

24-43 WEST VIRGINIA V. B.P.J.

DECISION BELOW: 98 F.4th 542

LOWER COURT CASE NUMBER: 23-1078, 23-1130

QUESTION PRESENTED:

Like everywhere else, West Virginia schools offer separate sports teams for boys and girls. The West Virginia Legislature concluded that biological boys should compete on boys' and co-ed teams but not girls' teams. This separation made sense, the Legislature found, because of the "inherent physical differences between biological males and biological females."

A parent sued on behalf of her child, B.P.J., arguing that the State must allow biological boys who identify as girls to compete on girls' teams. After extensive discovery, the district court disagreed, entering summary judgment for the State on claims under the Equal Protection Clause and Title IX. Yet a divided Fourth Circuit panel granted an injunction pending appeal. B.P.J. then beat and displaced hundreds of girls in track and field.

Ultimately, the same divided panel ruled in B.P.J.'s favor on the Title IX claim and vacated the district court's judgment for the defendants on the equal-protection claim. Judge Agee dissented, criticizing the majority for "inappropriately expand[ing] the scope of the Equal Protection Clause and upend[ing] the essence of Title IX." App.44a. He hoped this Court would "take the opportunity with all deliberate speed to resolve these questions of national importance." App.74a

The questions presented are:

1. Whether Title IX prevents a state from consistently designating girls' and boys' sports teams based on biological sex determined at birth.
2. Whether the Equal Protection Clause prevents a state from offering separate boys' and girls' sports teams based on biological sex determined at birth.

CERT. GRANTED 7/3/2025