA’s Policy Inflicts Harm on Female Athletes Like Soleil Hoefer and Others.

The experiences of Soleil and other female athletes show that WIAA’s policy inflicts concrete harms that extend well beyond a single matchup or competitor. Soleil’s own lost opportunities illustrate those harms firsthand, while similar accounts across sports confirm that they recur wherever a policy displaces female athletes’ recognition, team points, and competitive opportunities. (*See* Appl. 3, 42.)

A. Soleil was personally harmed by WIAA’s policy.

Amicae speak from experience when it comes to girls’ high-school sports in Washington. Jessica has supported Soleil’s competitive sports career throughout Soleil’s life, and she continues to support the athletic career of Soleil’s younger sister, who plays volleyball at Prosser High School. Jessica watched Soleil compete successfully for years in soccer and track, eventually earn an athletic scholarship to

play soccer in college, and establish herself as a role model for her sister and other girls.

Soleil’s own account reflects the scope of that commitment: she earned first-team all-conference recognition in soccer, competed across nine track events, and later coached a girls’ under-ten soccer team.⁵ Those accomplishments were the product of “years of practices, early mornings, long drives, missed events, injuries, disappointment, and pushing yourself when no one else is watching.”

During her junior season in 2024, Soleil competed for Prosser’s girls’ track and field team. That season, one of her teammates finished third in the 400-meter dash at an invitational behind a biological male.⁶ The male athlete had competed on the East Valley High School boys’ track and field team before joining the girls’ team.⁷ Reportedly, Soleil’s coaches “were reassured” that he would not be allowed to compete at the 2024 WIAA Class 2A state championship.⁸ At the state

⁵ *The Riley Gaines Show: Refusing to Be Pushed Aside with Soleil Hoefer*, OutKick (May 28, 2025), <https://podcasts.apple.com/us/podcast/refusing-to-be-pushed-aside-with-soleil-hoefer/id1696360492?i=1000710240457>; Eric Rosane, *Prosser Senior Fighting WA’s Laws on Trans Athletes. What She Has to Say*, Tri-City Herald (Apr. 21, 2025), <https://www.tri-cityherald.com/news/local/article303535456.html>.

⁶ Luke Thompson, *Student Speaks Up on Why She Joined Effort to Ban Transgender Girls from WIAA Competition*, Chronicle (May 12, 2025) [hereinafter Thompson, *Student Speaks Up*], <https://www.chronline.com/stories/student-speaks-up-on-why-she-joined-effort-to-ban-transgender-girls-from-wiaa-competition,380630> (reprinting Yakima Herald-Republic).

⁷ OCR Complaint, *supra* note 2, ¶ 11.

⁸ Rosane, *supra* note 5; Thompson, *Student Speaks Up*, *supra* note 6.

championship, Soleil helped Prosser take seventh place in the 4x100-meter relay.⁹ But to her surprise, one of her teammates raced against the biological male in a preliminary heat for the girls' individual 400-meter dash, an event in which he ultimately won the gold medal.¹⁰ Jessica and Soleil were both “heartbroken.”¹¹

During her senior season in 2025, Prosser's coaches asked Soleil to step up and race in the individual girls' 400-meter dash.¹² She ran the event for the first time in March of that year, finishing first with a time of 1 minute and 5.86 seconds.¹³ But she was frustrated knowing that no matter how hard she trained and what time she would potentially run, she “would always lose.”¹⁴ As of the April 2025 complaint, the biological male had placed first in every 400-meter dash in which he competed in the female category.¹⁵

⁹ Shane Lantz, *Prosser's Soleil Hoefer Part of Complaint Against WIAA, State over Transgender Participation in High School Sports*, Yakima Herald-Republic (Apr. 9, 2025), https://www.yakimaherald.com/sports/prep_sports/prossers-soleil-hoefer-part-of-complaint-against-wiaa-state-over-transgender-participation-in-high-school/article_0942017e-65f3-4420-9c2d-d779a7e4f0a8.html (reprinting Seattle Times).

¹⁰ Rosane, *supra* note 5; Thompson, *Student Speaks Up*, *supra* note 6; Lantz, *supra* note 9.

¹¹ Rosane, *supra* note 5.

¹² *Id.*

¹³ *Id.*

¹⁴ Jackson Thompson, *What's Next in the Battle to 'Save Women's Sports' After SCOTUS Ruling — and the Hidden Damage Driving It*, Fox News (July 11, 2026) [hereinafter Thompson, *What's Next*], <https://www.foxnews.com/outkick-sports/whats-next-battle-save-womens-sports-after-scotus-ruling-hidden-damage-driving-it>.

¹⁵ OCR Complaint, *supra* note 2, ¶ 11.

Concerned, in April 2025 Soleil filed a complaint asking the federal Department of Education’s Office for Civil Rights to investigate WIAA.¹⁶ (*See* Appl. 9, 28–30.) The complaint alleged that WIAA’s policy contained no physical eligibility requirement designed to preserve equal competitive opportunities in the female category.¹⁷ It argued that it was “fundamentally unfair that despite all of [her] hard work and discipline,” Soleil was being forced “to race against males with inherent biological advantages.”¹⁸ And it requested that WIAA and its member schools use sex-designated athletic categories, emphasizing that prompt action was necessary because the track season was already underway.¹⁹ The complaint remains pending.

Meanwhile, Soleil continued to compete in her senior season. She helped her 4x100-meter relay team win six separate races that season.²⁰ Her 4x400-meter relay team won the district championship and broke Prosser’s school record on its way to qualifying for state. They were fast and competitive and had worked incredibly hard to earn their opportunity to compete for the state title.

At state, Soleil’s 4x400-meter relay team was scored against the East Valley relay team that included the biological male. Depending on the race, his 400-meter times were approximately five to ten seconds faster than Soleil’s. He ultimately won

¹⁶ *Id.* at 1, ¶ 15.

¹⁷ *Id.* ¶¶ 7, 9–10.

¹⁸ *Id.* at 1.

¹⁹ *Id.* ¶¶ 15–17.

²⁰ Thompson, *Student Speaks Up*, *supra* note 6.

the state title in the girls' individual 400-meter dash for the second consecutive year, running a full second faster than the second-place finisher.²¹ (*See* Appl. 9, 28.) Had he instead participated in the boys' individual 400-meter dash, he would have finished over seven seconds behind first place.²² His participation in the girls' events had a cascading effect that impacted not only Soleil's but also other female competitors' recognition, team points, and medals. After he won the state title, the second- and fifth-place female finishers opted out of the medal ceremony in protest.²³

Soleil has explained that athletic opportunities are season-bound and cannot be recreated, a concern sharpened by the fact that her younger sister and other girls will compete under the same policy. In her words, “[K]nowing that this could possibly happen to my little sister is what made me stand up for it.”²⁴ As discussed below, these concerns recur among other student athletes and their families.

B. *Amicae*'s experience shows that stories like K.M.K.'s are all too prevalent.

Soleil's experience is not an isolated episode. It illustrates a recurring

²¹ Clouser, *supra* note 3.

²² *Id.*; *see also* Ryan Morik, *High School Girls Stage Protest After Trans Athlete Wins 2nd Straight State Track Championship*, Fox News (June 2, 2025), <https://www.foxnews.com/sports/high-school-girls-stage-protest-after-trans-athlete-wins-2nd-straight-state-track-championship> (reporting that the winning time would have been slower than every boy's time, including in the preliminary rounds).

²³ Elena Perry, *Defending State Track Champion, Transgender Athlete Verónica Garcia Wins Second State Title*, Spokesman-Review (May 31, 2025), <https://www.spokesman.com/stories/2025/may/31/defending-state-track-champion-transgender-athlete>.

²⁴ Thompson, *What's Next*, *supra* note 14.

consequence of WIAA’s policy: when a biological male competes in a girls’ event, the effects extend beyond a single matchup to every female athlete whose placement, recognition, team points, or competitive opportunity is displaced. The available evidence likewise refutes any suggestion that these harms are confined to one athlete, one sport, or one competition. (*See* Appl. 3, 42.)

No official records report the number of biological male athletes participating in girls’ interscholastic athletics in Washington state. In February 2025, Washington Superintendent of Public Instruction Chris Reykdal, a Respondent in this proceeding, claimed that “[o]ut of nearly a quarter million kids participating in interscholastic athletics and activities in the state of Washington, roughly five to 10 youth have identified themselves as trans participating in those activities.”²⁵ But when Michael Cannon, the School Board President of the Mead School District just outside Spokane, Washington, asked about the number of transgender athletes, WIAA told him it was “an estimate, not a matter of fact, and that the estimation is based on what our staff has heard.”²⁶ The School Board President said he could name five transgender athletes in Spokane alone and suggested the statewide number could be closer to 250.²⁷ A recent news report repeats the five-to-ten estimate

²⁵ Jackson Thompson, *State Education Chief Says It’s ‘Inaccurate’ to Say There Are Only Two Genders, in Defense of Trans Athletes*, Fox News (Feb. 21, 2025), <https://www.foxnews.com/sports/wa-education-chief-says-its-inaccurate-say-only-two-genders-defense-trans-athletes>.

²⁶ Clouser, *supra* note 3.

²⁷ *Id.*

while acknowledging that “there is no official data” on the subject.²⁸

The consequence of a male athlete competing in female events is not confined to one head-to-head result. Soleil’s 4x400-meter relay team was scored against a relay team that included the East Valley male athlete, who also competed individually in the girls’ 400-meter dash. Soleil’s OCR complaint likewise alleged that another female athlete—K.L.—finished fourth behind the East Valley male athlete in a March 2025 invitational, missing the podium position awarded to third place.²⁹ As Soleil explains, such circumstances affect “not simply one female athlete, but multiple girls competing for podium positions, medals, team points, and recognition.”

Speaking up did not restore the opportunities already at risk, and it carried costs of its own. After Soleil filed her complaint, a senior-season crossover meet at Prosser’s home track was unexpectedly canceled. The meet was against East Valley, the biological male athlete’s high school. The cancellation came after coaches were called to an emergency meeting held two hours outside Prosser the night before the meet was scheduled to occur. Whatever the reason for the cancellation, the consequence for Soleil was certain: one of the few remaining meets in her high-school career was gone and could not later be recreated. She also reports that some coaches privately thanked her for speaking out because they feared the district’s response,

²⁸ Mitchell Roland, *Washington Voters to Decide Whether Trans Athletes Can Continue to Compete in K-12 Girls Sports in I-638*, Chronicle (Sept. 28, 2026), <https://www.chronline.com/stories/washington-voters-to-decide-whether-trans-athletes-can-continue-to-compete-in-k-12-girls-sports-in,409002> (reprinting Spokesman-Review).

²⁹ OCR Complaint, *supra* note 2, ¶ 13.

while other girls may fear being labeled hateful or intolerant, losing friendships, upsetting coaches or administrators, or becoming targets of public criticism. Their silence, she explains, should not be mistaken for agreement.

Graduation did not make the issue remote. Soleil is now competing in women's soccer at Walla Walla Community College, while the athlete she encountered in high-school track later committed to Community Colleges of Spokane for track and cross-country. The issue has also become more personal because Soleil's younger sister plays volleyball. Soleil recounts watching a video of a transgender-identifying athlete spiking a volleyball into a female player's face and causing serious injury; she pictured her sister across the net and resolved to speak for younger girls who may not feel able to speak for themselves.

That record supplies the answer to the suggestion that these cases concern only one athlete or one result. One male entrant can alter placements and team scoring for numerous girls, while the affected athletes bear the lost podiums, records, recognition, confidence, and opportunities.³⁰ (*See* Appl. 7, 20.) Soleil believes girls deserve a fair opportunity to experience “how it feels to win,” whether by scoring a goal, crossing a finish line, or hitting a home run.³¹ She spoke out against WIAA's policy because she believed she and every other female athlete should have equal opportunities, and because allowing the policy to continue “destroys our

³⁰ *Id.* ¶¶ 13–14.

³¹ *The Riley Gaines Show*, *supra* note 5.

athletic confidence.”³² Her experience thus illustrates the central injury here: WIAA’s policy does not merely regulate who appears on a starting line; it determines which athletes must surrender competitive opportunities they cannot recover.³³

Nor is the controversy confined to Washington. Courts and legislatures across the country have reached conflicting conclusions about whether, and under what legal standards, schools may preserve sex-based athletic categories. That disagreement confirms that the harms described here arise from a recurring national controversy—not an isolated dispute involving a single student—and underscores the need for a uniform rule before additional athletic opportunities are irretrievably lost. (*See* Appl. 3, 42.)

The Ninth Circuit’s contrary conclusion rested on deference to the district court’s findings of factual disputes over whether male participation creates a safety risk or competitive disadvantage for female athletes, and on the view that Applicants were attempting “to extrapolate from harm caused by one student.” (*See* App.75a–76a; Appl. 12, 22.) But Soleil’s account confirms that the injury is neither isolated nor hypothetical. A different athlete, in a different sport, experienced displacement that affected her recognition, team points, medals, and opportunities throughout an entire event. And because Washington keeps no official count of biological male athletes competing in girls’ sports—and the oft-repeated five-to-ten estimate is, by WIAA’s own account, unverified—the absence of comprehensive data

³² Rosane, *supra* note 5.

³³ OCR Complaint, *supra* note 2, ¶¶ 9–17.

cannot be mistaken for an absence of harm. The record instead shows a recurring injury to female athletes that warrants relief before K.M.K.’s own opportunities are lost for good.

II. Despite Knowing the Consequences, WIAA Has Entrenched Its Policy and Shifted Its Costs to Female Athletes.

WIAA’s policy is neither tentative nor incidental. WIAA describes itself as the first state activities association to adopt gender-identity participation rules, states that the policy entered its handbook in 2007, and identifies itself as one of sixteen state activities associations with policies facilitating full participation by transgender, nonbinary, and other gender-diverse students.³⁴ After reassessing the policy in 2019, WIAA retained a rule under which athletes “participate in programs consistent with their gender identity or the gender most consistently expressed,” with eligibility continuing throughout the student’s participation rather than being reconsidered each season.³⁵ (*See Appl. 5, 28.*)

WIAA’s implementation guidance reinforces that categorical choice. It instructs schools not to seek a birth certificate, physician’s statement, or other proof of a student’s sex or gender, and instead to use the student’s requested name, pronoun, and gender designation while protecting that information from disclosure.³⁶

³⁴ *See* Wash. Interscholastic Activities Ass’n, *Gender Diverse Youth Sport Inclusivity Toolkit* 4 [hereinafter WIAA Toolkit], https://assets-rst7.rschooltoday.com/rst7files/uploads/sites/652/2024/05/29125133/Gender-Diversity-Toolkit_2024.pdf.

³⁵ *Id.*; WIAA Handbook, *supra* note 4.

³⁶ WIAA Toolkit, *supra* note 34, at 11.

(*See* Appl. 5.) It likewise advises that a nonbinary student “may select the gendered team on which they feel most comfortable participating.”³⁷ And when confronting the competitive question directly, WIAA’s Toolkit asserts that participation by transgender girls “has not been shown to diminish opportunities for others,” treating sex-linked physical differences as simply part of the ordinary variation among athletes.³⁸

Soleil’s account exposes the practical cost obscured by those assurances. At the state meet, the challenged policy affected Soleil and other girls competing for podium positions by diminishing their recognition, team points, medals, and records; when one athlete’s place changed, every athlete behind that place moved down. After Soleil filed her OCR complaint, a scheduled crossover meet with East Valley was canceled the night before it was to occur, and the immediate consequence was that one of the few remaining meets of her high-school career vanished. Whatever prompted the cancellation, no later accommodation could return that competition to her.

WIAA and its policy also discourage the very athletes who bear its costs from objecting. (*See* Appl. 10, 29, 31.) Soleil reports that coaches privately thanked her for speaking out because they feared how the district would respond if they did so themselves, while other girls may fear criticism, damaged relationships, or conflict with coaches and administrators. Their silence therefore cannot be treated as proof

³⁷ *Id.* at 16.

³⁸ *Id.* at 17.

that the policy imposes no competitive or safety-related harm. By maintaining a policy that presumes eligibility, counsels against verification, and discounts diminished opportunities, WIAA leaves female athletes with the choice Applicants identify here: compete under conditions they contend are unfair or unsafe, forfeit, or speak out at personal cost.³⁹

Before the 2025 state championship, Soleil was asked about the possibility of competing against the East Valley male athlete at a May regional event in Prosser. She explained that she would not refuse to compete, as some athletes elsewhere had chosen to do against transgender competitors, because she did not believe that decision should fall to the athlete. “It should have been dealt with by adults, coaches, WIAA officials,” Soleil said.⁴⁰ “It shouldn’t have to come down to the athlete because ultimately Washington should be able to protect their women and girls and not put them in a predicament where they’re running a sport that’s unfair.”⁴¹

That institutional choice also bears directly on the Ninth Circuit’s disposition. The panel concluded that Applicants had not shown a genuine emergency before the wrestling season began and relied on the District’s assurance that K.M.K. could forfeit without formal adverse consequences. (*See App.73a, 75a–76a.*) But that reasoning accepts the very burden-shifting Applicants challenge: WIAA preserves its categorical policy, while a female athlete must either compete under the challenged

³⁹ WIAA Toolkit, *supra* note 34, at 8, 11, 17.

⁴⁰ Thompson, *Student Speaks Up*, *supra* note 6.

⁴¹ *Id.*

conditions or surrender every opportunity attached to each match. And without notice she does not know when to forfeit and thus cannot participate at all. (*See* Appl. 36–38.) WIAA’s longstanding commitment to the policy, its guidance against verification, and its dismissal of diminished opportunities also undermine any premise that the threatened harm will be avoided through voluntary accommodation. (*See* Appl. 9–10, 30–32.) Interim relief is necessary not to disturb a stable status quo, but to prevent WIAA from enforcing an entrenched policy in a way that makes K.M.K. bear irreversible losses while her appeal proceeds.

III. The Court Should Intervene Before Irreversible Damage Occurs.

The factors governing an injunction pending appeal substantially overlap with those governing a stay. *See Nken v. Holder*, 556 U.S. 418, 434 (2009). The Ninth Circuit’s order leaves Applicants without court-ordered notice before K.M.K. is matched against transgender athletes and without protection beyond the District’s representation that she may forfeit such matches without adverse consequences. The panel denied an injunction pending appeal because it found no genuine emergency before the mid-November wrestling season, no sufficiently strong showing of likely success under the deferential standard governing review of a denied preliminary injunction, and no balance of hardships tipping sharply in Applicants’ favor. (*See* App.73a–78a.)

The Ninth Circuit’s reasons for finding no genuine emergency do not eliminate the irreparable harm; they confirm it. The District’s assurance that K.M.K. may forfeit without formal adverse consequences does not preserve the competitive opportunity she must surrender. The District in fact affirms that each match K.M.K.

must forfeit “is a loss” and that, for tournaments, each forfeit immediately drops her to the consolation bracket. (*See* CA9 Dkt. 38.2 ¶¶ 9–10.) That scheme disadvantages K.M.K. by affecting advancement, rankings, championships, recognition, recruiting, and scholarships. Nor does the absence of an immediate match before the mid-November season make that injury speculative. The athletic calendar—not the appellate calendar—governs when the harm occurs, and once competition begins, each affected match will pass before ordinary review can provide relief. A later ruling cannot return a forfeited match, restore K.M.K.’s place in the bracket, or recover a season that ended while her claims remained unresolved. (*See* Appl. 37–38.)

The same irreparable-harm principle governs Applicants’ request for an injunction pending appeal: interim relief is warranted where, absent an injunction, the applicant will suffer injury that cannot be remedied after the Court completes its review. This Court’s recent stay decisions reinforce that principle. In *Trump v. CASA, Inc.*, the Court explained that an applicant seeking emergency relief must show likely irreparable harm in its absence, and that threshold legal error may bear on that analysis even before final merits review. 606 U.S. 831, 859–60 (2025). Likewise, in *National Institutes of Health v. American Public Health Ass’n*, the Court treated irreparable harm as turning on whether the consequences of withholding interim relief would be irrecoverable. 145 S. Ct. 2658, 2659 (2025) (per curiam).

Amicae’s perspective illustrates that the consequences of withholding relief for K.M.K. are indeed irrecoverable. Athletic opportunities are uniquely time-bound. (*See* Appl. 37–38.) A high-school athlete has only a handful of seasons, and

each meet or match represents an opportunity for which she may have prepared for years. For K.M.K., every match she forfeits or cannot safely enter disappears from her finite athletic career while leaving a negative mark on her athletic record.

Those losses extend beyond the match itself. Individual competitions can affect advancement, rankings, championships, recognition, recruiting opportunities, and scholarships, while also consuming moments that an athlete spent years preparing to reach. (*See* Appl. 7, 37–38.) Requiring K.M.K. to sit out therefore does not preserve her position pending review; it imposes the very loss of athletic opportunity that her requested relief seeks to prevent. Nor can eventual success on appeal make K.M.K. whole. (*See* Appl. 38.) A later order does not renew a forfeited match, recreate a championship, restore a lost podium position, or give an athlete another junior or senior season. Because the athletic calendar continues while litigation proceeds, relief delayed until after the season is relief denied as to every competition that passes in the meantime.

CONCLUSION

The Court should grant Applicants' Emergency Application for an Injunction Pending Appeal.

Respectfully submitted.

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October 2026