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IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

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No. 22-2332

A.M., by her mother and next friend, E.M.,  
*Plaintiff – Appellee,*

v.

INDIANAPOLIS PUBLIC SCHOOLS; SUPERINTENDENT,  
INDIANA PUBLIC SCHOOLS, in her official capacity,  
*Defendants,*

and

STATE OF INDIANA,  
*Intervening Defendant-  
Appellant.*

On Appeal from the United States District Court  
for the Southern District of Indiana,  
No. 1:22-cv-1075-JMS-DLP,  
The Honorable Jane Magnus-Stinson, Judge

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**BRIEF OF *AMICUS CURIAE***  
**CONCERNED WOMEN FOR AMERICA AND WOMEN'S LIBERATION FRONT**  
**IN SUPPORT OF APPELLANTS AND REVERSAL**  
**FIELD WITH CONSENT OF ALL PARTIES**

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### Interest of Amici Curiae

Concerned Women for America (“CWA”) is the largest public policy women’s organization in the United States with members in all fifty states, and thousands within the Seventh Circuit. Through its grassroots organization, CWA encourages policies that strengthen and protect women and families and advocates for the traditional virtues that are central to America’s cultural health and welfare. CWA has an interest in working against nullification of women’s sports and protecting female athletes from the injustice of competing against biological males. In 2020, the Department of Education’s Office of Civil Rights agreed with CWA’s complaint against a university’s transgender participation and inclusion policy, finding that the school violated Title IX equal opportunity protections for female athletes and requiring the school to rescind its policy.<sup>1</sup>

Women’s Liberation Front (“WoLF”) is a non-profit radical feminist organization dedicated to the liberation of women by ending male violence, protecting reproductive sovereignty, preserving women-only spaces, and abolishing regressive gender roles. WoLF has over 900 members who live, work, attend school, and play sports across the United States, including about 40 in the Seventh Circuit. WoLF’s interest in this case stems from its interest in empowering and protecting the safety and privacy of women and girls and preserving women’s sex-based civil rights.<sup>2</sup>

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<sup>1</sup> See Doreen Denny, “CWA’s Victory in Transgender Sports Case a Win for Women’s Rights,” CWA, Oct. 20, 2020, *available at* <https://bit.ly/3RXzllO>.

<sup>2</sup> *Amici* use “sex” throughout to mean what Congress meant when it incorporated the longstanding meaning of that term into Title VII of the Civil Rights Act: “the

Recent court decisions and agency policies that embrace the vague concept of “gender identity” in a manner that overrides statutory and Constitutional protections that are based explicitly on “sex” have threatened those rights.

Amici file this amicus with the shared interest of protecting women’s and girls’ opportunities and rights to participate in single-sex sports and to show that this important issue transcends any political or “left/right” labels.

### **Federal Rule of Appellate Procedure 29 Statement**

Pursuant to Federal Rule of Appellate Procedure 29(a)(2), CWA and WoLF state that all parties to this appeal have consented to its filing.

Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), CWA and WoLF affirm that no counsel for a party authored this brief in whole or in part, no party or party’s counsel contributed money that was intended to fund preparing or submitting the brief, and no person other than amicus, its members, or its counsel has made any monetary contributions intended to fund the preparation or submission of this brief.

### **Summary of the Argument**

Appellee A.M. asks the Court to treat women and girls as no longer a discrete category worthy of civil rights protection, but to create a new protected classification

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fundamental distinction, found in most species of animals and plants, based on the type of gametes produced by the individual,” and the resulting classification of human beings into those two reproductive classes: female (women and girls) or male (men and boys). *See Sex, Male, and Female*, MILLER-KEANE ENCYCLOPEDIA AND DICTIONARY OF MEDICINE, NURSING, AND ALLIED HEALTH (7th ed. 2003), <https://medical-dictionary.thefreedictionary.com>.

for men and boys who claim to have a female “gender identity.” House Bill 1041 (“HEA 1041”), codified as Indiana Code § 20-33-13-4, prohibits a male, based on an individual’s sex at birth, from participating on a team that is designated for women or girls. Due to the extensive, innate physiological differences between boys and girls, which begin at the earliest stages of human development, *see* Appellant’s Opening Brief 27-29, single-sex sports are necessary for women and girls to compete safely and fairly and to realize the myriad benefits of their athletic participation. In passing Title IX, Congress contemplated and provided for the need to treat men and women’s sports differently so that women would have equal opportunity without discrimination on the basis of their sex due to the enduring biological differences between men and women. The district court’s ruling undoes decades of progress by female athletic programs and established law upholding this structure.

If the Court fails to vacate the district court’s preliminary injunction, it will mark a fundamental shift in American law and policy that strips girls and women of their rights, threatens the physical safety of female athletes, and undercuts means by which women can achieve educational equality. It would not only revoke the very rights and protections that specifically secure women’s access to school athletics, but would do so in order to extend those rights and protections to men claiming to be women.

WoLF and CWA urge the Court to vacate the preliminary injunction and affirm the long-standing legal principle that women and girls are protected under Title IX. In this brief, they focus on unique issues, namely the benefits of single-sex sports to women and girls and how those benefits are supported by established law, the harms

to women and girls that the district court overlooked, and how beliefs about subjective gender identity cannot be used to diminish their rights and should not overrule objective scientific facts about human biology and development, including their freedom to express views about enduring biological differences between the sexes.

## Argument

### I. Separate-sex sports ensure equal opportunity for and treatment of women.

In the 50 years since Title IX was enacted, the number of women playing college sports increased from 30,000 in 1981 to over 200,000 in 2017, while the number of high school girls participating in sports grew 990% from 1971 to 2003.<sup>3</sup> This increased participation has had enormous benefits for women and girls. Young girls who play sports have higher grades and score higher on standardized tests than non-athletes.<sup>4</sup> Girls who participate in sports are more likely to graduate compared to non-athletes with a particularly strong correlation for African American and Latina girls.<sup>5</sup> At the college level, girls who receive sports scholarships graduate at higher rates.<sup>6</sup> Female athletes are more likely than female non-athletes to postpone

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<sup>3</sup> Genevieve Carlton, “How Title IX Impacts Women’s Equality in College Athletics,” *Best Colleges*, Nov. 19, 2021, *available at* <https://bit.ly/3BFoLuE>.

<sup>4</sup> “Benefits—Why Sports Participation for Girls or Women,” *Women’s Sports Foundation* (2011), *available at* <https://bit.ly/3eMMGiF>.

<sup>5</sup> “The Decade of Decline,” *Women’s Sports Foundation* 54 (Oct. 2012), *available at* <https://bit.ly/3DnOitw>.

<sup>6</sup> “Finishing Last: Girls of Color and Schools Sports Opportunities,” *Nat’l Women’s Law Ctr.* 7 (2015), *available at* <https://bit.ly/3QBCJSd>.

sexual activity and are half as likely to have an unintended pregnancy.<sup>7</sup> They experience lower rates of depression, have higher self-esteem, and are even less likely to get breast cancer later in life.<sup>8</sup> And, of course, sports can result in scholarship opportunities, prize money, titles, and other awards which serve as great incentives for them to invest their time and effort into these activities which offer such great public benefit.

Later in life, sports participation leads to better business and employment opportunities for women. A survey of senior female executives found that 94% of women in the C-suite played sports, including 52% at the university level, and 74% of respondents said that a background in sports can help accelerate a woman's career.<sup>9</sup> Female executives further reported that their involvement in sports provided them with early leadership skills, discipline, and the ability to work in a team.<sup>10</sup>

The benefits of sports participation for girls and women are especially important because of the historical discrimination women have experienced. Women

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<sup>7</sup> *Id.*; "Sport and Teen Pregnancy," Women's Sports Foundation 8, 10 (May 1998), available at <https://bit.ly/3BgAQEU>.

<sup>8</sup> "Benefits—Why Sports Participation for Girls and Women," *supra*; "Physical Activity in Adolescence and Young Adulthood and Breast Cancer Risk: A Quantitative Review," Nat'l Center for Biotech Info. (Feb. 2004), available at <https://www.ncbi.nlm.nih.gov/pubmed/15075782>.

<sup>9</sup> "Female Athletes Make Winning Entrepreneurs, According to New EY/ESPNW Report," ESPN Press Room, May 3, 2017, available at <https://bit.ly/3dfDcMw>.

<sup>10</sup> "New Nationwide Research Finds: Successful Women Business Executives Don't Just Talk a Good Game... They Play(ed) One," MassMut. Fin. Group, Feb. 2022, available at [www.massmutual.com/mmfg/pdf/boardroom.pdf](http://www.massmutual.com/mmfg/pdf/boardroom.pdf).

have been discriminated against, excluded from public life, exploited, enslaved, sexually abused, and disenfranchised throughout history. Women are not asked how they identify or how they see themselves before they experience these things. Women’s feelings are wholly irrelevant to their condition and standing in this world; women have these experiences because of the biological distinctions between men and women. A male child is more likely to attend school and less likely to be withdrawn by his family before graduation. In no country on Earth is he denied – on account of his sex – the right to vote, to work, to own property, to move about society, or to speak his mind freely. In contrast, girls do not have the same advantageous treatment. Even in the U.S., despite ostensible legal equality between the sexes, there are still significant disadvantages to being born female, including many barriers to women’s participation in sports.<sup>11</sup> Practical barriers include lack of funding (including low pay for female athletes and many fewer sponsorship opportunities), personal safety, transportation, and facilities access. Cultural barriers include constraints on “modesty,” negative messaging from parents and other adults, and ideas about femininity and competition.<sup>12</sup> One particularly insidious barrier is sexual harassment and abuse from coaches and officials. One advocacy group reported that

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<sup>11</sup> “Barriers to sports participation for women and girls,” Women’s Sport and Fitness Foundation (2008), *available at* <https://bit.ly/2NclWEI>.

<sup>12</sup> *Id.*; *see also* “Chasing Equity: The Triumphs, Challenges and Opportunities in Sports for Girls and Women,” Women’s Sports Foundation (2020), *available at* <https://bit.ly/3RINnYG>.

some girls and women drop out in response to abuse, and others endure it for the sake of competing, or because of fear, low self-esteem, or isolation.<sup>13</sup>

Without sports dedicated exclusively to participation by women and girls, women and girls would be wholly excluded from the benefits of athletic participation. Sex-separated sports exist because of biological and physiological sex differences that are highly relevant to athletics. When female athletes are forced to compete in de facto coed teams, they are deprived of titles, records, medals, scholarships, and opportunities to win, or even participate at all fairly and safely.

These results have been demonstrated time after time in recent years. In 2019, two male track runners blew away female competitors in Connecticut's state track championship and smashed 15 state records previously held by female competitors. Overall, physiological sex differences are so large that the U.S. Women's National Team was beaten in a soccer scrimmage by the FC Dallas under-15 boys' team in 2017.<sup>14</sup> And recent headlines have reported on collegiate swimmer Lia Thomas's success in women's competitions. As recently as 2020, Thomas was competing as a member of the University of Pennsylvania's men's swimming team. In 2021, just a year later, the University allowed Thomas to join the women's team after self-identifying as a woman, taking a spot on the team and thus depriving aspiring young women athletes of a fair and level playing field in competition on the team and against other schools . But Thomas is still anatomically a male, bearing all the

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<sup>13</sup> *Id.*

<sup>14</sup> "FC Dallas under-15 boys squad beat the U.S. Women's National Team in a scrimmage," CBS Sports (2017), available at <https://bit.ly/3qyE6qj>.

biological advantages of male developmental physique and making teammates uncomfortable in the locker room with no recourse when they raised concerns with the coaching staff.<sup>15</sup>

Single-sex teams not only level the playing field competitively; they also protect women from the increased injury that arises from competing against males who are naturally larger, faster, and stronger. Unsurprisingly, women are at an increased risk of injury when playing contact sports with men. The State's Opening Brief discussed at length the differences between men and woman and even boys and girls in size, speed, and strength, which necessitate single-sex teams for safety and fair play. But girls and women have the additional physiological challenge of being far more prone to severe injury and to a condition called Female Athlete Triad, which causes osteoporosis, increases in fractures, and psychological issues such as depression, anxiety, body dysmorphia, and eating disorders.<sup>16</sup> The various physical and emotional challenges a female body's premenstrual syndrome (PMS) presents are significant. The emotional symptoms of PMS include: tension or anxiety, depressed mood, crying spells, mood swings and irritability or anger, appetite changes and food cravings, insomnia, social withdrawal, poor concentration, and change in libido. The physical changes of PMS are also compelling, especially in the context of sports. They include: joint or muscle pain, headache, fatigue, weight gain related to fluid retention,

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<sup>15</sup> See Letter to Hon. Catherine E. Lhamon from Concerned Women for America (Mar. 17, 2022), available at <https://bit.ly/3QOYOx2>.

<sup>16</sup> Committee on Adolescent Health Care, *Female Athlete Triad*, American College of Obstetricians and Gynecologists, Committee Opinion No. 702 (June 2017), <https://pubmed.ncbi.nlm.nih.gov/28538496/>.

abdominal bloating, breast tenderness, acne flare-ups, constipation or diarrhea, and alcohol intolerance. According to the world renowned Mayo Clinic, as many as 3 out of every 4 menstruating women experience some form of premenstrual syndrome.<sup>17</sup> Male athletes lack the same vulnerabilities and thus enjoy a significant competitive advantage over female athletes.

**II. The district court erred by overlooking established law allowing, if not requiring, separate-sex sports to ensure equal opportunity for women, the significant harm its injunction will impose on women, and the strong public policy reasons for not enjoining HEA 1041.**

One of the fundamental purposes of Title IX is to protect women and girls' athletic opportunities and ensure they obtain the benefits of athletic participation described in Section I. Title IX does so by protecting equal athletic opportunity for students who are females, including providing for sex-segregated athletics. Indeed, after first enacting Title IX, Congress passed another statute, the Javits Amendment, which instructed the Secretary of Education to publish regulations "implementing the provisions of Title IX . . . which shall include with respect to intercollegiate activities reasonable provisions considering the nature of the particular sports." Public Law 93-380 (HR 69), § 844, 88 Stat 484 (August 21, 1974). Congress itself reviewed the regulations to determine whether they were "inconsistent with the Act from which [they] derive[] [their] authority." *Id.* Congress held six days of hearings

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<sup>17</sup> Premenstrual syndrome (PMS), Mayo Clinic, (accessed September 12, 2022), available at <https://mayoclinic.org/3U80t3p>.

to review the regulations before allowing them to go into effect. *See McCormick ex rel. McCormick v. Sch. Dist. Mamaroneck*, 370 F.3d 275, 287 (2d Cir. 2004).

The implementing regulation of Title IX states that in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex, limit any person in the enjoyment of any right, privilege, advantage, or opportunity. 34 C.F.R. § 106.31(b)(7). The provision applying to athletics states specifically that a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. 34 C.F.R. § 106.41(a). In such circumstances, men and women are not similarly situated because of their physiological differences. Separate-sex teams ensure that female athletes are afforded an equal opportunity to participate. 34 C.F.R. § 106.41(c)(1). Without separate-sex teams, women would be foreclosed from participating in many if not most sports because of their biological disadvantages compared to men and the safety risks.

Justice Ruth Bader Ginsburg recognized the need for sex-based distinctions when she wrote the opinion in a landmark women's equality case declaring that sex-based classifications are sometimes permissible. *United States v. Virginia*, 518 U.S. 515, 533 (1996). Justice Ginsburg understood the innate, physiological differences between men and women and declared them "enduring." *Id.*; *see also Michael M. v. Superior Court*, 450 U.S. 464, 469 (1981) (sexes are "not similarly situated in certain circumstances" due to enduring physical differences in male and female physiology). In other words, unlike race, when it comes to sex, equality sometimes requires separation.

The Supreme Court has not backed away from the need for certain sex-based distinctions, particularly in the context of Title IX where such distinctions are necessary to ensure equal treatment for female athletes. Exemplifying such, the Supreme Court took care to note that its decision in *Bostock v. Clayton County, Ga.*, 140 S. Ct. 1731, 1753 (2020), does not alter Title IX or its implementing regulations and instead was limited solely to the question before it in the employment context under Title VII. The narrow issue addressed in *Bostock* was whether an employer violated Title VII by terminating an employee on the basis of their transgender identification. In other words, unlike *Bostock*, where the Court said extending protection on the basis of “gender identity” did not violate another employee’s rights under Title VII, the harms that would flow from reinterpreting Title IX to effectively prohibit sex-based athletic competitions would disproportionately harm female athletes.

Both the Court and the advocates in the case shared the recognition that *Bostock* has no bearing on Title IX. At oral argument, the employee’s counsel specifically acknowledged that the outcome of the case was not relevant to the question of whether allowing biological males who identify as transgender women to compete against women constituted a violation under Title IX.<sup>18</sup> The district court failed to appropriately consider this legal backdrop in finding that the plaintiff had shown a likelihood of success.

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<sup>18</sup> Oral Arg. Tr., *R.G. & G.R. Harris Funeral Homes, Inc. v. EEOC*, No. 18-107, at 17-18, available at <https://bit.ly/328BDFr>.

The district court also failed to recognize the strong public policy reasons against entering an injunction that will inhibit and harm female participation in athletics. Although the preliminary injunction is limited only to A.M. and to girls' softball, the practical reach is far broader. This ruling effectively will cause other teams in other sports to accept other boys and men who self-identify as female in order to avoid litigation, all with deleterious public policy effects.

In particular, the district court failed to recognize two critical points:

(1) A male athlete's self-identification as female does not subject him to these same obstacles female athletes face, so he retains an innate competitive advantage regardless of his subjective identity claims.

(2) A female athlete does not escape any of these obstacles, nor does she gain any competitive advantage, by self-identifying as male.

In other words, the harm flows in only one direction: toward women. Policies that allow individuals to self-identify onto teams of other sexes have a disparate impact on women, given the biological differences between the sexes. When women are forced to compete against males claiming transgender status, there is an unfair playing field that upends the purpose and text of Title IX.<sup>19</sup> Female student athletes unquestionably lose under these types of discriminatory practices, and the U.S. Supreme Court has long recognized such disparate impact to establish a *prima facie*

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<sup>19</sup> See "University Forced to Rescind Transgender Policy as Violation of Title IX as Violation of Title IX after Biological Male Wins NCAA Championship in Women's Track," Press Release, CWA (Oct. 16, 2020), available at <https://bit.ly/3xkF9xQ>.

case of discrimination.<sup>20</sup> Title IX regulations permit differential treatment specifically to achieve equal opportunity for girls and women. HEA 1041 furthers this aim. It helps prevent discriminatory policies from continuing and thus prevents educational institutions from having all-biological male swimming or even boxing or wrestling team both in men's and women's categories of competition, displacing girls while remaining in full compliance with federal law and potentially eliminating all opportunities for female athletes.

A female athlete's place on a girls' soccer team is not contingent on expressing femininity, just as a male athlete's place on a boys' soccer team is not contingent on expressing masculinity. Yet, under the district court's logic, exclusively female teams are not permissible; rather, they must include males with a "feminine" gender expression or identity. Segregating sports by masculine and feminine sex stereotypes is directly contrary to the spirit and letter of Title IX and the Equal Protection Clause, under which sex stereotyping has long been recognized as a form of prohibited sex discrimination.

**III. Women's sex-based rights and the freedom of speech to discuss sex-based rights are not and cannot be diminished based on subjective beliefs about gender identity.**

U.S. civil rights law recognizes the need to protect people from the subjective beliefs of others, including subjective beliefs founded on sex-stereotypes. Women and girls are thus protected under the law from subjective beliefs about whether and how women should work, vote, have children or not have children, and how they ought to

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<sup>20</sup> See *Dothard v. Rawlinson*, 433 U.S. 321 (1977).

look and behave.<sup>21</sup> In stark contrast, identifying as “transgender” depends on the continued existence of sex-stereotypes. Indeed, a core concept of gender identity ideology is that the sole criteria for whether somebody is transgender is that they say they are transgender.<sup>22</sup>

Understanding the quasi-spiritual nature of “gender identity” requires an examination of some basic terms. Sex is defined by reproductive function; a male produces sperm and a female produces eggs, gestates, and gives birth.<sup>23</sup> Although people’s lives and personalities are not defined by their sex, their sex is always defined by their biology. In contrast, a “gender identity” is a subjective statement of self-perception grounded in emotion and mental perception. Under this philosophy, a male becomes a female when he declares himself so, even if he chooses not to “transition.”<sup>24</sup> The belief that there are objective or verifiable requirements to be considered “transgender” is referred to disparagingly as “transmedicalism,” and is

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<sup>21</sup> U.S. Const. amend. XIX (the right to vote cannot be limited on the basis of sex); *Cleveland Bd. of Ed. v. LaFleur*, 414 U.S.632 (1974) (mandatory leave for pregnant teachers violates due process); *Craig v. Boren*, 429 U.S. 190 (1976) (different drinking ages for men and women violates the 14th amendment); *Phillips v. Martin Marietta Corporation*, 400 U.S. 542 (1971) (refusal to hire women with preschool-age children violates the Civil Rights Act of 1964); *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989) (sex stereotyping is a form of sex discrimination).

<sup>22</sup> See *Doe 2 v. Shanahan*, 917 F.3d 694, 722 (D.C. Cir. 2019).

<sup>23</sup> See Sex, Male, and Female, MILLER-KEANE ENCYCLOPEDIA AND DICTIONARY OF MEDICINE, NURSING, AND ALLIED HEALTH (7th ed. 2003), <https://medical-dictionary.thefreedictionary.com>.

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

considered outdated and “transphobic.”<sup>25</sup> Professionals are strongly discouraged from “gatekeeping” or attempting to verify the sincerity of a person’s declared gender.<sup>26</sup>

Spiritual beliefs provide many people with a sense of purpose and a way to make sense of the world. But these beliefs – which are impossible to observe or verify – can neither be imposed on the public nor used to justify eroding civil rights protections against sex-based discrimination. To believe that sex is determined by a gendered soul or feminine appearance, rather than biology, is to believe that femininity is the same thing as being female. This belief is offensive and harmful to women and antithetical to civil rights jurisprudence.

Subjective distress about one’s sex has never previously served to define a class of persons protected under civil rights laws. Yet the ruling below ostensibly blocks, at least temporarily, single-sex sports based in part on the self-reported affirmation of one’s personal identity as a protected characteristic.

Finally, HEA 1041 helps to ensure that people will not be psychologically coerced into referring to men as women, or vice versa. Students, coaches, school employees, and parents have a First Amendment right to describe and refer to males as “men” and “boys” and females as “women” and “girls.” *See, e.g., Loudoun Cty. Sch. Bd. v. Cross*, No. 210584, 2021 Va. LEXIS 141 (Va. Aug. 30, 2021). Treating boys as

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<sup>25</sup> Ben Vincent, *Transgender Health: A Practitioner’s Guide to Binary and Non-Binary Trans Patient Care* 126 (Jessica Kingsley Publishers, 2018).

<sup>26</sup> Asaf Orr, et. al., *Schools In Transition: A Guide for Supporting Transgender Students in K-12 Schools* 24 (Human Rights Campaign Foundation, 2015), <https://bit.ly/3DnrSs4>.

boys and girls as girls will ensure that people will not be forced by law to violate their conscience and/or deeply held religious beliefs to affirm the claim that humans can transition into the opposite sex.

Those who experience clinically significant distress because of their sex deserve compassion and appropriate treatment for depression or anxiety. But this treatment cannot require everyone else to comply with one's subjective claim to being the opposite sex at the expense of women and girls—effectively removing the sex discrimination protections that Congress passed into law over 50 years ago through Title IX, intended to protect women's safety, privacy, and opportunities.

Amici are not suggesting that male athletes self-identifying as women or girls should be denied the opportunity to play sports. To the contrary, any otherwise-qualified athlete should be able to pursue sports in the sex-based category that aligns with his or her biological sex. Teams or competitions that are mixed sex can also be formed. What must stop is allowing males identifying as women in the women's category of sport—at any level. It's not just about elite athletic competition. The advantages of male bodies in women's sports happens at all levels because nothing can erase the natural development of the major athletic performance indicators that are sex determinant.

Science cannot be disregarded when talking about advantage, fairness, and safety in women's sports and our self-defense. Progressivism is not progress if the result turns back the clock on women's rights, forcing female athletes to be sidelined in their own sports, assaulted in their private spaces, and told that their futures don't matter anymore. Unfortunately, this is what is happening today. Laws like HEA 1041

help protect against the erasure of women and women's spaces in which they can compete fairly and safely.

### Conclusion

For the foregoing reasons, CWA and WoLF ask the Court to vacate the preliminary injunction.

Dated: September 13, 2022

Respectfully submitted,

/s/ Anna St. John

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**Certificate of Compliance  
with Fed. R. App. 32(a)(7) and Circuit Rule 30(d)**

Certificate of Compliance with Type-Volume Limitation, Typeface Requirements, Type Style Requirements, and Appendix Requirements:

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) and Cir. R. 32(c) because excluding the parts of the document exempted by Fed. R. App. P. 32(f): this document contains 4,228 words.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because:

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3. All materials required by Cir. R. 30(a) & (b) are included in the appendix.

Executed on September 13, 2022.

*/s/ Anna St. John*

Anna St. John

**Proof of Service**

I hereby certify that on September 13, 2022, I electronically filed the foregoing with the Clerk of the United States Court of Appeals for the Seventh Circuit using the CM/ECF system, thereby effecting service on counsel of record who are registered for electronic filing under Cir. R. 25(a).

Executed on September 13, 2022.

/s/ Anna St. John

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