

No. 18-107

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In The  
**Supreme Court of the  
United States**

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R.G. & G.R. HARRIS FUNERAL HOMES, INC., *Petitioner*,  
*v.*  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, et  
al., *Respondents*.

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

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**Brief of Amici Curiae Independent Women's  
Forum and 1013 Athletes and Parents Support-  
ing Petitioner**

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## QUESTION PRESENTED

Whether Title VII prohibits discrimination against transgender people based on (1) their status as transgender or (2) sex stereotyping under *Price Waterhouse v. Hopkins*, 490 U. S. 228 (1989).

## TABLE OF CONTENTS

Question Presented .....	i
Table of Contents .....	ii
Table of Authorities.....	iv
Statement of Interest .....	1
Summary of the Argument .....	3
Argument.....	3
I. A Ruling That Title VII Includes Gender Identity Will Apply To Title IX. ....	3
II. Defining “Sex” To Include Gender Identity Undermines Title IX’s Goal Of Increasing Opportunities For Women And Girls.....	7
A. Title IX’s Approach to Athletics Is Based on a Binary Concept of Sex. ....	7
B. Title IX’s Binary Approach to Athletics Has Profoundly Benefitted Women and Girls.....	12
C. A Ruling for Respondents Will Under- mine the Athletic Opportunities Title IX Has Secured for Women and Girls.....	14
1. A Ruling for Respondents Will Leave Fewer Opportunities for Biological Females. ....	14
2. A Ruling for Respondents Will Impose Conflicting Legal Obligations on Athletic Associations and Schools.....	18
3. A Ruling for Respondents Will Threaten the Existence of Single-Sex Sports. ....	19

III. Congress, Not This Court, Should Define The Statutory Meaning Of “Sex.” .....	20
Conclusion .....	22
Addendum of Amici	

## TABLE OF AUTHORITIES

### Cases

<i>Davis v. Monroe County Bd. of Ed.</i> , 526 U.S. 629 (1999) .....	5
<i>Doe v. Boyertown Area Sch. Dist.</i> , 897 F.3d 518 (3d Cir. 2018) .....	6
<i>Franklin v. Gwinnett County Public Schools</i> , 503 U.S. 60 (1992) .....	4
<i>Frontiero v. Richardson</i> , 411 U.S. 677 (1973) .....	7 n.6
<i>Kappa Alpha Theta v. Harvard Univ.</i> , No. 18-cv-12485, 2019 U.S. Dist. LEXIS 134852 (D. Mass. Aug. 9, 2019) .....	6, 7
<i>Kleczek v. Rhode Island Interscholastic League, Inc.</i> , 612 A.2d 734 (R.I. 1992) .....	9
<i>Menaker v. Hofstra Univ.</i> , No. 18-cv-3089, 2019 U.S. App. LEXIS 24283 (2d Cir. Aug. 15, 2019) .....	5
<i>Meritor Sav. Bank, FSB v. Vinson</i> , 477 U.S. 57 (1986) .....	5
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**Statutes**

20 U.S.C. § 1681(a) .....	4
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H.R. 5, 116th Congress (2019) .....	21 n.42
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**STATEMENT OF INTEREST<sup>1</sup>**

The Independent Women's Forum (“IWF”) is a non-profit, non-partisan 501(c)(3) organization founded by women to foster education and debate about legal, social, and economic policies. IWF is committed to increasing opportunity for women, and for all Americans, through policies that expand economic liberty, encourage personal responsibility, and limit the reach of government.

Although this case is brought pursuant to Title VII of the Civil Rights Act of 1964, which prohibits discrimination “because of sex” in employment, IWF is deeply concerned that a ruling in favor of Respondents will apply to Title IX, resulting in the denial of equal athletic opportunities for women and girls. IWF, therefore, respectfully offers this brief in support of Petitioner R.G. and G.R. Harris Funeral Homes, to provide context and explain the far-reaching consequences of a ruling in favor of Respondents.

Amici 1013 athletes and parents, identified in the addendum attached hereto, are 328 athletes and 685 parents of athletes from across the United States and around the globe. They represent athletes at every level of competition, including junior high school, high school, collegiate, professional, and Olympic sports, and from a wide range of sports, including archery, badminton, ballet, baseball, basketball, cross country, dance, diving, fencing, field

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<sup>1</sup> No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amici curiae, IWF members, or their counsel made a monetary contribution to its preparation or submission. The parties have consented to the filing of this brief.

hockey, figure skating, football, golf, gymnastics, ice hockey, lacrosse, martial arts, powerlifting, rowing, skiing, soccer, softball, swimming, track, tennis, volleyball, water polo, weight lifting, and wrestling. Amici athletes and parents join this brief to voice their concern about the negative impact a ruling in favor of Respondents will have on opportunities for female athletes in this country.

### SUMMARY OF THE ARGUMENT

Although this case involves the workplace, not sports, courts have long held that Title IX's prohibition against sex discrimination in education should be interpreted *in pari materia* with Title VII's similar prohibition against sex discrimination in employment. Any judicial expansion of Title VII to include gender identity and/or transgender status will have the unintended consequence of making transgender status a protected category under Title IX, which covers school athletic programs.

In the short term, a ruling in favor of Respondents will reduce the number of athletic opportunities for biological women and girls. In the long run, it will undermine the legal justification for maintaining any sex-specific athletic teams and may result in the elimination of women's sports altogether.

Because a ruling in favor of Respondents will have significant and complicated consequences, this Court must leave to the elected branches of government the task of determining whether or when to provide statutory protections for gender identity and/or transgender status.



## ARGUMENT

Martina Navratilova, winner of 18 Grand Slam Tennis singles titles, has noted that, when it comes to competitive athletics, “sex segregation is the only way to achieve equality for girls and women.”<sup>2</sup> Yet a ruling by this Court in favor of Respondents will undermine the legal justification for sex-specific athletic teams, reduce opportunities for female athletes, and threaten the existence women’s sports altogether.

### **I. A Ruling That Title VII Covers Gender Identity Will Apply To Title IX.**

Title IX of the Education Amendments of 1972 provides that:

No person in the United States shall, *on the basis of sex*, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

20 U.S.C. § 1681(a) (emphasis added).

Courts interpreting Title IX’s prohibition against discrimination “on the basis of sex” hew closely to judicial interpretations of Title VII, which prohibits employment discrimination “because of ... sex.” 42 U.S.C. § 2000e-2(a). In *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992), for example, this Court held, *inter alia*, that sexual harassment of a student by a teacher can constitute a form of sex discrimination<sup>3</sup> under Title IX. *Id.* at 75. In reaching

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<sup>2</sup> Doriane Coleman, Martina Navratilova, Sanya Richards-Ross, *Pass the Equality Act, But Don’t Abandon Title IX*, Washington Post (Apr. 29, 2019).

<sup>3</sup> Many courts use the term “gender” and “sex” interchangeably to refer to the distinct categories of male and female. *See, e.g., North Haven Bd. of Educ. v. Bell*, 456 U.S. 512 (1982)

this conclusion, the Court relied on its earlier holding in *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57 (1986), which found that sexual harassment of an employee by a supervisor can constitute sex discrimination under Title VII. *Id.* at 64. *See also Davis v. Monroe County Bd. of Ed.*, 526 U.S. 629, 650-51(1999) (relying on interpretations of Title VII to determine the contours of hostile environment harassment in schools under Title IX).

Likewise, lower courts have noted that the phrases “because of ... sex” in Title VII and “on the basis of sex” in Title IX are essentially “interchangeabl[e]” and that the “interpretation of Title VII properly informs [a court’s] examination of Title IX.” *Wolfe v. Fayetteville Sch. Dist.*, 648 F.3d 860, 866 (8th Cir. 2011). *See also Menaker v. Hofstra Univ.*, No. 18-cv-3089, 2019 U.S. App. LEXIS 24283 at \*13 (2d Cir. Aug. 15, 2019) (noting that the circuit has long

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(switching between the terms without explanation). A scene in the movie *On the Basis of Sex*, which chronicles the life and work of Justice Ruth Bader Ginsburg, provides a possible explanation. In the scene, Ms. Ginsburg decides at the last minute to substitute the word “gender” for “sex” in a legal brief she is writing, so as not to distract the court’s male judges with the potentially provocative term “sex.” Amy Zimmerman, *Supreme Court Justice Ruth Bader Ginsburg Fact Checks her Own Biopic*, “*On the Basis of Sex*,” Daily Beast (Dec. 12, 2018), at <https://www.thedailybeast.com/supreme-court-justice-ruth-bader-ginsburg-fact-checks-her-own-biopic-on-the-basis-of-sex>. To the extent that courts continue to use the terms “sex” and “gender” interchangeably, it is most likely to avoid awkward intimate connotations, as depicted in the movie, and not to imply that federal anti-discrimination law covers discrimination on the basis of “gender identity.” Thus, the judicial use of the term “gender discrimination” should be viewed as a stand-in for the term “sex discrimination” and is not an endorsement of the notion that statutes passed half a century ago prohibit discrimination on the basis of relatively new categories.

interpreted Title IX by looking to the caselaw interpreting Title VII). *See also Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 534 (3d Cir. 2018) (relying on judicial interpretations of Title VII in interpreting Title IX); *Wills v. Brown Univ.*, 184 F.3d 20, 25 n.3 (1st Cir. 1999) (recognizing that the substantive aspects of Title VII and Title IX are to be construed *in pari materia*); *Preston v. Commonwealth of Virginia ex rel. New River Community College*, 31 F.3d 203, 206 (4th Cir. 1994) (reviewing interpretations of Title VII to determine whether allegations of employment discrimination and retaliation are viable under Title IX); *Roberts v. Colorado State Board of Agriculture*, 998 F.3d 824, 832 (10th Cir. 1993), *cert. denied*, 114 S. Ct. 580 (1993) (explaining that Title VII provides “the most appropriate analogue when defining Title IX’s substantive standards”) (internal quotes omitted).<sup>4</sup>

That this Court’s holding here will be applied to educational institutions is evident from a recent Massachusetts federal district court case. In *Kappa Alpha Theta v. Harvard Univ.*, No. 18-cv-12485, 2019 U.S. Dist. LEXIS 134852 (D. Mass. Aug. 9, 2019), the district court applied the Second Circuit’s en banc Title VII decision, *Zarda v. Altitude Express*, 883 F.3d 100 (2d Cir. 2018), *cert. granted* 139 S.Ct. 1599 (Apr. 22, 2019), to a claim that Harvard University discriminated on the basis of sex in violation of Title IX. In *Zarda*, the Second Circuit held that Title VII prohibits employers from discriminating against

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<sup>4</sup> *See generally* Douglas P. Ruth, *Title VII + Title IX = ? Is Title IX the Exclusive Remedy for Employment Discrimination in the Educational Sector*, 5 Cornell J. of Law and Public Policy 185, 197 (1996) (stating that “in terms of legal requirements and remedies,” Title IX and Title VII are “virtually the same.”)

employees based on the sex of those with whom they associate. *Zarda*, 883 F.3d at 108. Based on this reasoning, the district court held that Harvard’s policy discouraging both male and female students from joining fraternities or sororities can constitute a form of discrimination “because of ... sex” under Title IX. *Kappa Alpha Theta*, 2019 U.S. Dist. LEXIS 134852 at \*17-18.

As case law shows, a decision by this Court to expand the term “sex” under Title VII to include gender identity and/or transgender status will also expand the definition of the word “sex” under Title IX.<sup>5</sup>

## **II. Defining “Sex” To Include Gender Identity Undermines Title IX’s Goal of Increasing Opportunities for Women and Girls.**

### **A. Title IX’s Approach to Athletics Is Based on A Binary Concept of Sex.**

Title IX was designed to eliminate discrimination and to expand opportunities for women and girls in education. Like Title VII,<sup>6</sup> Title IX reflects a binary

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<sup>5</sup> See generally Jared P. Cole and Christine J. Back, *Title IX, Who Determines the Meaning of Sex?*, Cong. Res. Serv. Legal Sidebar 7-5700 at 1 (Dec. 12, 2018), <https://fas.org/sgp/crs/misc/LSB10229.pdf> (“a definitive ruling on [Title VII’s] scope would likely inform judicial interpretation of the similarly worded prohibition against ‘sex’ discrimination in Title IX.”).

<sup>6</sup> When Title VII was enacted more than 50 years ago, the term “sex” was commonly understood to refer to the binary concept of biological sex and not to gender identity and/or transgender status. See e.g., *Frontiero v. Richardson*, 411 U.S. 677, 686 (1973) (explaining that, for purposes of equal protection analysis, “sex, like race and national origin, is an immutable characteristic determined solely by the accident of birth”); *Ulane v. Eastern Airlines, Inc.*, 742 F.2d 1081, 1085 (7th Cir. 1984) (“Congress never considered nor intended that this 1964

conception of sex, under which athletic programs are allowed to operate sex-specific teams.

Thus, Title IX regulations<sup>7</sup> state that a covered entity “may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill.” 34 C.F.R. § 106.41(b). For non-contact sports, Title IX allows schools to offer entirely sex-segregated athletic teams, so long as the sport is offered to both sexes. *Id.* See also *O’Connor v. Bd. of Ed. of Sch. Dist. 23*, 449 U.S. 1301 (1980) (refusing to vacate a stay that prohibited a female student from trying out for the boys’ basketball team where the school also had a girls’ team). In contact sports, sex-based exclusions are permitted even if the school does not offer a team for the excluded sex. 34 C.F.R. § 106.41(b).

Not only are educational institutions covered by Title IX *allowed* to operate sex-segregated athletics teams, covered entities are, in fact, *required* “to

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legislation apply to anything other than the traditional concept of sex.”). Indeed, even today modern dictionaries define sex as “either of two divisions of organisms distinguished respectively as male or female.” Merriam-Webster Dictionary, *available at* <https://www.merriam-webster.com/dictionary/sex> (last visited Aug. 21, 2019).

The recent attempt to enact legislation that would alter federal anti-discrimination law to include gender identity underscores Title VII’s current binary framework. See H.R. 5, 116th Congress (2019) (establishing “The Equality Act” that would amend federal law to prohibit discrimination on the basis of gender identity as well as sexual orientation).

<sup>7</sup> Although Title IX originally made no mention of athletics, the Education Amendments of 1974 specifically directed the Department of Health, Education, and Welfare to issue implementing regulations “which shall include with respect to intercollegiate athletic activities reasonable provisions considering the nature of particular sports.” P.L. 93-380 § 844 (1974).

provide equal athletic opportunity for members of both sexes.”<sup>8</sup> *Id.* at § 106.41(c).

The premise behind sex-specific sports is the simple scientific reality that, on average, males are stronger, faster, and more powerful than females. *See, e.g., Kleczek v. Rhode Island Interscholastic League, Inc.*, 612 A.2d 734, 738 (R.I. 1992) (“Because of innate physiological differences, boys and girls are not similarly situated as they enter athletic competition.”). Scientists regard different athletic capabilities not simply as differences in human variation between top athletes and others, but as differences, on average, between the two biological sexes. According to Eric Villian, professor of human genetics at UCLA and a consultant to the International Olympic Committee medical commission, “[t]here is a 10 to 12% difference between male and

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<sup>8</sup> The Department of Education has established a three-pronged test for demonstrating compliance with this requirement. *See* A Policy Interpretation: Title IX and Intercollegiate Athletics, 44 Fed. Reg. 71,413, 71,419 (Dec. 11, 1979); *Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance*, U.S. Dep’t of Educ. (July 11, 2003), available at <https://www2.ed.gov/about/offices/list/ocr/title9guidanceFinal.html>; *Additional Clarification on Intercollegiate Athletics Policy: Three-Part Test—Part Three*, U.S. Dep’t of Educ. (March 17, 2005), available at <https://www.femnist.org/education/pdfs/AddnClarificationInterCollegiateAthleticsPolicy.pdf>; *Dear Colleague Letter*, U.S. Dep’t of Educ. (April 20, 2010), available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20100420.html> (withdrawing the 2005 clarification). While amici take no position on the merits of this three-pronged approach or on the proper way to determine athletic compliance under Title IX, they do find it ironic that the very same groups that have long sought proportional athletic representation for women and girls are now willing to allow those hard fought-for spots to be ceded to athletes who are born male. *See, e.g.,* NWLC Amicus Br. Supp. Employees.

female athletic performance.”<sup>9</sup> Men have, on average, 36% greater skeletal muscle mass than women,<sup>10</sup> are taller than women,<sup>11</sup> and have thicker and denser bones than women.<sup>12</sup> Conversely, female athletes have lower lung volume and maximal expiratory airflow rates than their biologically male counterparts on account of smaller lungs and airway diameter, a factor not affected by hormone levels.<sup>13</sup>

It therefore comes as no surprise that the Olympic records for men generally surpass the Olympic records of women. In the 200 meter track event, for example, the fastest man runs a full two seconds faster than the fastest woman.<sup>14</sup> In weightlifting, the

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<sup>9</sup> Tim Layden, *Is it fair for Caster Semenya to compete against women at the Rio Olympics?*, SI (Aug. 11, 2016).

<sup>10</sup> Ian Jansen, Steven B. Heymsfield, ZiMian Wang, and Robert Ross, *Skeletal muscle mass and distribution in 468 men and women aged 18-88 yr*, 89 J. Applied Physiology 81, 85-86 (July 2000), available at <https://www.physiology.org/doi/full/10.1152/jappl.2000.89.1.81>.

<sup>11</sup> *Opening ‘the X-files’ helped researchers to understand why women and men differ in height*, ScienceDaily (Feb. 4, 2014), <https://www.sciencedaily.com/releases/2014/02/140207083836.htm> (discussing a study showing how the X chromosome may impact height in women).

<sup>12</sup> Jeri W Nieves, Carmelo Formica, Jamie Ruffing, Marsha Zion, Patricia Garrett, Robert Lindsay, Felicia Cosman, *Males Have Larger Skeletal Size and Bone Mass Than Females, Despite Comparable Body Size*, 20 J. of Bone and Mineral Res. 529 (Dec. 4, 2009) (discussing how males have higher lean mass, bone mineral content, and bone mineral density than females).

<sup>13</sup> See Anthony C. Hackney, ed., *Sex Hormones, Exercise and Women: Scientific and Clinical Aspects*, at 21-23 (Springer 2017).

<sup>14</sup> *Olympic Game Records*, IAAF, <https://www.iaaf.org/records/by-category/olympic-games-records> (last visited Aug. 21, 2019).

strongest man lifts over a hundred pounds more than the strongest woman.<sup>15</sup> And in the 500 meter speed skating event, the fastest male skates over 2.5 seconds faster than the fastest female speed skater.<sup>16</sup>

Differences are also readily apparent in other athletic competitions. For example, junior high boys swimming the 1500m at the Junior National Championships can post times faster than the gold medal winner in the Women's 1500m at the FINA World Championships.<sup>17</sup> And even the much-heralded U.S. women's national soccer team (which recently won the 2019 FIFA Women's World Cup) struggles in competitions against biological men, losing to a top U-15 boys academy soccer team in a scrimmage.<sup>18</sup> Although in some circumstances an

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<sup>15</sup> *Compare Olympic Records*, IWF, <https://www.iwf.net/results/olympic-records/> (last visited Aug. 21, 2019) (reporting, for example, a total of 357 kg lifted in the 69 kg category), *with Women's Olympic Records*, IWF, [https://www.iwf.net/results/olympicrecords/?ranking\\_curprog=current&ranking\\_gender=w&x=8&y=5&y=12](https://www.iwf.net/results/olympicrecords/?ranking_curprog=current&ranking_gender=w&x=8&y=5&y=12) (last visited Aug. 21, 2019) (reporting a total of 286 kg lifted in the 69 kg category).

<sup>16</sup> *List of Olympic records in speed skating*, Wikipedia, [https://en.wikipedia.org/wiki/List\\_of\\_Olympic\\_records\\_in\\_speed\\_skating](https://en.wikipedia.org/wiki/List_of_Olympic_records_in_speed_skating) (last visited Aug. 7, 2019).

<sup>17</sup> *Compare Results Summary*, 2019 Speedo Junior National Championships (Aug. 6, 2019), <http://omegatiming.com/File/000113010C0101F304FFFFFFFFFFFF01.pdf> (reporting the ninth slowest time at 15:40.57) *with 18th FINA World Championships: Women's 1500m Freestyle*, FINA, <http://www.fina.org/competition-detailed-results/18th-fina-world-championships-2019-women-1500m-freestyle/event> (last visited Aug. 21, 2019) (reporting the fastest time at the Women's FINA World Championships as 15:40.89).

<sup>18</sup> See Roger Gonzalez, *FC Dallas under-15 boys squad beat the U.S. Women's National Team in a scrimmage*, [www.CBSsports.com](http://www.CBSsports.com) (April 4, 2017), at <https://www.cbssports.com/soccer/news/a-dallas-fc-under-15-boys-squad->



individual female athlete might be able to beat a particular male athlete in athletic competition, in most cases, even the top female athletes will usually lose to male athletes.<sup>19</sup>

Given the competitive advantage that male athletes have over female athletes, Title IX plays an important role in leveling the proverbial “playing field.”

### **B. Title IX’s Binary Approach to Athletics Has Profoundly Benefited Women and Girls.**

The benefits of Title IX’s binary approach cannot be understated. Prior to the passage of Title IX, only one in 27 girls participated in organized sports.<sup>20</sup> Today, two in five participate.<sup>21</sup> Stated another way, in 1972, 295,000 girls competed in high school sports, compared with 3.67 million boys.<sup>22</sup> In 2010-2011, that number had risen to 3.2 million girls, compared with 4.5 million boys.<sup>23</sup> This represents “a 545%

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beat-the-u-s-womens-national-team-in-a-scrimmage/.

<sup>19</sup> See Coleman, *supra* n.2 (“The evidence is unequivocal that starting in puberty, in every sport except sailing, shooting and riding, there will always be significant numbers of boys and men who would beat the best girls and women in head-to-head competition. Claims to the contrary are simply a denial of science.”)

<sup>20</sup> *Title IX and the Rise of Female Athletes in America*, The She Network, <https://www.womenssportsfoundation.org/education/title-ix-and-the-rise-of-female-athletes-in-america/> (last visited Aug. 21, 2019).

<sup>21</sup> *Id.*

<sup>22</sup> Fred Bowen, *Title IX has helped encourage many girls to play sports*, Washington Post (June 20, 2012), available at [https://www.washingtonpost.com/lifestyle/kidspost/title-ix-has-helped-encourage-many-girls-to-playsports/2012/06/20/gJQARxx3qV\\_story.html](https://www.washingtonpost.com/lifestyle/kidspost/title-ix-has-helped-encourage-many-girls-to-playsports/2012/06/20/gJQARxx3qV_story.html).

<sup>23</sup> *Id.*

increase in the percentage of women playing college sports and a 990% increase in the percentages of women playing high school sport.”<sup>24</sup> Since the passage of Title IX, there has also been a steady increase of female participation in the Olympic games,<sup>25</sup> with more than half of the 2012 U.S. delegation comprised of women who captured a majority of both overall medals and gold medals.<sup>26</sup>

It is not simply female athletic participation that has increased: the female share of athletic scholarships has also risen. Forty-five years ago, almost no such scholarships existed. But as of 2012, almost 200,000 women played college sports, and many on scholarship.<sup>27</sup>

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<sup>24</sup> Beth A. Brooke-Marciniak and Donna de Varona, *Amazing things happen when you give female athletes the same funding as men*, World Economic Forum (Aug. 25, 2016), <https://www.weforum.org/agenda/2016/08/sustaining-the-olympic-legacy-women-sports-and-public-policy/>.

<sup>25</sup> *Title IX and the Rise of Female Athletes in America*, supra n.20.

<sup>26</sup> Brooke-Marciniak, supra n.24.

<sup>27</sup> Bowen, supra n.22. The broader benefits of athletic participation for women are widely acknowledged. Female high school athletes are more likely to graduate from high school, get better grades, and be healthier, than girls who do not participate in sports and are less likely to get into trouble. *Id.* Athletic participation also creates life-long opportunities for women. See Haley Samsel, *Title IX turns 45 today. Its impact goes beyond women playing sports*, USA Today (June 23, 2017), available at <https://www.usatoday.com/story/college/2017/06/23/title-ix-turns-45-today-its-impact-goes-beyond-women-playing-sports/37433427/> (quoting Big East commissioner and former WNBA president Val Ackerman saying that “[t]he benefits [of athletic participation for girls] will be in what happens after the playing days are over, namely more women in leadership positions in our society .... Whether doctors, lawyers, engineers, CEOs, senators, university presidents, tech titans—the pathways for

None of this progress in women's sports would have been possible without a binary approach to athletics that takes into account the average differences in athletic performance of males and females.

**C. A Ruling for Respondents Will Undermine the Athletic Opportunities Title IX Has Secured for Women and Girls.**

**1. A Ruling for Respondents Will Leave Fewer Opportunities for Biological Females.**

A ruling that Title VII covers gender identity and/or transgender status will apply to Title IX and require education institutions that receive federal funding to integrate fully male-to-female transgender students into all aspects of student life, including female athletic teams. Under such a court-imposed regime, biological females will inevitably lose spots on athletic teams with limited rosters. And in head-to-head competitions, if female athletes are forced to compete against athletes who were born male, biological females will often lose.

For example, the Connecticut Interscholastic Athletic Conference allows male-to-female transgender high school students to compete in women's athletic competitions without restriction, meaning regardless of whether they have taken steps to alter their physiology.<sup>28</sup> As a result, since 2017, two biological males have collectively won 15 women's state championship titles (previously held

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women will keep easing because sports can pave the way.”).

<sup>28</sup> *2019-2020 Handbook*, Connecticut Interscholastic Athletic Conference, at 55, [http://www.casciac.org/pdfs/ciachandbook\\_1920.pdf](http://www.casciac.org/pdfs/ciachandbook_1920.pdf) (last visited Aug. 21, 2019). Hormonal or physiological changes are not required. *Id.*

by ten different Connecticut girls) against biologically female track athletes.<sup>29</sup>

In the university setting, a biologically male track athlete at Franklin Pierce University in New Hampshire switched from competing on the men's Division II track team in 2018 to the women's Division II track team in 2019 after at least one year of testosterone suppression, as required by the NCAA.<sup>30</sup> While placing eighth out of nine male athletes in the 400 meter hurdles the year before, the student won the women's competition by over a second and a half—a time that had garnered tenth place in the men's conference meet just three years before.<sup>31</sup>

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<sup>29</sup> *Re: Title IX Discrimination Complaint on Behalf of Minor Children Selina Soule, [Second Complainant], and [Third Complainant]*, Alliance Defending Freedom at 12, ¶ 29 (June 17, 2019), available at <http://www.adfmedia.org/files/SouleComplaintOCR.pdf>. Nationwide, the fastest high school male track athletes are approximately 1 second faster than their female counterparts per 100 meters run. *Compare High School Track & Field Top 10 Rankings*, AthleticNET, <https://www.athletic.net/TrackAndField/Division/Top.aspx?DivID=20633> (last visited August 21, 2019) (men track stats), *with id.*, <https://www.athletic.net/TrackAndField/Division/Top.aspx?DivID=20633&gender=f> (last visited Aug. 21, 2019) (women track stats).

<sup>30</sup> *NCAA Inclusion of Transgender student-Athletes*, NCAA, at 13, available at [https://www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf). No required hormone levels of medication requirements are in place. *Id.*

<sup>31</sup> Chris Pastrick, *Transgender woman who last year competed as a man wins NCAA track championship*, Tribe LIVE (May 29, 2019), <https://tribelive.com/sports/biological-male-wins-ncaa-womens-track-championship/>. The student was nationally ranked 200th and 390th, respectively, in men's hurdles in 2016 and 2017. Robert Johnson, *What No One Is Telling You: An Athlete Who Ran NCAA Track As A Man For 3 Years Just Won*

Outside of the education context, a biological male competing as a female powerlifter after undergoing 11 months of hormone replacement therapy set world records in all categories—9 world records in all—at a 100% Raw Competition in April 2019.<sup>32</sup> As Beth Stelzer, a biologically female amateur powerlifter and founder of Save Women’s Sports, observes, “if biological men are allowed to compete in women’s sports, there will be men’s sports, there will be co-ed sports, but there will no longer be women’s sports.”<sup>33</sup>

In 2018, an athlete who was born male competed in a female mixed martial arts (“MMA”) competition. Not only was opponent Tamika Brents TKO’d, she was left with a concussion and a broken skull.<sup>34</sup> Ms. Brents observed afterwards: “‘I’ve fought a lot of

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*An NCAA Women’s Title*, LetsRun (May 28, 2019), <https://www.letsrun.com/news/2019/05/what-no-one-is-telling-you-an-athlete-who-ran-ncaa-track-as-a-man-for-3-years-just-won-an-ncaa-womens-title/>. Men’s hurdles are six inches taller than women’s hurdles. *Id.*

<sup>32</sup> Akshay Pai, *Champion powerlifter who broke world records stripped of titles because she was ‘still a man’ during competition*, meaww (May 13, 2019), <https://meaww.com/champion-powerlifter-broke-world-records-stripped-titles-because-still-a-man-during-competition>. The RAW Powerlifting Federation stripped the powerlifter of the titles when it was confirmed that physiologically, the powerlifter was male. *Id.* The Federation’s standards are based on physiology rather than gender identification. *Id.*

<sup>33</sup> *Fair Play? Women’s Athletics in the Age of Gender Identity*, Save Women’s Sports in the Media, at 25:18-29, <https://save-womenssports.com/about> (reposted from The Heritage Foundation (April 8, 2019), <https://www.heritage.org/gender/event/fair-play-womens-athletics-the-age-gender-identity>).

<sup>34</sup> Richard Presley, *Transgender MMA Fighter Fallon Fox Breaks Opponent’s Skull*, ATBK, <https://www.attacktheback.com/transgender-mma-fighter-fallon-fox-breaks-opponents-skull/> (last visited Aug. 21, 2019).

women and have never felt the strength that I felt in a fight as I did that night. I can't answer whether it's because she was born a man or not because I'm not a doctor. I can only say, I've never felt so overpowered ever in my life and I am an abnormally strong female in my own right."<sup>35</sup>

In most of these examples—and there are numerous more—the inclusion of biological males in female-only competitions has prevented women from qualifying for further competition or to earn sponsorships. In Connecticut, for example, biologically male track athletes have deprived their female counterparts of as many as 40 opportunities to participate in higher level competitions.<sup>36</sup> Biological males are even squeezing out biological females for qualification to compete in female-only Olympic competitions,<sup>37</sup> the ultimate athletic opportunity for many amateur athletes that represents sponsorships, promotion, and media attention.<sup>38</sup>

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<sup>35</sup> *Id.*

<sup>36</sup> *Re: Title IX Discrimination Complaint*, *supra* n.29 at 12, ¶ 29.

<sup>37</sup> *See, e.g.*, Luke Mikelionis, *Transgender weightlifter's gold medal sparks new debate*, Fox News (July 30, 2019), <https://www.foxnews.com/sports/womens-rights-groups-urge-olympic-committee-to-stop-transgender-athletes-from-competing-in-womens-category> (discussing how a biological male's gold medal win in a female heavy weightlifting competition qualified the athlete to participate in the 2020 Olympics in Tokyo and the concerns that raises).

<sup>38</sup> Although proponents of male-to-female transgender participation in female sports argue that any competitive advantage can be eliminated with hormone therapy, recent research reveals that hormones alone do not account for all of the competitive advantages. A recent, small study presented at the April European EPATH2019 Conference summarizes its findings that, while biological females are able to increase their muscle strength and mass over 4 times by inhibiting endogenous sex

Interpreting federal anti-discrimination law to include gender identity and/or transgender status undermines the very purpose of sex-specific sport: leveling the proverbial playing field.

## **2. A Ruling for Respondents Will Impose Conflicting Legal Obligations on Athletic Associations and Schools.**

Expanding the legal definition of “sex” to include gender identity and/or transgender status will mean that educational institutions that receive federal funding will be prohibited from making *any* distinctions on the basis of biological sex, irrespective of whether such distinctions are relevant to legitimate educational interests. Schools would, therefore, be *required* to allow athletes who were born male to compete on female teams without restriction or exception.

And yet, the statute will still require that schools provide equal athletic opportunities for both sexes. How can schools with limited budgets, roster spots,

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hormones and replacing them with cross-sex hormones after 11 months, biological males, nevertheless, “maintain their strength levels as well as cross-sectional area and radiological density throughout the treatment period.” Anna Wiik, Mats Holmberg, Tommy Lundberg, Mats Lilja, Daniel Andersson, Stefan Arver, Thomas Gustaffson, *Change in muscle strength and muscle cross-sectional area following cross-sex hormone treatment*, EPATH2019 (last visited Aug. 21, 2019), <https://epath2019.exordo.com/programme/presentation/224>. As transgender athlete and doctor Joanna Harper has acknowledged, “I’ve been on hormone therapy for 15 years, and I carry more muscle mass than a woman my size, absolutely.” David Epstein, *Testosterone and the Transgender Athlete*, *The Wall Street Journal* (Mar. 15, 2019), available at <https://www.wsj.com/articles/testosterone-and-the-transgender-athlete-11552658639>.

and scholarship money possibly satisfy both obligations? The answer is, they cannot.

Nor can the Department of Education enforce Title IX in a way that both ensures equal athletic opportunity for female athletes *and* inclusion for male-to-female transgender athletes. For example, the Department's Office for Civil Rights recently opened an investigation into whether Connecticut's policy allowing athletes born male to participate in women's track discriminates against biological female athletes.<sup>39</sup> It cannot possibly be the case that Title IX both *requires* that athletic associations provide equal athletic opportunities for males and females *and* that it *prohibits* athletic associations from excluding male-to-female transgender runners from competitions for girls. The statute can do one or the other, but it cannot do both.

### **3.A Ruling for Respondents Will Threaten the Existence of Single-Sex Sports.**

A ruling that prevents distinctions based on biological sex will lend credence to the movement to eliminate sex-specific sports altogether. This movement asserts that offering separate male and female athletic teams unfairly stereotypes women as unable to compete with men. For example, author Adrienne N. Milner argues that sex and race are both social constructs and that sex, like race, should not require segregation in athletic competitions.<sup>40</sup>

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<sup>39</sup> The Associated Press, *Civil rights probe opened into transgender athlete policy*, NBC News (Aug. 9, 2019), at <https://www.nbcnews.com/feature/nbc-out/civil-rights-probe-opened-transgender-athlete-policy-n1040796>.

<sup>40</sup> See, e.g., Adrienne N. Milner, Jomills Henry Braddock II, *Sex Segregation in Sports: Why Separate is Not Equal* (Praeger Feb. 12, 2016).



Others have argued that allowing males and females to compete in separate divisions reinforces pernicious gender stereotypes and any honest evaluation of athletic ability.<sup>41</sup> Although the effort to eliminate sex-specific athletics may seem like a fringe movement, a ruling in favor of Respondents in this case might very well achieve this objective through the backdoor. If schools are required to allow male-to-female transgender athletes to compete on women's teams, there is no logical reason to prohibit any male athletes from participating on women's teams. Eventually, a ruling in favor of Respondents would require that all athletic teams be co-ed. Is there any doubt that if schools offer only one co-ed ice hockey team or one co-ed soccer team, female athletes will lose opportunities to play? Title IX was not passed to achieve such outcomes, and this Court should not impose them inadvertently.

### **III. Congress, Not This Court, Should Define The Statutory Meaning Of “Sex.”**

The entire structure of federal anti-discrimination law is built upon the heretofore uncontroversial premise that there are two biological sexes—and that it is wrong to treat one sex differently than the other (absent a bona fide occupational justification). Although in 2019 binary notions of sex may be considered by some to be old-fashioned, it is not the job of this Court to update the law to reflect contemporary culture.

Rather, it is the job of the democratically-elected branches of government to determine whether or in what circumstances to prohibit discrimination on the

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<sup>41</sup> Nancy Leong & Emily Bartlett, *Sex Segregation in Sports as a Public Health Issue*, 40 *Cardozo Law Rev.* 1813 (2019).

basis of gender identity or transgender status.

One proposal put forward by tennis legend Martina Navratilova and other female athletes would exempt women’s athletics from any new law recognizing gender identity as a protected class. Although these athletes support passage of the Equality Act<sup>42</sup>—which would make it unlawful to discriminate on the basis of sexual orientation or gender identity in employment, education, housing and public accommodations—they recognize the need for exceptions.

Amici take no position here on the merits of the “Navratilova proposal,” but it is an example of the many ways that Congress might resolve some of the thorny issues raised by this case.<sup>43</sup>

When it comes to the issue of gender identity, each context—employment, housing, education, etc.—poses its own unique set of challenges and requires the kind of weighing of competing interests that policy-making bodies are best suited to conduct. This Court’s task here is much narrower: determining the meaning of “sex” in the 1964 statute known as Title VII.

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<sup>42</sup> H.R. 5, 116th Congress (2019).

<sup>43</sup> Transgender participation in competitive athletics presents particularly complicated issues that are not easily resolved by blunt, one-size-fits-all judicial decrees. For example, given the average athletic superiority of males over females, the participation of male-to-female transgender athletes poses challenges not raised in the female-to-male context. See Jennifer C. Braceras, *Parsing Transgender Equality in Athletics*, Boston Globe (June 24, 2019), available at <https://www.bostonglobe.com/opinion/2019/06/24/parsing-transgender-equality-athletics/oVJezCcyPCqGYoMrzJOJ8K/story.html>.

**CONCLUSION**

For the foregoing reasons, this Court should reverse the decision of court below.

Respectfully submitted,

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## **Addendum of Amici**

**Amici Athletes**

Abi	Gum	IL
Abigail	Krull	OH
Abigail	Mills	AZ
Adrienne	Schoff	GA
Adrienne	Pendleton	IN
Alan	Young	NC
Alex	Zamora	TX
Alexis	Olson	TX
Alicia	Gautreau	LA
Allie	Thornton	TX
Allie	Zinn	WA
Alston	McNairy	NC
Amanda	Stone	ID
Amanda	Crigler	NC
Amanda	MacLurg	WA
Amy	Keane	WI
Amy	Meyer	KS
Andrea	Nash	OH
Andrew	Perez	CA
Andy	Martin	Japan
Ann	Smejkal	MI
Ann	Schmalstieg	PA
Anne-Marie	Gallagher	England
Ardet	Biotti	WA
Arika	Gilmore	ID
Ashlee	Hafenbrack	TX
Ashley	Pals	AZ
Ashley	Terrazas	NC
Audrey	Zinn	WA
Avery	Duininck	MN
Barbara	Bull	Japan
Bernadette	Tom	HI

Bernadette	Tasy	CA
Beth	Cendejas	IN
Bethany	Bostron	SD
Bobby	Royster	TX
Brenda	Bruno	CO
Brennan	Bowen	AZ
Brigitta	Pulins	Canada
Brooke	Golik	CA
Byron	Talbot	TN
Carly	Mecklenburg	CA
Carol	Peet	CA
Caroline	Quick	NH
Carolyn	Shaddak	NY
Carter	Langhofer	VA
Cassidy	Torres	WA
Chalaine	Kilduff	CT
Charles	Hoyack	AZ
Charlotte	Younce	TN
Charlotte	Shively	SD
Chelcie	Martin	NM
Chelle	Bloom	NY
Chelsea	Maloney	ND
Chris	Berleth	PA
Chris	Berleth	PA
Chris	Cottone	IN
Christiana	Gellert	DC
Christine	Pierce	AZ
Chuck	Cannizzaro	CA
Clancey	Garcia	AZ
Corrina	Torrenga	WI
Courtney	Rockness	NC
Courtney	Albini	CA
Courtney	Rife	TX
Courtney	Horton	NY

Craig	Walser	NC
Curtis	Brown	AZ
Dana	Helfenbein	AZ
Daniel	Wetlesen	IL
Daniel	Woo	CA
Danna	Snow	WA
David	Abbott	MI
David	Morin	UT
David F	Hale	NC
David Pope	Pope	NC
Debra	Rebersky	TN
Derrick	Jensen	CA
Diane	Dickinson	CO
Diane	Spence	AZ
Don	Mulkey	GA
Donna	Marts	WY
Dorothy	Seitz	IL
Dorothy	Reilly	Abroad
Doug	Welty	VA
Doug/Julie	Kells	NC
Dozier	Bell	ME
Dr. Allen	Bartzatt	NE
Edward	Gondeck	IN
Eldon	Cooper	GA
Elizabeth	Haney	TX
Elizabeth	Adams	CA
Ellen	Donohue	MI
Elsie	Duininck	MN
Emily	Dittmer	WA
Emily	Kreps	PA
Emily	Kaht	IL
Emily	Barnes	New Zealand
Emily	Horton	TX
Emma	Wenger	PA

Erin	Waldrep	CO
Esther	Klaus	AZ
Faith	Gilbert	WA
Farrah	Middleton	MD
Frances	Ritch	NC
Gabriel	Dominguez	TX
Gail	Pawlowski	NY
Gay	Murr	NV
Gayle	Mitchel	TN
George	Zugmier	AZ
George	Armbruster	LA
Gianna	Miller	NJ
Giovanna	Capone	CA
Grace	Ansani	IL
Grace	Weeks	SD
Grady	Pennell	AK
Grady	Hauser	IL
Greg	Loy	MN
Guadalupe	Silvas	TX
Harold	Krotzer	CA
Harry	Jackson	MD
Helena	Dollanarte	VA
Herb	Taylor	TX
Hoot	Gibbs	NC
Ira	Pence	GA
Isaac	Struebing	WI
Jacqueline	Snow	CO
Jacqueline	Snow	CO
Jade	Dow	NV
James	Kemmerer	NY
James	Zeller	MN
James	Oakley	NC
James	Ricketts	CA
Jane	Rice	MN



Janel	Sain	TN
Janet	Oehl	NC
Jeanette	Perez	CA
Jeff	Hoover	NC
Jeffrey	Holton	IA
Jeffrey	Pigott	NC
Jennifer	Culbertson	CA
Jennifer	Eglington	CA
Jennifer	Beauchamp	NC
Jennifer	Reeves	OH
Jennifer	Bryson	DC
Jennifer	Wagner	TX
Jennifer	Pattison	MI
Jentzen	Hartsell	TX
Jessica	Yearout	ID
Jessica	Mumford	CA
Jill	Lombardo	LA
Jo	Meyertons	OR
JoAnna	Welsh	FL
Joanne	Budd	NJ
John	McCloskey	MI
John	Dixon	MO
John	Clark	MA
John	Rydell	CA
John	Francis	IN
John	Nordling	IN
John Metcalf	Metcalf	IL
Jonah	Jones	IL
Jordan	Langhofer	KS
Jordi	Creixell	TX
Joseph	Mullally	MI
Josey	Peterson	MN
Judy	Coffman	TX
Kaitlin	Armsteong	OR

Kari	Rodriguez	CA
Katelyn	Zobel	NC
Katelyn	Larossa	MD
Katherine	Bender	IL
Katherine	Bell	NC
Kathryn	Holady	OR
Katie	Vizzerra	AZ
Katrina	Meehan	CA
Kayla	Stueber	OK
Keith	Boulware	NC
Keith	Brustuen	MN
Kelcie	Randazzo	CA
Kelly	McArdle	MT
Kerry	MacIntyre	CO
Kerry	Kelly	TX
Kerry	Krinninger	IN
Kevin	Riley	IL
Kevin	Brewer	CA
Kim	Harmon	OH
Korinne	Cavender	CA
Kristin	Davis	OH
Kyla	Long	IN
Kyle	Richards	MO
Lara	Forsberg	Canada
Laura	Cermak	VA
Laura	Scott	IN
Lauren	Y.	NY
Lauren	Mabe	FL
Lauren	Martin	WA
Lauren	Levey	NY
Lauren	Henderson	NY
Lauren	Mabe	FL
Lauren	Gandhi	IN
Lee Ann	Hilliard	OH

Lena	Flores	CA
Lester	Summerell	LA
Lin	Farley	NC
Linda	Blade	Canada
Lindsay	Bauslaugh	TX
Lindsay	Carver	CA
Lisa	Rosendale	TX
Lisa	Twiford	CA
Lorena	Valenzuela	CA
Lori	Fredericks	NY
Madison	Hamilton	FL
Marcia	Rigamonti	OR
Mari	Chamberlain	USA
Marie	Brenden	WA
Marie	Brenden	WA
Marisa	Kosters	CA
Mary	Halla	IN
Mary Ann	Araki	HI
Mary Lynn	Raia	TX
Marya	Mendelsohn	NJ
MaryAnn	Liberatore	NY
Matthew	Meinel	NC
Matthew	Paulton	CO
Megan	McCabe	PA
Meredith	Graham	PA
Mettia	Parrish Hayes	NC
Michael	Wolff	MI
Michael	Larkin	IL
Michael	Gleghorn	TX
Michael	Harrill	IN
Michael	Vizzerra	AZ
Michaela	Sandeno	CO
Michele	Naudin	TX
Michelle	Diehl	PA

Michelle	Raborn	LA
Miranda	Bergeron	NH
Miriam	Mason	WA
Molly	Donohue	PA
Monica	Mullally	MI
Nancy	Kolb	MA
Nancy	Fox	MN
Natalie	Cochrane	NC
Neal	Wallace	IL
Nettie	Stanfield	TN
Nicholas	Thompson	VA
Norienne	Saign	CA
Olivia	Hann	SC
Owen	Lloyd	OR
Pablo Silvas	Silvas	TX
Parker	Goeman	GA
Patrick	Sefton	IN
Peter	Van Os	CO
Peter	Rodgers	WA
Peyton	Hartsell	TX
Priscilla	Ribic	AK
Rachel	Bodine	CA
Rachelle	Wind	MN
Rebecca	Meister	WA
Rebecca	Thompson	AZ
Rebecca	Holcomb	GA
Rebecca	Voth	TX
Rebecca	Wildbear	CO
Rebekah	Lair	TX
Rhodelle	Richards	CA
Richard	Young	TX
Rickey	Fowler	NE
Robert	Irwin	MI
Robert	Jordan	NY

Robert	Rowlett	IN
Robert	Panico	CA
Rory	Lavender	CA
Rowan	C.	SC
Ryan	Carrillo	AZ
Said	Assali	TX
Samantha	Markham	TX
Sammy	Christoffer	MN
Sammy	Hess	NC
Sandi	Forrest	MI
Sarah	McDowell	NC
Sarah	Crockett	TX
Sarah	Perry	MD
Sarah	Peterson	VA
Sebastian	Suarez	TX
Sharryn	Roberge	CA
Shelby	Meyers	CA
Sherolyn	Stoughton	IN
Sierra	Dilworth	MT
Sophia	Pixton	WA
Stephen	Higgins	OR
Sue	Barwick	WA
Sylvia	Schnopps	CA
Tallon	Nuñez	CA
Tamara	Ventura	CA
Tara	Olson	FL
Tara	Doyle	PA
Ted	Smith	IN
Tera	Hanson	PA
Teresa	Cvach	CA
Teresa	Robinson	NC
Teri Jo	Hicklin	TX
Terri	Egge	NC
Terry	Newman	AR

Tess	Sutton	MN
Thomas	Armentor	TX
Thomas	Haney	TX
Thomas	Mullally	MI
Thomas	Sabatino	CA
Tiffani	Railey	FL
Timothy	Courchaine	AZ
Tom	Van Engen	Guam
Tom	Barwick	WA
Torrie	Battle	KS
Tracy	Shannon	TX
Tracy	Allard	Yukon
Trisha	Lovgren	WA
Wallace	Larson	AZ
Walter	Mills	NC
Willa	Grant	CA
William	New	NC
William	Imler	GA
Windy	Morrow	NC
Yuteng Chang	Chang	CA
Zhela	Bennett	MI
Zherina	Salamanca	WA
Zherina	Salamanca	WA
Zylee	Bullis	OR

### **Amici Parents of Athletes**

Aaron	Chidester	HI
Abbie	Finlinson	UT
Abby	Richardson	MI
Agnieszka	Jaworowska	IL
Alaina	Niemann	WY
Alan	Vance	WI

Aleah	Burreson	AZ
Alexis	Van Acker	CA
Alicia	Willard	NC
Alison	Ashwell	Scotland
Allen	Burt	TX
Allison	Whiteside	TX
Alyssa	Jeanes	TX
Ami	Mandt	WV
Amy	Pauley	WV
Amy	Ruff	NC
Amy	Shockley	IN
Ana	Marcyan	IL
Anchanel	Harrison Wilkes	CA
Andrea	Love	AZ
Andrea	Sullivan	KS
Andrea	Walsh	NC
Andrea	Allen	NJ
Andrea	Nelson	KS
Andrea	Marrero	VA
Andrew	Procyk	NC
Andrew	Mullally	IN
Andrew	Damon	AZ
Angela	Kelly	NC
Angela	Thomas	LA
Angela	Barek	RI
Angie	Pryor	SC
Ann	Stout	WA
Anna	Heran	OH
Anna	Cherian	NC
Anne	Holt	NC
Anne	Durham	CA
Annette	Robbins	NC
Annie	Arens-Walker	IN
Arlene	Grady	TX

Ashley	Potts	MI
Ashley	Headrick	NC
Ashley	Neumann	CA
Autumn	Caycedo	KS
Brian	Green	MI
Babs	Green	MI
Bailey	Salazar	CO
Barb	Grasso	VA
Barbara	Ferraro	HI
Barbara	Woods	MI
Barbara	Benton	OK
Barbara	Boynton	CA
Barry	Bledsoe	WV
Barry	Schutte	CA
Becky	Baskind	LA
Ben	Manring	IN
Benjamin	Wright	PA
Beth	Stelzer	MN
Bethany	Strawsburg	CA
Bill	Crane	IN
Bill	McGee	NJ
Blake	Johnson	TX
Blake	Langhofer	KS
Bonnie	Smid	NC
Brad	Parkhurst	GA
Brad	Small	AZ
Brad	Gray	NV
Brad	Miner	NY
Brandy	Williams	NC
Brenda	Russell	TX
Brenda	Golletz	IL
Brenda	Quicksall	FL
Brian	Reedy	NC
Brian	King	KS



Brian	Green	AL
Brian	Weiss	IN
Brian	Patton	KS
Brianne	Carson	CA
Bridget	Penaskovic	NC
Bridgett	Lopez	AZ
Bridgette	Peck	CA
Bruce	Gesek	CA
Bryan	Bott	KS
Byron	Talbot	TN
Camala	Klaus	AZ
Candace	Hirsch	WY
Carla	Barrette	AZ
Carol	Holdsworth	LA
Carolyn	Potvin	TX
Carrie	Hoblet	OR
Carrie Ann	Gehringer	SD
Cassandra	Brown	NC
Cathleen	Marksteiner	OH
Cathy	Helms	NC
Celeste	Harris-Bowser	MD
Celeste	Wilhelm	MD
Chad	Helton	IN
Charlene	Ayotte	CA
Charles	Walkup Jr	NC
Charles	Nicholson	NC
Charles	Younce	TN
Charles	Fox	CA
Charles/Sue	Rhineheimer	AZ
Charlotte	Worpel	MI
Charlotte	Phillips	MS
Cheri	Estep	WA
Cherlyn	Smith	TX
Cheryl	Angle	WA

Cheryl	Smith	NC
Cheryl	Groth	OH
Cheryl	Harris	FL
Cheryl	DeShong	LA
Chris	Sullivan	NC
Chris	Allen	GA
Chris	Stanfield	TN
Chris	Sartro	MN
Christina	Vuolo	NJ
Christina	Mitchell	CT
Christine	McCurdy	VA
Christopher	Best	WY
Cindi	Ray	TX
Cindy	Vinci	IL
Cindy	Downs	TX
Cindy	Anfindsen	NC
Cindy	Stokes	TX
Cindy	Pearson	FL
Claudia	Flores	TX
Colin	Dalton	TX
Craig	Hubler	OR
Cristina	Fuglseth	MI
Cristina	Taylor	CA
Cynthia	Wininger	CA
Dan	Adams	NC
Dan	Ippolito	IN
Dan	Prout	CA
Dana	Appel	MO
Daniel	Moran	By
Daniel	Giles	AZ
Danielle	Brower	FL
Danielle	Harris	OR
Darlene	Lee	OH
Darrell	Holmquist	MT

Dave	Casto	MT
David	Jenkins	MO
David	Bause	MI
David	Walford	IL
David	Moretz	NC
David	Sipe	NC
David	Black	OH
David	Morrison	GA
David	RAY	TN
David	Lamm	GA
David	Hokanson	MO
David	Bull	MN
David	Needham	SD
David	Borboa	CA
David	Jacks	NV
David	Charlon	CA
David	Sexauer	IN
David S.	Cobden	NY
Dawn	Hein	MD
Debbie	Schwenk	IN
Debbie	Earnst	IL
Debbie	Matthews	NC
Deborah	Schiltz	WY
Deborah	Hommer	VA
Deborah	Kaselonis	TX
Deborah	Holland	NY
Deborah	Jackson	CA
Deborah	Barrera-Stevens	CA
Debra	McNeill	NC
Debra	Surretsky	NC
Denise	Johnson	MT
Denise	Burnett	NC
Derek	Jeanes	TX
DeWayne	Smith	OH

Diana	Mackin	IL
Diane	OBerry	PA
Dianna	Patton	NC
Dick	Picolla	FL
Diego	Flores	TX
Dixey	Teel	FL
Dominique	James	CA
Don	Rollins	NC
Donald	Wright	CA
Donna	Mccomas	WV
Donna	Sanders	AL
Donna	Fullam	NC
Donna	Ott	PA
Donna	Mathis	WY
Donna	Rak	WA
Doreen	Denny	VA
Dottie	Bell	NC
Douglas	Prol	NJ
Diane	Henke	IN
Dru	Simeone	PA
Duane	Collins	TX
E.	Maldonado	NJ
Ed	Norton	TX
Edna	Monett	NC
Edward	Gehringer	NC
Eileen	Rivers	IN
Elizabeth	Richardson	SD
Elizabeth	Sclafani	NV
Elizabeth	Kamberg	NC
Elizabeth	Miller	IL
Elizabeth	Maul	NJ
Ellen	Trujillo	AZ
Emily	Bush	OH
Emily	Sikes	TX

Erica	Ingraham	NC
Erin	Campbell	NC
Ernest/Linda	Williams	CA
Eva	Williams-Dowd	IL
Evana	Young	FL
FG and EG	Voltz	NV
Frances	Euler	KS
Francine	Hoch	ID
Frank	McElfish	NV
Gala	Byrum	SD
Galen	Rodgers	TX
Garth	Richards	MO
Gary	Estep	WA
Gary	Haist	KY
Gary	Nelson	CA
GC	Moe	IN
Gene	Gerber	IN
Geraldine	Staffiery	AZ
Glenn	Amos	PA
Gwen	Mecklenburg	CA
Hadley	Bay	WI
Hamendra	Bhakta	KS
Hannah	Gleghorn	TX
Hannah J.	Briggs	CA
Harold	Sharp	PA
Heather	Shierman	MD
Heather	Hunter	AZ
Heidi	Spencer	CO
Herman	Stanford	MS
Holly	Daucher	MI
Hope	Dwyer	IL
Ila	Spent	FL
Ivy	Lippard	FL
J.	Wright	WA

Jac-E	Ersland	KS
Jack	Olsen	WY
Jack	Conway	NY
Jack	Holt	CA
Jacqueline	Murray	WY
Jada	Payton	CA
Jade	Dickens	TX
Jamaica	Horton	CA
James	Hunt	NC
James	Doeffinger	NC
James	Galloway	MN
James	Patanella	CA
James M.	Benthin	NV
Jane	Breederland	MI
Jane	Headley	OH
Janet	Horton	TX
Janette	White	SC
Janice	Weger	CO
Janie	Atkinson	CA
Janna	Crickmore	CA
Jason	Parson	WA
Jason	Hayes	NV
Jeanne	Huryn	TX
Jeannette	Mercado	CA
Jeffery	Davidson	CA
Jenelle	Crouch-Collis	Australia
Jenifer	Swanson	CA
Jenn	Halladay	ID
Jennifer	Ciaccio	IL
Jennifer	Soloway	IL
Jennifer	Mazzola	PA
Jennifer	Tallungan	IL
Jennifer	Flinders	CA
Jennifer	Williams	MI

Jennifer	Bolt	NC
Jennifer	Deboer	NC
Jennifer	Metz	CO
Jennifer	McGuire	TX
Jennifer	Garzon	NV
Jennifer	Lee	CA
Jennifer	Schneider	TX
Jennifer	Baeder	CO
Jennifer	Walker	NC
Jeremy	Ramsey	IL
Jerry	Moore	OR
Jerry	Garrison	TX
Jerry	Maston	TX
Jesse	Lewit	MI
Jessi	Horn	OR
Jessica	Allen	ID
Jessica	Harvey	VA
Jim	Carlson	TX
Jim	Vick	OR
Jim	Carini	VA
Jim	Billingsley	IN
Jo Ann	Rebane	CA
Joan	MacLurg	WA
Joan	Osgood	CT
Joan	Cowperthwaite	CA
Joanie	Crane	IN
Jocelyn	Janz	CA
Jocelyn	Janz	CA
Jody	Taylor	NC
Joe	Rives	TX
Joe	Monastra	OH
Joe	Flores	NY
Joel	Owen	OH
Joey	Brown	NC

Joey	Deese	SC
Johanna	Stroud	WA
John	Mandt Jr	WV
John	Clark	NC
John	Nieminen	NC
John	Atkinson	CA
John	Filkey	AZ
John	Marosky	IN
John	Cochrane	CA
John	Kaus	PA
John	Weber	WA
John	Ray	IN
John	Smith	IN
John/Karen	Bowers	IN
Jon	Walter	MI
Jon	Freeman	ME
Jonathan	Watkins	GA
Joni	Wall	UT
Josefina	Ito	CA
Joseph	Castelli	PA
Joyce	Bedrosian	CA
JoyceAnna	D'Alessandro	NJ
Juan	Caballo	RI
Judith	Jordan	AR
Judy	Haberl	MA
Julie	DeLisle	NY
Julie	Gierat	TX
Julie	Breedlove	TX
Kalena	Hernandez	NC
Karen	Galyon	GA
Karen	McGurl	NY
Karen	Bause	MI
Karen	Chernisky	OH
Karen	Grant	NJ



Karen	England	NV
Karen	Morrison	TX
Karen	Seale	TX
Katherine	Harper	CA
Kathryn	Anderson	MN
Kathy	Chandler	CA
Keith	Maresca	TX
Kelli	Carver	CA
Kellie	McCauley	GA
Kellie	Miller	NJ
Kellsey	Phillips	MA
Kelly	Hurd	MD
Kelly	Vaughan	NC
Kelly	Sullivan	IL
Ken	Gulledge	NC
Ken	Fletcher	GA
Ken	Fletcher	GA
Kenn	Huston	NC
Kenneth	Fontenot	NC
Kerri	Richey	CA
Kerry	Keith	MI
Kevin	Scholl	CA
Kevin	Dickerson	TX
Kevin	Massie	NC
Kevin	Goins	TX
Kim	Allen	CA
Kirk	Smith	NC
Kory	Burgess	AZ
Kristie	Sisson	NC
Kristie	Hayes	WY
Kristin	Zinn	WA
Kristin	Bowman	CA
Lance	Tyson	TX
Lance	Bauslaugh	TX

Larry	Brewer	AZ
Laura	Struebing	WI
Laura	DeYoung	IL
Lauren	McDade	NC
Lawrence	Hansen	IN
Leah	Hobgood	FL
Leandra	Marshall	IL
Lee	Carraway	NC
Leigh Ann	Hood	WV
Leonard	Hale	MO
Leonard	Corliss	AZ
Leslie	Horn	CA
Leslie	Bull	MN
Linda	Kelly	AZ
Linda	Stone	NC
Linda	Zobel	NC
Linda	Holmquist	MT
Linda	Janigian	MI
Linnea	Danielson	NV
Lisa	Brass	OR
Lisa	Keesling	IN
Lisa	Falciola	KY
Lisa	Wilcox	CA
Lisa	Roder	VA
Lisa	Plourde	CA
Lisa	Cvach	AZ
Lisa	Crawford	CA
Lissette	Roman	KY
Lora	Lyons	NC
Lori	Wetmore	OR
Lori	Schmitz	OR
Lori	Dempster	NJ
Lorrie	Hartsell	TX
Luminita	Dan	NC

Lynda	Hartzler	AZ
Lynn	Fauth	CA
Lynn	Sandell	NV
Lynne	True	TX
M	Lenthe	NJ
M R	Dawson	AZ
Marcie	Clester	MI
Marcy	Simon	PA
Marg	Robinson	Canada
Margery	Walls	NC
Maria	Irizarry	FL
Maria	Drybread	MD
Maria	Gray	CA
Maria	Salmeron	TX
Marilyn	Grens	IL
Mark	Holady	OR
Mark	Chapman	AL
Mark	Stephens	MI
Mark	Horton	TX
Mark	Riese	IN
Mark	Savage	IN
Marv	Walworth	OR
Mary	Patrick	CO
Mary	Gruis	MN
Mary	Wernsman	IL
Mary	Lunetta	CA
Mary	Shepard	NC
Mary	Schowengerdt	KS
Mary	Pharis	CA
Mary	Cordes	CA
Mary	Ingalls	WA
Mary Ann	Gruber	NY
Mary Beth	Rost	MI
Mary Ellen	Bunker	CA

Mary Ellen	Sheehan	GA
Mary Jo	Madden	NC
Matt	Schacht	IL
Matthew	Daniels	WY
Mauricio	Foz	Brazil
Maury	De Bont	CA
May	Stevens	CO
Mel	Hankins	NE
Melisa	O'Neal	LA
Melissa	Hood	SD
Melissa	Shively	NC
Melissa	Aronson	TX
Melissa	Peters	IN
Meredith	Mcknight	AR
Michael	Seiple	FL
Michael	Struebing	WI
Michael	Crews	NY
Michael	Banker	NC
Michael	Rakes	NC
Michael	Sharrow	TX
Michael	Kae	CA
Michael	Winkles	GA
Michael	Dean	LA
Michael	Hines	IN
Michael	Dunaway	KS
Michele	Dietrick	IN
Michelle	Fayant	ID
Michelle	Dreiser	FL
Michelle	Monastra	OH
Michelle	Miller	OH
Mike	Davis	GA
Mike	Fulmer	CA
Mike/Debra	Young	NC
Mike/Patsy	Peele	NC

Mindy	Pena	CA
Miranda	Reed	KS
Miryam	Elm	AZ
Mitchell	Vicknair	TX
Monica	Holady	OR
Mr. and Mrs.	Overton	NC
Murray	Beard	TN
Nancey	Chambers	CA
Nancy	Jones	NV
Nancy	Cuen	CA
Nancy	Saunders	IN
Nancy	Wehr	NY
Nell	Bullock	CA
Nicholas	Stokes	TX
Nicki	Wade	CA
Nicole	Shook	MI
Nicole	Yang	SC
Nicole	Anderson	WI
Nikki	Gibson	TX
Nina	McNeilly	CA
Noelle	D'Ambrosio	IL
Norma	Newton	IN
Paige	Quadro	OR
Pam	Roush	IA
Pam	Farrel	CA
Pamela	Hamilton	FL
Pat	Wilkes	NC
Patricia	Backlund	WA
Patricia	May	WY
Patricia	Carini	VA
Patricia	Dowling	PA
Patricia	Thompson	GA
Patrick	O'Hearn	NC
Patty	John	CA

Paul	Van Dokkenburg	IN
Paul	Nolan	TX
Paula	Ankerman	OH
Paula	Godwin	CA
Pedrp	Ramirez	CA
Peggy	Morrison	OH
Penny	Walker	MT
Peter	Ikotun	MD
Philip	Lyons	NC
Phyllis	Brackett	NC
Priscilla	Diaz	CA
Qi	Qian	CA
Rachel	Wipf	SD
Rae	Nelson	NC
Ralph	Skordas	NC
Ralph/Frances	Cambre	LA
Ray	Childers	IN
Raymond	Kaselonis	TX
Raymond	Lloyd	HI
Rebecca	Grimes	NM
Rebecca	Preiss	AZ
Rebecca	O'Bryon	IL
Rebekah	Buchanan	OH
Reed	Wakeman	MI
Renee	Beasley	PA
Rhonda	Fucello	NC
Richard	Klaus	AZ
Richard	Kuenstler	TX
Richard	Bell	NV
Rick	Sturdy	KS
Rick	Klug	CA
Rick	Bridges	GA
Rick	Cramer	NY
Rickey	Crozier	IN

Riley	Reynolds	ID
Rita	Paltrinieri	Italy
Robert	Hickey	FL
Robert	Kent	PA
Robert	Melbourne	TX
Robert	Cochran	MD
Robert	Martin	IN
Rodney	Davis	NC
Roger	Wagner	CA
Roger	Yack	CA
Ron	Davis	SC
Ronald	Brown	IL
Ronald	Obie	NC
Ronnie	Reeves	TX
Rory	McDade	NC
Rosalee	Hall	NC
Rosemarie	Colon	NJ
Ruth A	Taylor	IN
Ryan	Lampert	IN
Sally	Chord	SD
Sam	Neno	NY
Sandee	Pendergrass	MS
Sandra	Danderson	WA
Sandra	Faith	IA
Sandra	Comer	CO
Sandra	Torosian	CA
Sandra	Rousseau	TX
Sandy	Wolfram	KS
Santos	Valencia	CA
Sara	Reintsma	MT
Sara	Driesse	NJ
Sara	Driesse	NJ
Sarah	Kissel	NC
Scott	Heimel	CO

Scott	Bradley	IL
Scott	Breedlove	TX
SE	Mart	IN
Sereen	Gerhardy	WA
Shandra	Campbell	CA
Shanna	Spence	TX
Shannon	Tyler	TN
Sharon	Costlow	IN
Sharon	Miller-Calapp	WA
Sharron	Davies	England
Shawn	Mueller	KS
Sheila	Kent	PA
Sheila	Carpenter	CA
Shelby	Breedlove	AR
Sherri	Graham	PA
Sherry	Foster	LA
Sheryl	Voth	MN
Sheryl	Evenson	AZ
Shirley	Slaughter	NC
Sonja	Nagle	UT
Stuart	Dale	CA
Stacy	Otremba	WY
Stacy	U.	CA
Stephanie	Gilbert	VA
Stephanie	Staker	CA
Stephen	Hair	AZ
Stephen	Katz	WY
Stephen	Randazzo	NV
Stephen	Casey	TX
Stephen	Egli	CA
Steve	Cvach	AZ
Steve	Appleby	CA
Steven	Jatho	WA
Steven	Hayward	WY



Sue	Kellenberger	IN
Sunni	Denoux	OR
Susan	De Witt	IL
Susan	Maliska	NC
Susan	Stanga	AZ
Susan	Rogers	MI
Susannah	Earnheart	AZ
Suzanne	Colwell	NC
Suzy	Plante	NE
Tabatha	Palmer	BC
Taechong	Chung	CA
Tami	Faulhaber-Talbot	ID
Tammy	Phillips	WV
Tammy	Johnson	SC
Tau	Poyer	NC
Ted	Hiemstra	WA
Ted	Bachman	NC
Teresa	Blakeslee	NV
Teresa	Williams	NC
Teresa	Schroeder	OK
Teresa	Dowling	CA
Terry `	Phillips	CA
Theresa	Arkfeld	NC
Thomas	Dowdy	TN
Thomas	Sparks	LA
Tiffany	Bradley	SD
Tiffany	Moore	IN
Tim	Day	GA
Tim	Steele	AR
Tina	Locklear	NC
Tod	Bowers	IL
Todd	Frey	IL
Todd	Armstrong	OR
Tom	Horton	TX

Tommy	Kiker	NC
Tonya	Tiffany	MD
Tracy	Chamberlain	NY
	Higginbotham	
Tracy	Williams	TX
Tracy	Schumacher	AZ
Tracy	LeighBlack	CA
Tricia	Gandhi	IN
Troy	Tinkham	NE
Valerie	Kern-Lyons	IL
Valerie	Witscher	GA
Valorie	Sankey	VA
Velma	Eckhart	GA
Vicki	Leonard	CA
Virginia	Berkenkotter	IL
Vivian	Drennen	IN
Wade	Zinn	WA
Wayman	Hicks	MD
Wendy	Chetkovich	MI
Wendy	Horton	NV
Wesley	Deas	SC
William	Crawley	SC
William	Robinette	TX
William	Gregory	TX
William	Ricks	TN
William	Hankins	CA
William	Bonner	PA
Winona	King	KS
Woody	Tyson	LA
Zeny	Salamanca	WA