ADVOCATES FOR FAITH & FREEDOM
Robert H. Tyler (SBN 179572)
btyler@faith-freedom.com
Julianne Fleischer (SBN 337006)
jfleischer@faith-freedom.com
25026 Las Brisas Road
Murrieta, California 92562
Telephone: (951) 304-7583

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

SAVE GIRLS' SPORTS, an unincorporated California association; T.S., a minor by and through her father and natural guardian, RYAN STARLING, individually, and on behalf of all others similarly situated; and K.S., a minor by and through her father and mother and natural guardians, DANIEL SLAVIN and CYNTHIA SLAVIN, individually, and on behalf of all others similarly situated;

Plaintiffs,

v.

TONY THURMOND, in his official capacity as State Superintendent of Public Instruction; ROB BONTA, in his official capacity as State Attorney General; RIVERSIDE UNIFIED SCHOOL DISTRICT; LEANN IACUONE, Principal of Martin Luther King High School, in her personal and official capacity; and AMANDA CHANN, Assistant Principal and Athletic Director of Martin Luther King High School, in her personal and official capacity;

Defendants.

Case No.: 5:24-cv-02480 SSS (SPx)

PLAINTIFFS' OPPOSITION TO DEFENDANTS RIVERSIDE UNIFIED SCHOOL DISTRICT'S, LEANN IACUONE'S, AND AMANDA CHANN'S MOTION TO DISMISS

Date: March 28, 2025
Time: 2:00 p.m.
Dept: Courtroom 2
Judge: Honorable Sunshine Sykes

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I. INTRODUCTION

Allowing biological men to compete in women's sports "is demeaning, unfair, and dangerous to women and girls, and denies women and girls the equal opportunity to participate and excel in competitive sports." *See* RJN, Ex. A (Executive Order No. 14201, "Keeping Men Out of Women's Sports"). Yet, Defendants Riverside Unified School District, Leann Iacuone, and Amanda Chann ("Defendants") have ignored this reality and have regularly engaged in practices that unfairly discriminate against female athletes. Specifically, they have given preferential treatment to biological males, allowing them to claim podium positions, awards, and recognition that rightfully belong to female athletes. Plaintiffs Save Girls' Sports', T.S.'s, and K.S's claims challenge Defendants' repeated and egregious discrimination against them in permitting boys to compete on the girls' cross-country team. As a direct result of Defendants' discriminatory conduct, Plaintiffs—along with other female athletes—have been stripped of awards, podium finishes, and opportunities to be recognized for their hard work and dedication. Their rights as women have been diminished, relegating them to a second-class status in the very arenas where they should be celebrated.

Defendants' Motion to Dismiss should be denied. Plaintiffs assert that Defendants violated Title IX by providing preferential treatment to M.L., a biological male, based on his gender identity, which discriminates against female students and creates an unequal educational environment. Contrary to Defendants' vague assertions, Plaintiffs' allegations are grounded in both the plain text of Title IX and relevant legal precedent. Title IX prohibits discrimination on the basis of sex in any education program or activity receiving federal funds, and Plaintiffs have plausibly alleged that Defendants' actions constitute unlawful sex-based discrimination. The Court should reject Defendants' Motion, as Plaintiffs have adequately stated claims for relief that warrant further discovery and a full consideration of the facts.

II. STANDARD OF REVIEW

A Rule 12(b)(1) motion to dismiss for lack of standing "can only succeed if the plaintiff has failed to make 'general factual allegations of injury resulting from the defendant's conduct.'" *Young v. Croft*, 64 F. App'x. 24 (9th Cir. 2003) (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992)). The Ninth Circuit takes the plaintiff's "allegations as true and draw[s] all reasonable inferences in the plaintiff's favor . . . [and] determines whether the allegations are sufficient as a legal matter to invoke the court's jurisdiction." *Id.*

When deciding a Rule 12(b)(6) motion, "all well-pleaded allegations of material fact are taken as true and construed in a light most favorable to the non-moving party." *Wyler Summit P'ship v. Turner Broad Sys., Inc.*, 135 F.3d 658, 661 (9th Cir. 1998). If a complaint provides fair notice of the claim and the factual allegations are sufficient to show that the right to relief is plausible, a court should deny the defendant's motion. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The standard is especially liberal when applied to the constitutional claims alleged in this action, which are governed by Rule 8. Rule 8's burden is "minimal," and requires only that the plaintiff provide "a short and plain statement of the claim showing that the pleader is entitled to relief." *Westways World Travel v. AMR Corp.*, 182 F. Supp. 2d 952, 955 (C.D. Cal. 2001) (quotations omitted).

A Rule 12(e) motion should only be granted when a pleading is "so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading." Rule 12(e). The goal of Rule 12(e) "is to provide relief from a pleading that is unintelligible, not one that is merely lacking in detail." *Sanchez v. City of Fresno*, 914 F. Supp. 2d 1079, 1221 (E.D. Cal. 2012). The standard for Rule 12(e) is liberal because "[t]he Federal Rules of Civil Procedure anticipate that the parties will familiarize themselves with the claims and ultimate facts through the discovery process." *Brewer v. Indymac Bank*, 609 F. Supp. 2d 1104, 1113 (E.D. Cal. 2009). The motion should be denied "where the information sought by the moving party is

available and/or properly sought through discovery." *Famolare, Inc. v. Edison Bros. Stores*, 525 F. Supp. 940, 949 (E.D. Cal. 1981). Due to this, Rule 12(e) motions are generally "viewed with disfavor and are rarely granted." *Sagan v. Apple Computer, Inc.*, 874 F. Supp. 1072, 1077 (C.D. Cal. 1994).

III. STATEMENT OF FACTS

A. Plaintiffs' Background

T.S. and K.S. are female student-athletes at Martin Luther King High School ("MLKHS") in the Riverside Unified School District ("District"). First Amended Complaint ("FAC"), ¶ 80-81. T.S. is an eleventh-grade student and a member of the girls' cross-country team. *Id.*, ¶ 86. She has served as team captain since August 2024. *Id.*, ¶ 90. K.S. is a ninth-grade student and member of the girls' cross-country team. *Id.*, ¶ 82. Both girls have dedicated numerous hours each week to cross-country practices and races, all while managing their heavy academic workloads and other scholastic activities. *Id.*, ¶ 92. Each week, they participate in practices, diligently training and conditioning to be better athletes. *Id.* Their families have dedicated significant money, time, and energy to their personal success and the success of the MLKHS girls' cross-country team. *Id.*, ¶ 93.

Save Girls' Sports ("SGS") is an unincorporated association in California comprised of students and parents in California who are subject to state and local policies that discriminate based upon biological sex. *Id.*, ¶ 17. Save Girls' Sports exists to advocate for, protect, and enhance opportunities for girls in sports at all levels. *Id.* Save Girls' Sports is dedicated to ensuring that girls have equal access to athletic opportunities, resources, and recognition, fostering an environment where they can thrive physically, socially, and mentally. *Id.* Both T.S. and K.S. are members of SGS. *Id.*

B. Defendants' Discrimination Against Plaintiffs

MLKHS has four separate cross-country teams, including boys' varsity and junior varsity teams and girls' varsity and junior varsity teams. *Id.*, ¶ 96. According

to the 2024 MLKHS Cross Country Team Handbook ("Handbook"), the girls' Varsity Top 7 lineup is typically left to the coaching staff's discretion based on the following criteria: (1) previous race times, (2) practice attendance, (3) "varsity-level effort" at practice during the week (or specifically a lack of it), (4) attitude, (5) long-term team strategy by the coaching staff, (6) illness/injury, (7) varsity "exposure," and (8) other unforeseen issues. *Id.*, ¶ 100. The Handbook also states, "Athletes are only allowed one excused missed workout without potential consequences." *Id.*, ¶ 101. "Upon the second missed workout, even with prior notification, participation in the next race is by coaches' discretion, but will usually result in missing the race." *Id.* According to the Handbook, "[t]he coaching staff will require all juniors and seniors to be fully vested in the cross-country program and 100% of its requirements." *Id.*, ¶ 104.

Given its ranking, the MLKHS girls' Varsity Top 7 is regularly invited to the annual Mt. SAC Cross Country Invitational ("Mt. SAC Invitational"). *Id.*, ¶ 107. The Team Sweepstakes Races are reserved for schools with exceptionally strong teams. *Id.* Typically, schools ranked in the top ten in the State or the top ten in the California Southern Section request to be placed in the Mt. SAC Invitational Team Sweepstakes Race. *Id.* College coaches often attend the Mt. SAC Invitational to scout and recruit prospective collegiate athletes. *Id.*, ¶ 112.

In October 2024, athletic director, Amanda Chann, removed team captain T.S., who had held a position on the girls' Varsity Top 7 since August 2024, from the Varsity Top 7 to make room on the girls' Varsity Top 7 for an eleventh-grade biological male, M.L., at the Mt. SAC Invitational *Id.*, ¶ 119. The MLKHS varsity coach initially identified T.S. on the Varsity Top 7 list for the Mt. SAC Invitational. *Id.*, ¶ 123. However, in a departure from normal practice concerning the establishment of the varsity team, Defendant Chann intervened, modified the list, and placed M.L. on the Varsity Top 7, replacing T.S. *Id.*

M.L., a biological male, did not satisfy the varsity requirements for the girls' cross-country team. *Id.*, ¶¶ 126-128, 149. Indeed, M.L. attended approximately 13 out

of 74 cross-country practices between August 2024 and October 2024, and when he did attend practice, he only attended the last 50 to 60 minutes of the approximately two and a half hour-practice. *Id.*, ¶¶ 127-28. Defendant Chann gave preferential treatment to M.L. by providing him with individualized training during the *team* practices. *Id.*, ¶ 130. As a result of Defendants' discriminatory actions, T.S. was relegated to the junior varsity team for one of the most important meets of the season for college recruitment. *Id.*, ¶ 112. T.S. lost the opportunity to compete at a high-profile meet, losing valuable chances for college recruitment and recognition. *Id.*, ¶ 135. Because M.L. was placed on the girls' Varsity Top 7, M.L. competed at the Mt. SAC Invitational as a varsity athlete instead of T.S. *Id.*, ¶ 136. Additionally, because M.L. was placed on the girls' Varsity Top 7, one of T.S.'s teammates, M.K., an SGS member, forfeited her girls' Varsity Top 7 position at the Mt. SAC Invitational in a show of solidarity for T.S. *Id.*, ¶ 139. Defendants did not apply equal standards when considering the girls' Varsity Top 7 and Defendants have treated M.L. more favorably than K.S., T.S., and the other female athletes who have consistently satisfied the varsity eligibility qualifications. *Id.*, ¶ 140.

Because M.L. competes on the girls' cross-country team, M.L. takes awards, podium finishes, and recognition away from female athletes. On or about October 19, 2024, at the Inland Empire Challenge, the top 30 female athletes received medals. *Id.*, ¶ 150. M.L. finished 6th place. *Id.* As a result of M.L.'s placement in the top 30, M.L. pushed a biological female, out of the top 30. *Id.* As a result, the biological female who finished 31st, did not receive a medal. *Id.* On or around November 8, 2024, at the Big VII League Finals, the top 21 female athletes were awarded medals. *Id.*, ¶ 151. M.L. finished in 4th place, which pushed B.E., a biological female, out of the top 21. *Id.* Consequently, B.E., who placed 22nd, did not receive a medal. *Id.* On or about December 17, 2024, M.L. received the "MLKHS Senior Girl" award for fastest runner due to M.L. having the fastest run time on the girls' cross-country team. *Id.*, ¶ 152. Had M.L. not been on the girls' cross-country team, the award would have gone to a

biological female. *Id.*

C. The Defendants' Censorship of Speech

Following Defendants' discrimination against Plaintiffs, Plaintiffs K.S. and T.S. wore shirts to school bearing the message "Save Girls' Sports" to express their views on fair competition and their support for female athletes. *Id.*, ¶¶ 167-72. However, while at school, Defendant Chann approached K.S. and T.S. and told them they needed to remove their shirts or wear their shirts inside out so the "Save Girls' Sports" messaging could not be seen. *Id.*, ¶ 175. Defendant Chann stated that wearing the "Save Girls' Sports" shirts created a "hostile" environment, comparing it to a student wearing a swastika shirt in front of a Jewish student. *Id.*, ¶ 177. Defendant Iacuone then sent an email to K.S. and T.S.'s parents reiterating Defendant Chann's example that wearing the "Save Girls' Sports" created a hostile environment just like "a student who wore a shirt with a swastika to school was creating a hostile environment for Jewish students." *Id.*, ¶ 190. On December 4, 2024, District administrators stood at the gates of the school and told any students that were wearing the "Save Girls' Sports" shirts that their shirts were "hostile" and that they would need to cover their shirts. *Id.*, ¶ 202. District administrators detained several female students for wearing the "Save Girls' Sports" shirts on school campus, including several SGS members. *Id.*, ¶ 203. District officials detained the students for several hours and prevented them from participating in instructional time. *Id.* District administrators, including Defendant Iacuone, told students A.S. and L.S., both SGS members, and M.P., that they were not permitted to wear the SGS shirts. *Id.*, ¶ 204. K.S. and T.S. and members of SGS want to continue wearing their "Save Girls' Sports" shirts to advocate for equal opportunities for females in sports. *Id.*, ¶ 221. K.S. and T.S. and members of SGS are refraining from wearing their "Save Girls' Sports" shirts or other shirts bearing similar messages out of fear that they will again be found to have violated the Defendants' Speech Policy challenged herein, and thus be subject to punishment. *Id.*, ¶ 222.

D. Title IX and AB 1266

Plaintiffs allege that Defendants' actions violate Title IX by failing to provide equal athletic opportunities and by allowing M.L. to compete on the girls' team, which is inconsistent with Title IX's protections for biological females. *Id.*, ¶¶ 279-311, 312-74. Plaintiffs further allege that AB 1266, which permits students to participate in activities consistent with their gender identity, conflicts with Title IX, and discriminates against Plaintiffs. *Id.*, ¶¶ 312-74.

IV. ARGUMENT

Defendants urge the Court to disregard Plaintiffs' well-pleaded factual allegations in their FAC as to their Fourth, Fifth, Sixth, and Seventh claims.[1] However, the Court must take "all well-pleaded allegations of material fact [] as true and construe[] [them] in a light most favorable to the non-moving party." *Wyler Summit P'ship*, 135 F.3d at 661. Plaintiffs' FAC presents clear evidence of Defendants' overt discrimination, including preferential treatment given to M.L., a biological male, at the expense of the female cross-country athletes at MLKHS. Plaintiffs have appropriately raised each of their claims, and Defendants' efforts to dismiss them rely on facts not presented in the FAC, a misinterpretation of the allegations, and an incomplete legal analysis. Therefore, the Court should uphold Plaintiffs' claims and reject Defendants' Motion to Dismiss.

A. Plaintiffs have established standing for their Title IX Effective Accommodation and Equal Treatment Claims.[2]

"Article III of the Constitution requires a party to have standing to bring its suit." *Ollier v. Sweetwater Union High Sch. Dist.*, 768 F.3d 843, 865 (9th Cir. 2014).

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[1] Defendants do not bring their Motion to Dismiss against Plaintiffs' First Claim (Deprivation of the Freedom of Speech – Facial), Second Claim (Deprivation of the Freedom of Speech – As Applied), or Third Claim (Violation of the Due Process Clause). As such, at a minimum, Defendants are required to provide an answer as to those claims.

[2] Defendants do not challenge Plaintiffs' standing on any of the other five causes of actions.

Article III standing requires (1) injury in fact—an invasion of a legally protected interest, (2) a causal relationship between the injury and the challenged conduct, and (3) a likelihood that the injury will be redressed by a favorable decision. *Bras v. California Pub. Utilities Comm'n*, 59 F.3d 869, 872 (9th Cir. 1995). In their Motion, Defendants argue only the "injury in fact" element of standing. Dft's Mtn., pp. 7-9. Accordingly, Plaintiffs assume that Defendants concede the other elements of standing have been satisfied.

1. Plaintiffs have been injured due to Defendants' gender-based discrimination, including having to compete with a biological male, being displaced from their rightful position on the varsity team, losing opportunities for recognition and awards, and facing degradation.

Plaintiffs[3] have adequately pled facts demonstrating an invasion of a legally protected interest which is "concrete and particularized" and "actual or imminent." *See Lujan*, 504 U.S. at 560. Injury in fact might stem from financial or economic injury or a noneconomic injury, including emotional and cognitive harm. *Ass'n of Data Processing Serv. Organizations, Inc. v. Camp*, 397 U.S. 150, 154 (1970); *Lopez v. Regents of Univ. of California*, 5 F. Supp. 3d 1106, 1115 n.5 (2013) (holding that emotional distress damages are recoverable under a Title IX claim because "a foreseeable consequence of discrimination is emotional distress to the victim.").

Title IX, from its inception, was meant to protect biological females, and was designed to eliminate significant "discrimination against women in education." *Neal v. Bd. of Trustees of California State Universities*, 198 F.3d 763, 766 (9th Cir. 1999); FAC, ¶¶ 45, 47. Further, Title IX seeks to ensure that biological women receive "equal opportunity to aspire, achieve, participate in and contribute to society based on their individual talents and capacities." *See United States v. Virginia*, 518 U.S. 515, 532

[3] Defendants offer no analysis in their motion regarding Plaintiff SGS's standing; nevertheless, Plaintiffs maintain that Plaintiff SGS has standing in this Action.

(1996); FAC, ¶ 48. As the First Circuit has recognized, "There can be no doubt that Title IX has changed the face of women's sports as well as our society's interest in and attitude toward women athletes and women's sports." *Cohen v. Brown Univ.*, 101 F.3d 155, 188 (1st Cir. 1996). Indeed, "there is ample evidence that increased athletics participation opportunities for women and young girls, available as a result of Title IX enforcement, have had salutary effects in other areas of societal concern." *Id.* The Fourth Circuit, likewise, reaffirmed that Title IX "'paved the way for significant increases in athletic participation for girls and women,' . . . this remarkable increase was not the result of a 'sudden, anomalous upsurge in women's interests in sports, but the enforcement of Title IX's mandate of gender equity in sports.'" *B.P.J. by Jackson v. W. Virginia State Bd. of Educ.*, 98 F.4th 542, 572 (4th Cir. 2024) (Agee, J., concurring). So, if biological boys can compete on girls' teams, what real effect do Title IX protections have?

Here, Plaintiffs allege that Defendants violated their Title IX rights under the effective accommodation and the equal treatment provisions. FAC, ¶¶ 312-74. Under the effective accommodation requirement, compliance is based on whether the "selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes." 34 C.F.R. § 106.41(c)(1); FAC, ¶ 328. If an institution sponsors a team for members of one sex in a non-contact sport, it *must* do so for members of the other sex. 44 Fed. Reg. 71413-01; FAC, ¶ 333. Under the equal treatment provision, the governing principle is that "male and female athletes should receive equivalent treatment, benefits, and opportunities." 44 Fed. Reg. 71, 414; FAC, ¶ 356. Defendants have taken and are taking "away benefits and opportunities from girls by permitting biological boys to compete in girls' sports despite physiological advantages." FAC, ¶¶ 43-44, 361.

Plaintiffs plead a number of facts demonstrating the right to compete on a biologically female cross-country team and the harm suffered when any female athlete is required to compete with a biological male. FAC, ¶¶ 150-52, 335-39, 343-46, 362-

72. That Defendants allow M.L., a biological male, to compete on the girls' cross-country team deprives Plaintiffs and other female athletes of the effective accommodation and equal protections afforded to them under Title IX. Plaintiffs are entitled to a female-only cross-country team, yet, Defendants have stripped them of that right by forcing them to compete with a biological male.

In addition to the harm suffered by having to compete with a male who has significant physiological differences, (FAC, ¶ 43-44), Defendants also harm Plaintiffs by allowing biological males to take their hard-earned positions. As alleged in the FAC, "[w]hen M.L. finishes a race, each girl who finished after M.L. finishes one placement lower than M.L. otherwise would have finished. In at least three [instances], M.L. finished in the top bracket which qualified to receive a medal, meaning that, had M.L. not been permitted to race, the female athlete outside the bracket would have earned the medal." FAC, ¶ 368; *see also* FAC, ¶ 150 ("On or about October 19, 2024, at the Inland Empire Challenge, the top 30 female athletes received medals. M.L. finished 6th place. As a result of M.L.'s placement in the top 30, M.L. pushed a biological female, out of the top 30. As a result, the biological female who finished 31st, did not receive a medal."); FAC, ¶ 151 ("On or around November 8, 2024, at the Big VII League Finals, the top 21 female athletes were awarded medals. M.L. finished in 4th place, which pushed B.E., a biological female, out of the top 21. Consequently, B.E., who placed 22nd, did not receive a medal."); FAC, ¶ 152 ("On or about December 17, 2024, M.L. received the "MLKHS Senior Girl" award for fastest runner due to M.L. having the fastest run time on the girls' cross-country team. Had M.L. not been on the girls' cross-country team, the award would have gone to a biological female."). Further, "[b]y allowing M.L., a biological male, to compete on the girls' cross-country team," Defendants harm Plaintiffs by displacing female athletes from the team, prestigious races, school cross-country records, and the benefits and opportunities that come from competing and winning at the highest levels." FAC, ¶ 372.

Additionally, Defendants provided M.L. with exclusive one-on-one training during the *team* practices, thereby excluding the other female athletes from the benefits of receiving similar individualized training. FAC, ¶ 130. Plaintiffs have been forced to witness themselves and other female athletes lose out on important athletic opportunities due to Defendants' actions. They have suffered emotionally, recognizing that the hard work they put into their sport is being dismissed as irrelevant, unimportant, and secondary to the interests and desires of a biological male athlete on their girls' team. Defendants, interestingly, do not address any of these factual allegations in their Motion.

Defendants incorrectly argue that Plaintiffs base their claims on a "purely speculative theory that T.S. would have been selected for a spot on the King girls' varsity cross country team at the Mt. SAC Invite absent M.L.'s inclusion in the pool of girls available for selection." Dft's Mtn., p. 7. This argument misrepresents Plaintiffs' position entirely. The issue is not about whether T.S. would have made the girls' varsity cross-country team. T.S. *already* held a spot on the girls' varsity cross country team. FAC, ¶¶ 123-25 ("The MLKHS varsity coach initially identified T.S. on the Varsity Top 7 list for the Mt. SAC Invitational."). This is not speculative or uncertain. It is inappropriate for Defendants to question T.S.'s place on the varsity team given that the FAC clearly alleges that T.S. met the varsity qualifications and held a varsity position for the Mt. SAC Invitational. Moreover, T.S. alleges that the *athletic director*, in an unusual departure from standard procedure in which the *coach* establishes the varsity team, removed her from the varsity team and replaced her with M.L. who did not meet the varsity requirements. FAC, ¶¶ 100, 114, 123. Again, none of these facts are speculative.

Defendants also ignore the fact that another student, who is a member of Plaintiff SGS, chose to forgo her varsity spot due to Defendants' decision to replace T.S. with M.L. and because she did not want to compete with a biological male. FAC, ¶ 139. As a result of M.L.'s placement on the girls' varsity team, neither T.S. nor the

SGS member participated in the Mt. SAC Invitational. Once again, the central issue is not whether T.S. would have been the next athlete selected to fill the vacant varsity spot as Defendants wrongly suggest. *Cf.* FAC, ¶ 123. Rather, the injury to T.S., K.S., the SGS member, and the other female athletes on the cross country team stems in part from Defendants' decision to allow M.L. to compete on the girls' cross-country team, their decision to place M.L. on the varsity girls' cross-country team, and their decision to require every other female athlete to abide by the rules and qualifications outlined in the cross-country handbook, while exempting M.L. from the same requirements. Additionally, Defendants speculate—without evidence—that T.S. would still have been able to post a time at the Mt. SAC Invitational without competing on the varsity team. Dft's Mtn., p. 8. This not only assumes a fact not in the record, but it is also an attempt to downplay the skill and experience required for varsity competition and the benefits associated with competing with the varsity team. Indeed, if the varsity division were truly inconsequential for the Mt. SAC Invitational, there would have been no need to have a separate varsity division. Additionally, by not competing with the varsity team, Plaintiffs suffered significant psychological harm, such as being relegated to junior varsity after qualifying for varsity, being unable to warm up/train with the varsity athletes, and missing the opportunity to be observed by college scouts who exclusively observe the varsity athletes. The fact that neither T.S. nor the SGS member could compete with their varsity team as a result of M.L.'s inclusion on the girls' varsity team is enough to establish harm.

Defendants have not only shown a blatant disregard for the Plaintiffs' rights under Title IX, but continue to show a blatant disregard for Executive Order ("EO") No. 14201, "Keeping Men Out of Women's Sports." *See* RJN, Ex. A. EO 14201 recognizes that allowing men to compete in women's sports is "demeaning, unfair, and dangerous to women and girls, and denies women and girls the equal opportunity to participate and excel in competitive sports." The EO further states the following:

> [I]it is the policy of the United States to rescind all funds from educational programs that deprive women and girls of fair athletic opportunities, which results in the endangerment, humiliation, and silencing of women and girls and deprives them of privacy. It shall also be the policy of the United States to oppose male competitive participation in women's sports more broadly, as a matter of safety, fairness, dignity, and truth.

By allowing M.L. to compete on the girls' cross-country team, Defendants are violating the rights and protections afforded to Plaintiffs and other female athletes under Title IX and EO 14201. As detailed in the FAC, Plaintiffs have experienced significant harm due to Defendants' actions, including the "loss of the experience of fair competition; loss of correct placements; loss of medals; loss of victories and the public recognition associated with victories; loss of opportunities to advance to higher-level competitions; loss of visibility to college recruiters; and loss of privacy." FAC, ¶¶ 349, 372. Defendants' decision to allow M.L. to compete on the girls' cross-country team and grant M.L. preferential treatment is "demeaning, unfair, and dangerous to women and girls" and "denies [them] the equal opportunity to participate and excel in competitive sports." *See* RJN, Ex. A. As such, Plaintiffs have established clear injury in fact.

2. Defendants are directly responsible for the injury Plaintiffs suffered because they discriminated against the female athletes by placing M.L., a biological male, on the girls' cross-country team.[4]

Plaintiffs have established a causal relationship between the injury and the challenged conduct. For this element, the injury must be "fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court." *Lujan*, 504 U.S. at 560. In this case, there is no

[4] Defendants fail to address the other elements of standing. However, for the Court's convenience, Plaintiffs address the other remaining standing elements.

dispute that Defendants are the parties responsible for the injuries to Plaintiffs. Each Defendant is responsible for allowing, permitting, and enforcing policies that discriminated against Plaintiffs while simultaneously giving preferential treatment to M.L. *See generally* FAC, ¶¶ 125, 129-30, 139-40, 151-52.

3. This Court Has the Authority to Address the Harm Caused by Defendants' Discriminatory Treatment and Grant the Relief Sought by Plaintiffs.

This Court has the authority to address the harm caused by Defendants' discriminatory treatment of Plaintiffs. In their FAC, Plaintiffs specifically request that the Court bar Defendants from enforcing or implementing AB 1266, the state law that permits biological males to compete in girls' sports and access girls' spaces. FAC, p. 48. Plaintiffs also request monetary relief for the harm suffered from Defendants' discriminatory treatment. *Id.* Without the Court's intervention, Plaintiffs will remain subjected to discriminatory practices and forced to sacrifice fairness, privacy, and safety in girls' sports. No female athlete should be required to relinquish her hard-earned position on her team to a biological male. This is precisely the kind of protection Title IX and President Trump's Executive Order (RJN, Ex. A) were designed to ensure.

Because Plaintiffs have established Article III standing for their claims, this Court should deny Defendants' Motion to Dismiss Plaintiffs' Fifth and Sixth Claims.

B. Plaintiffs Have Plead Sufficient Facts to Support a Finding of Title IX Intentional Discrimination Under their Fourth Claim.

Defendants argue that Plaintiffs have "failed to plead plausible facts sufficient to support Plaintiffs' conclusion that, but for their sex, Plaintiffs would have received different treatment." Dft's Mtn., p. 9. The facts in the FAC provide more than enough detail to show that Plaintiffs—female athletes—were treated less favorably than a male athlete. Plaintiffs allege that M.L., a biological male, was given preferential treatment, including being allowed to compete on the girls' cross-country team, being

permitted to miss mandatory practice sessions, and receiving one-on-one coaching, while female athletes like T.S. were held to stricter standards. Additionally, in an unusual departure from standard practice, Defendant Chann overruled the cross-country coach's decision regarding the varsity team and replaced T.S. with M.L. These facts are directly relevant to Title IX's prohibition on sex discrimination in educational programs, including athletics.

Defendants argue that the academic accommodations that M.L. received fall under the "other unforeseen issues" factor identified as part of the consideration for varsity selection. Dft's Mtn., p. 9. Not so. This fact is not alleged anywhere in the FAC nor does the handbook make any such assertion. FAC, ¶ 100, Ex. 1. Defendants further state that neither T.S., K.S., nor any other SGS member requested similar academic accommodations. *Id.* Defendants' argument is a red herring. Whether Plaintiffs received similar academic accommodations is not relevant to their claim for intentional discrimination. Defendants attempt to frame M.L.'s preferential treatment as simply a result of academic needs, but this does not explain why M.L., a biological male, was permitted to compete on the girls' cross-country team. It also does not explain why Defendants allowed M.L. to miss approximately 57 practices, attend only 13 out of the 70+ practices (and for only a portion of the practice), and still secure a *varsity* position on the *girls'* cross-country team. FAC, ¶ 127. This preferential treatment was not granted to female athletes like T.S., K.S., or any other girls on the team and it violates the written policy of the school. M.L. was treated differently not because of academic pursuits but because of M.L.'s sex, as a biological male competing on a girls' team.

Plaintiffs have alleged that M.L.'s biological sex played a central role in M.L.'s favorable treatment. The preferential treatment M.L. received—such as being excused from practices, receiving one-on-one coaching, and being allowed to take a varsity position despite not meeting the varsity requirements—was not offered to female athletes. FAC, ¶¶ 123, 126-30. This disparate treatment is sufficient to allege

intentional sex discrimination under Title IX. *See Mi Familia Vota v. Fontes*, No. 24-3188, 2025 WL 598127, at *25 (9th Cir. Feb. 25, 2025) ("[C]ourts make a 'sensitive inquiry into [] circumstantial and direct evidence' of discriminatory intent, because 'discriminatory intent is rarely susceptible to direct proof.'").

To suggest that M.L.'s accommodations were merely academic in nature overlooks the broader context of unequal treatment of female athletes in comparison to M.L., a biological male, who was allowed to bypass normal procedures and still secure a position on the *varsity girls'* team. M.L.'s academic accommodations do not permit Defendants to treat M.L. more favorably than the other female athletes on the cross-country team.

Further, Plaintiffs do not merely allege that M.L. was treated differently but specifically point to how that differential treatment directly impacted their ability to compete and participate in the Mt. SAC Invitational and other events. FAC, ¶¶ 150-52, 335-39, 343-46, 362-72. Defendants' argument that Plaintiffs' allegations are speculative is without merit. The FAC illustrates a clear pattern of unequal treatment based on sex. The allegations that M.L. received one-on-one coaching and was excused from mandatory practices in contrast to female athletes, who were not granted the same privileges, are more than sufficient to support a claim for intentional discrimination. These facts provide a plausible basis to conclude that, but for the sex of the Plaintiffs, they would have received different treatment.

For these reasons, Plaintiffs request that the Court deny Defendants' Motion to Dismiss Plaintiffs' Fourth Claim.

C. Plaintiffs Have Plead Sufficient Facts Demonstrating Defendants' Violation of Education Code § 220 Under Their Seventh Claim.

Plaintiffs have sufficiently alleged facts to show that they suffered severe, pervasive, and offensive harassment that deprived them of equal access to educational opportunities. *See* FAC, ¶¶ 227-372, 375-78. As detailed in the FAC, Defendants' actions—specifically, allowing M.L., a biological male, to compete on the girls'

cross-country team—directly led to the loss of opportunities for female athletes like T.S. and others. The harm caused by this discriminatory treatment is not just incidental but goes to the very core of the protections afforded to female athletes under both state and federal law. Defendants misinterpret the application of the law and fail to address the core issue of discrimination against female athletes.

While Education Code section 221.5(f) requires school districts to permit students to participate in sex-segregated activities consistent with their gender identity, federal law, which takes precedence over state law, prohibits this.[5] *See* U.S. Const. art. VI, cl. 2; *Oneok, Inc. v. Learjet, Inc.*, 575 U.S. 373, 276–77 (2015) (Congress implicitly preempts state laws through "conflict" or "field" preemption); *compare* Cal. Educ. Code § 221.5(f) *with* 20 U.S.C. §§ 1681–88 (Title IX) *and* RJN, Ex. A (Executive Order No. 14201, "Keeping Men Out of Women Sports"). Further, this state provision does not supersede or invalidate the protections afforded to female athletes under Education Code section 220. Cal. Educ. Code § 220. Plaintiffs maintain that female athletes should not be displaced by male athletes in violation of their rights to equal access and opportunity.

The essence of Plaintiffs' claim is that Defendants' actions in allowing M.L., a biological male, to take a spot on the girls' cross-country team has resulted in a direct harm to the female athletes, including Plaintiffs. This constitutes discrimination under Education Code section 220 because it deprives female athletes of their right to equal access to educational benefits and opportunities. *See also, supra*, IV.B. By prioritizing M.L.'s participation on the girls' team, Defendants have effectively disadvantaged

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[5] On February 25, 2025, United States Attorney General Pam Bondi sent a letter to California Interscholastic Federation ("CIF"), putting them on notice that the Department of Education's Office of Civil Rights has begun a Title IX investigation into CIF for "denying girls an equal opportunity to participate in sports and athletic events by requiring them to complete against boys." *See* RJN, Ex. B. She reiterated that it "does not matter if California state law allows, or even requires, state athletic associations or other similar entities to require girls to compete against boys in sports and athletic events. Where federal and state law conflict, states and state entities are required to follow federal law." *Id.*

female athletes, which is the exact type of discrimination that Education Code section 220 aims to prevent.

Defendants' assertion that Education Code section 221.5(f) mandates M.L.'s inclusion on the girls' team does not negate the violation of female athletes' rights under section 220. Furthermore, Defendants' argument overlooks the fact that the California legislature did not intend to create a system in which transgender students' rights are prioritized at the expense of female athletes' rights. Title IX, as well as California Education Code section 220, was specifically designed to ensure that female athletes have equal opportunities in education and sports. Defendants' actions undermine this principle by allowing a biological male to take a place on the girls' team, thus denying female athletes the opportunities to which they are legally entitled.

Plaintiffs' Seventh Claim is rooted in the principle that female athletes should not have to sacrifice fairness, privacy, or safety in their athletic opportunities. The actions of the Defendants—allowing a biological male to take a spot on the girls' team—directly result in discrimination against female athletes, which violates their rights under Education Code section 220. Defendants' position is that the rights of female athletes are second class to the rights of biological boys who compete in the girls' division.

For these reasons, Plaintiffs request that the Court deny Defendants' Motion to Dismiss Plaintiffs' Seventh Claim.

D. The FAC Does Not Require a More Definite Statement

The allegations in Plaintiffs' FAC are sufficiently clear and specific to allow Defendants to respond, and their motion is a transparent attempt to delay or avoid addressing the substance of the claims.

As an initial matter, Defendants are clearly aware of the specific claims raised in Plaintiffs' FAC. It is particularly telling that Defendants submit a barebones, 12-page motion while failing to address the extensive factual allegations presented by Plaintiffs in their 50+ page complaint. The FAC identifies each Defendant and the

particular actions or omissions attributed to them. *See, e.g.*, FAC, ¶¶ 334, 343-44, 362-65, 377. Contrary to Defendants' argument, there is no ambiguity in the FAC that would prevent them from reasonably determining which allegations are directed at which Defendant. The claims against the District, Dr. Iacuone, and Ms. Chann are adequately detailed to inform each Defendant of the allegations against them. Plaintiffs have specified the nature of the claims and the corresponding parties involved, as required under Federal Rules of Civil Procedure, Rule 8. The Fourth, Fifth, Sixth, and Seventh Claims for Relief are directly tied to the actions of the named Defendants and the discriminatory practices Plaintiffs allege. Plaintiffs have provided sufficient detail regarding the actions taken by each Defendant, including the discriminatory treatment they each allegedly perpetrated, and how those actions specifically impacted each Plaintiff. Plaintiffs assert that Defendants' request for a more definite statement is an improper attempt to evade responding to the serious issues raised in the FAC. The Court does not need to grant Defendants' motion in order for them to prepare an adequate response. The facts and legal issues are sufficiently outlined in the FAC, and Defendants are fully capable of addressing each of the claims raised.

Finally, Plaintiffs note that a motion for a more definite statement is an extreme remedy and should only be granted when the complaint is truly vague or ambiguous to the point of hindering the defendant's ability to respond. *Medrano v. Kern Cnty. Sheriff's Officer*, 921 F. Supp. 2d 1009 (2013); *Sagan v. Apple Computer, Inc.*, 874 F. Supp. 1072, 1077 (C.D. Cal. 1994) (Rule 12(e) motions are generally "viewed with disfavor and are rarely granted."); *Underwood v. O'Reilly Auto Parts, Inc.*, 671 F.Supp.3d 1180 (2023) (denying Rule 12(e) motion because the information sought can be obtained through discovery.) As Plaintiffs' FAC is neither vague nor ambiguous, Defendants' motion should be denied in its entirety. Any further information may be sought through discovery.

For these reasons, Plaintiffs request that the Court deny Defendants' motion for

a more definite statement and allow this case to proceed.

E. Leave To Amend Should Be Granted

In the alternative, Plaintiffs should be granted leave to amend their FAC. Leave to amend must be "freely given" unless it is clear that the proposed amendment is brought after undue and unexplained delay; is offered in bad faith; would be futile; or would be prejudicial to the other parties. *See* Fed. R. Civ. P. 15(a)(2); *Foman v. Davis*, 371 U.S. 178, 182 (1962). None of those factors apply here. If necessary, to promote judicial efficiency and ensure meaningful relief, the Court should grant Plaintiffs leave to amend.

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court deny Defendants' Motion to Dismiss Plaintiffs' Fourth, Fifth, Sixth, and Seventh claims and Defendants' request for a more definite statement. Plaintiffs have adequately alleged claims under Title IX and California Education Code section 220, and Defendants' arguments to the contrary are without merit.

DATED: March 7, 2025

ADVOCATES FOR FAITH & FREEDOM

Julianne Fleischer

Julianne Fleischer, Esq.
Attorneys for Plaintiffs