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7

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
10

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

17 Plaintiffs,

18 v.

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

26 Defendants.
27
28

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

**PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE AND
EXHIBITS IN SUPPORT OF
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS**

Date: May 16, 2025

Time: 2:00 p.m.

Dept: Courtroom 2

Judge: Honorable Sunshine Sykes

Pursuant to Federal Rules of Evidence Rule 201, Plaintiffs request that this Court take judicial notice of the following official public documents attached hereto:

1. **Exhibit A:** A true and correct copy of Executive Order No. 14201, “Keeping Men Out of Women’s Sports.” (Feb. 5, 2025).

2. **Exhibit B:** A true and correct copy of U.S. Department of Education’s Press Release, dated February 12, 2025, regarding its investigation into Minnesota State High School League and California Interscholastic Federation, also available at <https://www.ed.gov/about/news/press-release/us-department-of-education-launches-title-ix-investigations-two-athletic-associations>.

3. **Exhibit C:** A true and correct copy of United States Attorney General Pam Bondi’s letter, dated February 25, 2025, to California Interscholastic Federation.

4. **Exhibit D:** A true and correct copy of a letter from the United States Department of Education, dated February 28, 2025, to Tumwater School District Superintendent Kevin Bogatin.

5. **Exhibit E:** A true and correct copy of a letter from the United States Department of Education, dated March 19, 2025, to Maine Department of Education Commissioner Pender Makin.

6. **Exhibit F:** A true and correct copy of United States Department of Education’s Press Release, dated March 20, 2025, regarding its Title IX investigation into Illinois Department of Education, the Chicago Public Schools District 299, and the Deerfield Public Schools District 109, also available at <https://www.ed.gov/about/news/press-release/ocr-launches-investigations-illinois-doe-chicago-public-school-district-299-and-deerfield-public-schools-district-109-over-reported-title-ix>.

7. **Exhibit G:** A true and correct copy of the formal complaint in *United States of America v. Maine Department of Education*, No. 1:25-cv-00173-JCN (D. Me. April 16, 2025).

1 8. **Exhibit H:** Resource page of Save Girls’ Sports, a true and correct copy
2 of which is attached and available online at [https://faith-freedom.com/save-girls-](https://faith-freedom.com/save-girls-sports-resources)
3 [sports-resources](https://faith-freedom.com/save-girls-sports-resources).

4 Plaintiffs respectfully submit that the documents referenced above are proper
5 for judicial notice as well as for consideration by this Court. District courts may take
6 judicial notice of “a fact that is not subject to reasonable dispute because it: (1) is
7 generally known within the trial court’s territorial jurisdiction; or (2) can be
8 accurately and readily determined from sources whose accuracy cannot reasonably
9 be questioned.” Fed. R. Evid. 201(b); *County of Santa Clara v. Trump*, 250 F. Supp.
10 3d 497, 520 (N.D. Cal. 2017) (taking judicial notice of proclamations made by the
11 U.S. Attorney General Jeff Sessions); *Merced Irrigation Dist. v. Cnty. of Mariposa*,
12 941 F. Supp. 2d 1237, 1261–62 (E.D.Cal. 2013) (taking judicial notice of Board of
13 Supervisors’ resolution as matter of public record); *Catholic League for Religious*
14 *& Civil Rights v. City & Cnty. of San Francisco*, 567 F.3d 595, 606 (9th Cir. 2009),
15 *on reh’g en banc*, 624 F.3d 1043 (9th Cir. 2010) (judicial notice of county board of
16 supervisors’ actions according to its public resolution); *Caldwell v. Caldwell*, No.
17 05-cv-04166-PJH, 2006 WL 618511, at *4 (N.D. Cal. Mar. 13, 2006) (“[A]s a
18 general matter, websites and their contents may be proper subjects for judicial
19 notice” provided that the party submits a copy of the relevant webpage to the court.).
20 To this end, a court may take judicial notice “of court filings and other matters of
21 public record,” *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6
22 (9th Cir. 2006), including “government documents available from reliable sources
23 on the internet,” *California River Watch v. City of Vacaville*, No. 2:17-cv-00524-
24 KJM-KJN, 2017 WL 3840265, at *2 n.1 (E.D. Cal. Sept. 1, 2017). Here, the attached
25 exhibits are government documents, public filings, and publicly available records
26 and website.



Respectfully submitted,

DATED: April 25, 2025

ADVOCATES FOR FAITH & FREEDOM

By: /s/ Julianne Fleischer
Julianne Fleischer, Esq.



EXHIBIT A

Presidential Documents

Executive Order 14201 of February 5, 2025

Keeping Men Out of Women's Sports

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to protect opportunities for women and girls to compete in safe and fair sports, it is hereby ordered:

Section 1. *Policy and Purpose.* In recent years, many educational institutions and athletic associations have allowed men to compete in women's sports. This is demeaning, unfair, and dangerous to women and girls, and denies women and girls the equal opportunity to participate and excel in competitive sports.

Moreover, under Title IX of the Education Amendments Act of 1972 (Title IX), educational institutions receiving Federal funds cannot deny women an equal opportunity to participate in sports. As some Federal courts have recognized, "ignoring fundamental biological truths between the two sexes deprives women and girls of meaningful access to educational facilities." *Tennessee v. Cardona*, 24-cv-00072 at 73 (E.D. Ky. 2024). See also *Kansas v. U.S. Dept. of Education*, 24-cv-04041 at 23 (D. Kan. 2024) (highlighting "Congress' goals of protecting biological women in education").

Therefore, 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.

Sec. 2. *Definitions.* The definitions in Executive Order 14168 of January 20, 2025 (Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government), shall apply to this order.

Sec. 3. *Preserving Women's Sports in Education.* (a) In furtherance of the purposes of Title IX, the Secretary of Education shall promptly:

(i) in coordination with the Attorney General, continue to comply with the vacatur of the rule entitled "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance" of April 29, 2024, 89 FR 33474, see *Tennessee v. Cardona*, 24-cv-00072 at 13–15 (E.D. Ky. 2025), and take other appropriate action to ensure this regulation does not have effect;

(ii) take all appropriate action to affirmatively protect all-female athletic opportunities and all-female locker rooms and thereby provide the equal opportunity guaranteed by Title IX of the Education Amendments Act of 1972, including enforcement actions described in subsection (iii); to bring regulations and policy guidance into line with the Congress' existing demand for "equal athletic opportunity for members of both sexes" by clearly specifying and clarifying that women's sports are reserved for women; and the resolution of pending litigation consistent with this policy; and

(iii) prioritize Title IX enforcement actions against educational institutions (including athletic associations composed of or governed by such institutions) that deny female students an equal opportunity to participate in sports and athletic events by requiring them, in the women's category, to compete with or against or to appear unclothed before males.

(b) All executive departments and agencies (agencies) shall review grants to educational programs and, where appropriate, rescind funding to programs that fail to comply with the policy established in this order.

(c) The Department of Justice shall provide all necessary resources, in accordance with law, to relevant agencies to ensure expeditious enforcement of the policy established in this order.

Sec. 4. *Preserving Fairness and Safety in Women's Sports.* Many sport-specific governing bodies have no official position or requirements regarding trans-identifying athletes. Others allow men to compete in women's categories if these men reduce the testosterone in their bodies below certain levels or provide documentation of "sincerely held" gender identity. These policies are unfair to female athletes and do not protect female safety. To address these concerns, it is hereby ordered:

(a) The Assistant to the President for Domestic Policy shall, within 60 days of the date of this order:

(i) convene representatives of major athletic organizations and governing bodies, and female athletes harmed by such policies, to promote policies that are fair and safe, in the best interests of female athletes, and consistent with the requirements of Title IX, as applicable; and

(ii) convene State Attorneys General to identify best practices in defining and enforcing equal opportunities for women to participate in sports and educate them about stories of women and girls who have been harmed by male participation in women's sports.

(b) The Secretary of State, including through the Bureau of Educational and Cultural Affairs' Sports Diplomacy Division and the Representative of the United States of America to the United Nations, shall:

(i) rescind support for and participation in people-to-people sports exchanges or other sports programs within which the relevant female sports category is based on identity and not sex; and

(ii) promote, including at the United Nations, international rules and norms governing sports competition to protect a sex-based female sports category, and, at the discretion of the Secretary of State, convene international athletic organizations and governing bodies, and female athletes harmed by policies that allow male participation in women's sports, to promote sporting policies that are fair, safe, and in furtherance of the best interests of female athletes.

(c) The Secretary of State and the Secretary of Homeland Security shall review and adjust, as needed, policies permitting admission to the United States of males seeking to participate in women's sports, and shall issue guidance with an objective of preventing such entry to the extent permitted by law, including pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(d) The Secretary of State shall use all appropriate and available measures to see that the International Olympic Committee amends the standards governing Olympic sporting events to promote fairness, safety, and the best interests of female athletes by ensuring that eligibility for participation in women's sporting events is determined according to sex and not gender identity or testosterone reduction.

Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

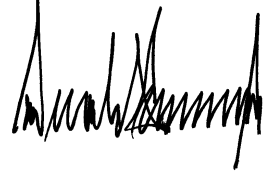
(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party

against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

A handwritten signature in black ink, appearing to be a stylized name, possibly "Donald Trump", written in a cursive, slanted style.

THE WHITE HOUSE,
February 5, 2025.

EXHIBIT B

U.S. Department of Education

[HOME](#) / [ABOUT US](#) / [NEWSROOM](#) / [PRESS RELEASES](#)**PRESS RELEASE**

U.S. Department of Education Launches Title IX Investigations into Two Athletic Associations

Office for Civil Rights Directed Investigations Into Two Athletic Associations, Both of Which Publicly Announced Plans to Violate Federal Antidiscrimination Laws Related to Girls' and Women's Sports.

FEBRUARY 12, 2025

The U.S. Department of Education's Office for Civil Rights (OCR) today announced directed investigations into the Minnesota State High School League (MSHSL) and the California Interscholastic Federation (CIF), both of which publicly announced plans to violate federal antidiscrimination laws related to girls' and women's sports. This includes the possibility of allowing male athletes to compete in women's sports and use women's intimate facilities.

"The Minnesota State High School League and the California Interscholastic Federation are free to engage in all the meaningless virtue-signaling that they want, but at the end of the day they must abide by federal law," **said Acting Assistant Secretary for Civil Rights Craig Trainor**. "OCR's Chicago and San Francisco regional offices will conduct directed investigations into both organizations to ensure that female athletes in these states are treated with the dignity, respect, and equality that the Trump Administration demands. I would remind these organizations that history does not look kindly on entities and

states that actively opposed the enforcement of federal civil rights laws that protect women and girls from discrimination and harassment.”

President Trump’s Executive Order, Keeping Men Out of Women’s Sports, states that “it is the policy of the United States to rescind all funds from educational programs that deprive women and girls of fair athletic opportunities,” and to take “all appropriate action to affirmatively protect all-female athletic opportunities and all-female locker rooms and thereby provide the equal opportunity guaranteed by Title IX of the Education Amendments Act of 1972.”

Last week, OCR launched directed investigations into San Jose State University, the University of Pennsylvania, and the Massachusetts Interscholastic Athletic Association for reported violations of Title IX. OCR also made it clear that they are reviewing athletic participation policies at a number of schools to evaluate their compliance with Title IX protections for female athletes.

Background Information on the Directed Investigations:

In a public statement released after President Trump signed his Protecting Women’s Sports Executive Order, MSHSL and CIE announced their intentions to abide by state law as it relates to girls’ and women’s sports in violation of federal antidiscrimination laws. Both state laws allow athletes to participate on teams based on an individual’s subjective gender identity rather than biological sex, even though biological sex is the basis for Title IX protections. State laws do not override federal antidiscrimination laws, and these entities and their member schools remain subject to Title IX and its implementing regulations.

CONTACT

Press Office | press@ed.gov | (202) 401-1576 | Office of Communications and Outreach (OCO)

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EXHIBIT C



Office of the Attorney General
Washington, D. C. 20530

February 25, 2025

Executive Director Nocetti,

This Department of Justice will hold accountable states and state entities that violate federal law. Indeed, we have already begun to do so. Earlier this month, the Department of Justice sued two states—Illinois and New York—that defied federal immigration laws. We also stand ready to sue states and state entities that defy federal antidiscrimination laws.

President Trump recently directed the Department of Justice and the Department of Education to prioritize enforcement actions against athletic associations that deny girls an equal opportunity to participate in sports and athletic events by requiring them to compete against boys. Yet in response, state athletic associations—including California’s—have issued defiant statements saying that they would continue requiring girls to compete against boys in sports and athletic events.

Requiring girls to compete against boys in sports and athletic events violates Title IX of Title IX of the Educational Amendments Act of 1972. And under the Constitution, federal law—including Title IX—is “the supreme Law of the Land.” U.S. Const. Art. VI. It therefore 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.

California should be on notice. The Department of Education’s Office of Civil Rights has begun a Title IX investigation into the California Interscholastic Federation. If the Department of Education’s investigation shows that the Federation is indeed denying girls an equal opportunity to participate in sports and athletic events by requiring them to compete against boys, the Department of Justice stands ready to take all appropriate action to enforce federal law.

I hope that it does not come to this. The Department of Justice does not want to have to sue states or state entities, or to seek termination of their federal funds. We only want states and state entities to comply with the law. And federal law requires giving girls an equal opportunity to participate in sports and athletic events by ensuring that girls need to compete only with other girls, not with boys.

Sincerely,

Pam Bondi

Attorney General

EXHIBIT D



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

915 2nd AVENUE, ROOM 3310
SEATTLE, WA 98174-1009

REGION X

ALASKA
AMERICAN SAMOA
GUAM
HAWAII
IDAHO
MONTANA
NEVADA
NORTHERN MARIANA ISLANDS
OREGON
WASHINGTON

February 28, 2025

Via e-mail only to: becky.parsons@tumwater.k12.wa.us

Superintendent Kevin Bogatin
Tumwater School District

Re: Tumwater School District – OCR Case Number 10251194

Dear Superintendent Bogatin:

On February 17, 2025, the United States Department of Education, Office for Civil Rights (OCR), received a complaint against the Tumwater School District (the District). The complaint alleges that the District discriminated against a female basketball player (Student) on the basis of sex when it deprived her of a fair athletic opportunity by allowing a male player on an opposing basketball team to compete against the Student's team in February 2025 which forced the Student to withdraw from participation in the game. The complaint states that the opposing team player was allowed to play pursuant to the Washington Interscholastic Athletic Association policy that allows athletes to play on the team that aligns with their "gender identity." The complaint further alleges that the Student and the Student's brother were subjected to intimidation and retaliation.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulations at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of federal financial assistance from the Department. As a recipient of federal financial assistance from the Department of Education, the District must comply with this law.

Please note that opening an investigation does not mean that OCR has made a final determination with regard to the merits. During the investigation, OCR is neutral; OCR will collect and analyze the evidence it needs in order to make a decision about the complaint. OCR will ensure that its investigation is legally sufficient in accordance with OCR's [Case Processing Manual \(CPM\) \(February 19, 2025\)](#) and OCR's [Complaint Processing Procedures](#). The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Enclosed at the end of this letter is an initial data request for information needed to process this complaint.

When appropriate, the complaint may be resolved before the conclusion of an investigation when the District expresses an interest to OCR to resolve the complaint and OCR determines that it is

Page 2

appropriate to resolve the complaint allegation(s) because OCR's investigation has identified concerns that can be addressed through a resolution agreement.

If OCR determines during the course of the investigation that a complaint could be appropriate for mediation, OCR will contact the parties and offer this resolution option.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information, that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

When contacting OCR about this complaint, please include in the subject line of any e-mail correspondence and in any other communication, a reference to the case number at the top of this letter.

Upon receipt of this letter, please notify OCR of the name, address, e-mail address, and telephone number of the person who will serve as the District's contact person during OCR's investigation of this complaint. If you have any questions, please contact the regional OCR office in Seattle by e-mail at OCR.Seattle@ed.gov.

Sincerely,

Stephen Chen
Program Manager

Enclosure

EXHIBIT E



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

WWW.ED.GOV

400 MARYLAND AVENUE, SW
WASHINGTON, D.C. 20202-1100

March 19, 2025

Pender Makin, Commissioner
Maine Department of Education
23 State House Station
Augusta, ME 04333-0023

Sent via email: XXXXXXXXXXXXXXXXXXXX

Re: Directed Investigation No. 01255902
Maine Department of Education
Letter of Finding of Noncompliance

Dear Commissioner Makin:

This letter is to inform you of the outcome of the directed investigation of the U.S. Department of Education's Office for Civil Rights (OCR) into the Maine Department of Education (MDOE), which OCR initiated on February 21, 2025 (Investigation).

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulation at 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in any education program or activity receiving federal financial assistance. As a recipient of federal financial assistance from the U.S. Department of Education (Department), MDOE is subject to these laws and regulations. Additional information about the laws OCR enforces is available on our [website](#).

The Investigation examined whether MDOE is in continuing violation of Title IX by permitting, directing, instructing, or requiring Maine school districts to: (1) allow males to participate in female athletics (whether interscholastic, intercollegiate, club or intramural); and (2) deny to female students (particularly, female student-athletes) access to intimate facilities on the basis of sex, such as female-only locker rooms and bathrooms.

In accordance with OCR's [Case Processing Manual \(CPM\) \(February 19, 2025\)](#), OCR has reached the determinations set forth in this letter by using a preponderance of the evidence standard as to whether there is insufficient evidence to support a conclusion of noncompliance, or evidence supporting a conclusion of noncompliance.

Based on the evidence obtained, OCR has determined the evidence supports a conclusion of noncompliance with Title IX by MDOE. OCR notes that public school districts throughout the State of Maine that receive federal financial assistance and have policies or practices that allow boys to participate in girls' athletics programs and/or deny female students access to female-only intimate facilities, are similarly in violation of Title IX. Should MDOE fail to direct the public school districts in its jurisdiction to adopt and implement policies and practices that comply with Title IX, OCR may initiate additional investigations into such school districts.

OCR's findings and conclusions are discussed below.

Legal Standards

A. Title IX and its implementing regulation¹

Title IX of the Education Amendments of 1972 (Title IX) states: “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,” with certain exceptions. 20 U.S.C. § 1681(a), *see also* 34 C.F.R. 106.1.

The Title IX implementing regulation, at 34 C.F.R. § 106.31(a), states in relevant part:

Except as provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives federal financial assistance.

The Title IX implementing regulation, at 34 C.F.R. § 106.31(b), states in relevant part:

Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex: (1) Treat one person differently from another in determining whether such person satisfies any requirements or condition for the provision of such aid, benefit or service; (2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner; Deny any person any such aid, benefit, or service; (4) Subject any person to separate or different rules of behavior, sanctions, or other treatment; . . . (6) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees; [or] Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

The Title IX implementing regulation, at 34 C.F.R. § 106.31(d), states in relevant part:

1. [I]n any education program or activity not operated wholly by such recipient, or which facilitates, permits, or considers such participation as part of or equivalent to an education program or activity operated by such recipient . . . (2) Such recipient: (i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any . . . student . . . of such recipient which this part would prohibit such recipient from taking; and (ii) Shall not facilitate, require, permit, or consider such participation if such action occurs.

The Title IX implementing regulation, at 34 C.F.R. § 106.33, states:

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

¹ This letter cites to the Title IX regulations that are currently in force and that took effect August 14, 2020. *See Tennessee v. Cardona*, No. 24-0072-DCR, 2025 WL 63795, at *6 (E.D. Ky. Jan. 9, 2025).

The Title IX implementing regulation, at 34 C.F.R. § 106.41(a), provides as follows:

- a. *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a Recipient, and no Recipient shall provide any such athletics separately on such basis.
- b. *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a Recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a Recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.
- c. *Equal opportunity.* A Recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors:
 - (1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
 - (2) The provision of equipment and supplies;
 - (3) Scheduling of games and practice time;
 - (4) Travel and per diem allowance;
 - (5) Opportunity to receive coaching and academic tutoring;
 - (6) Assignment and compensation of coaches and tutors;
 - (7) Provision of locker rooms, practice and competitive facilities;
 - (8) Provision of medical and training facilities and services;
 - (9) Provision of housing and dining facilities and services;
 - (10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a Recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Assistant Secretary may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

B. State Law

The Maine Human Rights Act, 5 Maine Revised Statutes (M.R.S.) § 4551, *et seq.* (Maine HRA) incorporates prohibitions against discrimination based on sex, sexual orientation and “gender identity.” 5 M.R.S. § 4553(10)(F) defines “Unlawful discrimination” to include “Unlawful educational discrimination as defined and limited by subchapter 5-B.” Subchapter 5-B of the Maine HRA, applies to Educational Opportunity. *See* 5 M.R.S. §§ 4601 and 4602.

The “Right to freedom from discrimination in education,” found at 5 M.R.S. § 4601 states in relevant part: “The opportunity for an individual at an educational institution to participate in all educational, . . . and all extracurricular activities without discrimination because of sex, sexual orientation or gender identity, . . . is recognized and declared to be a civil right.”

Unlawful educational discrimination is defined under Maine State law, at 5 M.R.S. § 4602, which states, in relevant part:

1. It is unlawful educational discrimination in violation of this Act, on the basis of sex, sexual orientation or gender identity, . . . to:
 - A. Exclude a person from participation in, deny a person the benefits of, or subject a person to, discrimination in any academic, extracurricular, . . . or other program or activity;
 - B. Deny a person equal opportunity in athletic programs;
 - C. Apply any rule . . . to exclude any person from any program or activity . . . because of sex or sexual orientation or gender identity;
 - D. Deny a person admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or
 - E. Deny a person financial assistance availability and opportunity.

MDOE and the Maine Human Rights Commission have enacted a Joint Rule, addressing Equal Educational Opportunity (94-348 and 05-071) ([Joint Rule](#)). The Joint Rule includes definitions and specific provisions relating to athletics:

4.02 DEFINITIONS

(C) Unlawful educational discrimination: “Unlawful educational discrimination” shall mean action on the basis of sex to:

1. Exclude a person from participation in, deny a person the benefits of, or subject a person to, discrimination in any academic extracurricular. . . or other program or activity;
2. Deny a person equal opportunity in athletic programs;
3. Apply any rule concerning the actual or potential family or marital status of a person or to exclude any person from any program or activity because of pregnancy or related conditions;
4. Deny admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or
5. Deny financial assistance availability and opportunity.

4.11 ATHLETICS

(A) General

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by an educational institution.

(B) Equal Opportunity

An educational institution which sponsors or participates in interscholastic, intercollegiate, club or intramural athletics shall provide an overall equal athletic opportunity for both sexes.

To provide equal opportunity in these programs, an institution must select sports and levels of competition which effectively accommodate the interests and abilities of both sexes and provide equal opportunities on a seasonal basis.

This section does not require all teams to be integrated or the provision of identical sports for both sexes.

In determining whether equal opportunities are available in athletics programs, the Commission shall consider whether the following are substantially equal:

- * The provision of equipment and supplies;
- * Scheduling of games and practice time;
- * Travel and per diem allowance;
- * Opportunity to receive coaching and academic tutoring;
- * Assignment of coaches, tutors and officials;
- * Provision of locker rooms, practice and competitive facilities;
- * Provision of medical and training machine facilities and services;
- * Provision of housing and dining facilities and services; and
- * Provision of supportive services and benefits, including publicity, band and cheerleading support sponsored by the educational institution.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if an educational institution operates or sponsors separate teams will not constitute per se noncompliance with this section, but the Commission may consider the failure to provide necessary funds for teams of one sex in assessing general equality of opportunity.

(C) Single-Sex Teams

An educational institution may sponsor [a] single-sex team in interscholastic or inter-collegiate athletics competitions in the following instances:

(1) The institution sponsors a team for each sex in the same sport.

(2) The sport is boxing.

(3) The educational institution establishes one team in a sport and, as a result of athletic competition for places on the team, or the lack of interest of students, only the members of one sex become members of the team.

In such a case, the educational institution must provide equal opportunity in athletics by sponsoring a team in another sport which effectively accommodates the interests and abilities of the opposite sex.

(4) The educational institution establishes a single sex team in one or more sports in order to accommodate effectively the interests and abilities of one sex and to increase the general opportunities for participation by that sex.

This may be done where competition open to both sexes has or will likely result in an overall lessening of equal opportunities in athletics for one sex.

C. Potential Conflicts with State Law

The Title IX implementing regulation, at 34 CFR § 106.6(b), states: “A recipient’s obligation to comply with Title IX is not obviated or alleviated by any state or local law.”

As discussed *infra*, the Maine HRA and Joint Rule may be interpreted in a manner not in conflict with Title IX. However, to the extent that those State laws/rules do conflict with Title IX such that MDOE or its school districts cannot comply with State and federal law, MDOE must comply with Title IX if it wishes to continue receiving federal funds.

Findings of Fact

MDOE's Assurance re Title IX Compliance

As a recipient of federal financial assistance through the Department, MDOE has submitted with the Department a signed “Assurance of Compliance – Civil Rights Certificate” (the Assurance), in consideration of and for the purpose of obtaining federal grants and other federal financial assistance from or through the Department. The Assurance was submitted, in part, in accordance with 34 C.F.R. §106.4. The Assurance states that the “applicant or recipient (hereinafter applicant) provides this assurance in consideration of and for the purpose of obtaining Federal grants, loans and contracts...other Federal financial assistance from the United States Department of Education (Department), or funds made available through the Department” and applies to “all...funds made available through the Department, including any that an applicant may seek in the future.” The Assurance further states that the recipient “assures that it will comply with...Title IX” and all “regulations, guidelines, and standards lawfully adopted under” Title IX by the Department.

The Assurance further states that the recipient “agrees that compliance with this Assurance constitutes a condition of continued receipt of Federal financial assistance from or funds made available through the Department, and that it is binding upon the applicant...for the period during which the assistance or these funds are provided.” The Assurance further states, “The applicant further assures that all contractors, subcontractors, subgrantees, or others with whom it arranges to provide services or benefits are not discriminating in violation of [Title IX]” and “In the event of failure to comply, the applicant understands that this assistance or these funds can be terminated and the applicant denied the right to receive further assistance or funds.” Finally, the Assurance concludes, “The applicant also understands that the Department may, at its discretion, seek a court order requiring compliance with the terms of the Assurance or seek other appropriate judicial relief.”

MDOE's Responsibility, Authority, and Policies

MDOE oversees the State of Maine's educational institutions, which are primarily but not exclusively public schools, whose elementary and secondary districts are called by MDOE “school administrative units (SAUs)” (the presumable equivalent under Department statutes and regulations of Local Education Agencies or LEAs). MDOE is responsible for supervising and guiding all public schools, coordinating a system of public education, and enforcing applicable regulatory requirements and other rules. *See* 20-A M.R.S. §§ 201, 202, 251-A, and 255. As part of these responsibilities, MDOE may direct superintendents and school boards in the discharge of their duties, with written guidance. *See* 20-A M.R.S. § 254(1).

Public schools, in turn, are obligated to follow guidelines from MDOE demonstrating adherence to regulatory requirements and other rules. *See* 20-A M.R.S. § 258-A. MDOE is responsible for determining which schools “are in compliance with basic school approval standards...and the Maine Human Rights Act.” 20-A M.R.S. § 4504. To ensure public schools' compliance, MDOE may conduct reviews for which public schools must prepare documentation demonstrating compliance. Public schools must also submit annual reports or “comprehensive education plans”

demonstrating compliance with various statutory and regulatory requirements. *See* 20-A M.R.S. §§ 4502, 4504. This includes “all documentation and data required by [MDOE] to meet state and federal requirements.” 05-071-125 Me. Code R. § 4. Public schools that fail to comply are subject to corrective action by MDOE which may result in penalties, including the withholding of State funds and referral to the State Attorney General. 05-071-125 Me. Code R. § 7.03. The authority of MDOE over the activities of public schools in Maine, specifically related to the participation of student athletes in interscholastic competitions, is significant and those schools rely on guidance from MDOE for compliance findings and continued funding.

MDOE has published guidance on its [website](#), described as “best practice approaches” to promote positive school climates on campus and in school programs. Included as a best practice is a statement “students must be permitted to use the bathroom and other sex-separated facilities in accordance with or corresponding most closely to their gender identity... All other school-related rules, programs and activities must ensure that students can comply with a rule, or participate in a program or activity, consistent with their gender identity.”

MDOE also published a [Maine DOE Priority Notice](#) dated January 21, 2025, stating in part that the Executive Order entitled “[Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#)” does not inhibit the force of Maine law and “Maine SAUs are expected to abide by the Maine Human Rights Act (MHRA), which prohibits discrimination on the basis of protected class in...education.... Protected classes include: race, color, ancestry, national origin, sex, sexual orientation (which includes gender identity and expression)....”

School districts in Maine relied and acted on MDOE’s published guidance and interpretations of State and federal law. Publicly available information indicates many Maine SAUs have written policies that allow male students to participate in athletic programs designated for girls or women, and that over at least the past two years and continuing in the current school year, at least three male student-athletes have competed in Maine high school girls’ athletic programs for at least five different high schools (so affecting many more times that number of high schools whose female athletes competed against the male athletes), including in cross country, track and field, basketball, and skiing.²

Maine Principals’ Association

The Maine Principals’ Association (MPA) is responsible for promoting, organizing, and regulating interscholastic activities in the state of Maine and is a member of the National Federation of State High School Associations (NFHS). Neither the MPA³ nor NFHS impose a policy requiring that single-sex sports teams and competitions be open for participation only to members of the

² <https://www.pressherald.com/2025/03/13/opinion-why-maine-is-wrong-on-the-transgender-athletes-issue/>; <https://www.outkick.com/sports/transgender-male-high-school-girls-skiing-maine-trump-executive-order>; <https://www.thecollegefix.com/male-athlete-pole-vaults-girls-track-team-to-state-championship/>; <https://me.milesplit.com/articles/355904/greely-edges-freeport-by-1-point-to-win-class-b-girls-title>; <https://thepostmillennial.com/trans-identified-male-wins-maine-high-school-pole-vaulting-championship-despite-trump-eo>; <https://newbostonpost.com/2024/06/02/transgender-maine-girls-track-athlete-wins-state-championship/>; <https://www.pressherald.com/2016/02/07/becoming-lucy-portland-family-embraces-reality-of-childs-gender-identity/> and <https://www.hudl.com/profile/17196526/Lucy-Tidd>.

³ The MPA does not determine whether a student qualifies to participate in a particular sport based on the concept of “gender identity,” versus on sex. Under Article II, Section 12 of the MPA’s 2024-2025 [handbook](#), public schools in Maine have the sole authority to verify a student’s “gender identity” assignment for the purposes of athletic registration and participation in MPA sponsored events.

designated sex. Rather, the MPA and NFHS allow their membership units to determine eligibility for participation on teams and competitions designated for girls/women.

A Maine SAU, therefore, could follow MDOE rules and guidelines without jeopardizing its membership and participation in the MPA. MDOE could direct SAUs to restrict eligibility for girls/women's sports teams and categories to female student-athletes, without resulting in SAUs losing membership or participation in the MPA. Of course, as noted in the Assurance discussed *supra*, neither MDOE nor any other recipient of federal funds is permitted to contract or arrange to provide services or benefits with an entity that discriminates in violation of Title IX. Thus, MDOE's obligation to comply with Title IX (including its authority to direct SAUs to comply with Title IX) includes refusing to contract with, or arrange for services or benefits to be provided by, MPA (and directing SAUs to do the same) if MPA discriminates in violation of Title IX.

Analysis

The plain language of the Maine HRA and Joint Rule can be interpreted in a way that conforms to the nondiscrimination requirements of Title IX and its implementing regulations. However, MDOE has chosen to interpret those laws (and issue guidance and directives to SAUs) in a way that conflicts with Title IX to the detriment of female student-athletes in violation of Title IX. In so doing, MDOE is also causing SAUs to violate Title IX.

MDOE's interpretation of the Maine HRA and Joint Rule, and school districts' reliance on MDOE's rules and guidance embodying that interpretation, have resulted and continue to result in girls and young women throughout Maine having no school sports teams, events, or categories for which eligibility to join and participate is open only to female students. Rather, Maine female student-athletes train, practice, try out, compete, and strive for success in a school athletics system that refuses to give girls and young women the genuine opportunity to benefit from school sports that Title IX requires.

Such denial of benefits on the basis of sex is not based on the plain language of the applicable federal (or even State law), but on guidance and interpretations provided to SAUs by MDOE exercising its significant influence and authority over the school districts under its jurisdiction. Though MDOE's motivation is not pertinent to the determining its noncompliance, it appears that MDOE is choosing its policies in unwarranted deference to the ideology of "gender identity," proponents of which insist that "nondiscrimination based on gender identity" must equate to treating individuals according to subjective "gender identities" rather than based on sex even in circumstances where sex classifications exist to protect the rights, safety, and equal opportunities of girls and women.

Publicly available information, with no contrary facts presented by MDOE during this Investigation, demonstrates by a preponderance of the evidence that at least three male athletes recently have competed (in multiple sports, in numerous competitions/events) in Maine high school athletics competitions designated for girls/women and used locker rooms or bathrooms designated for girls/women. Title IX simply does not permit the bait-and-switch of promising female student-athletes a girls' competition and a girls' locker room while actually permitting males to participate in the activity or access the space. Moreover, whether or not any male students had actually participated, a policy that *would allow* boys/men to participate in sports programs designated for girls/women facially violates Title IX.

Nothing about the plain language of the Maine HRA or Joint Rule requires Maine school districts to let students choose which sex-separated sports team they want to join or which sex-separated intimate facility they want to access. Consistent with the requirements of both Title IX and the Maine HRA, MDOE guidance could instruct SAUs to provide sex-separated sports and intimate facilities while also prohibiting “discrimination based on gender identity” because all students – regardless of expressing a belief about “gender identity” – would have the opportunity to participate in sports and use facilities, on the basis of the objective characteristic of sex. Avoiding “discrimination based on gender identity” does not inherently require an institution to act as though an individual’s “gender identity” beliefs (subjective, mutable feelings) are true or determinative of the individual’s sex (an objective, immutable characteristic).

A recipient’s obligation to comply with Title IX is not obviated or alleviated by any state or local law. 34 CFR § 106.6(b). Nevertheless, it does not appear that Maine’s laws need to be amended in order to bring MDOE into conformity with the requirements of Title IX and its implementing regulation – if MDOE were committed to complying with federal law as MDOE assured the Department it would do as a condition to federal funding.

MDOE, however, has elected to direct and advise SAUs to allow boys and men to participate in sports programs and access intimate facilities designated for girls and women. Accordingly, OCR has determined the evidence supports a conclusion of noncompliance with Title IX.

Based on presumably similar factual findings and legal standards, it is highly likely that numerous school districts under MDOE’s jurisdiction are also in continuing violation of Title IX for implementing formal or informal policies or practices that fail to protect their own girls’ teams and sports categories as female-only (such as at [Portland High School](#), [Maine Coast Waldorf High School](#), and [Greely High School](#)), allow girls on their own girls’ teams to compete against girls’ teams that have become mixed-sex due to the participation of a male athlete (such as against the foregoing public schools and also private schools like [Proctor Academy](#) and [North Yarmouth Academy](#)), and fail to provide girls with female-only intimate facilities. The federal funding of SAUs across Maine is thus at risk so long as MDOE remains out of compliance with Title IX.

Conclusion

This concludes OCR’s investigation. This letter of findings of noncompliance should not be interpreted to address MDOE’s compliance with any other statutory or regulatory provision or to address any issues other than those addressed in this letter.

This letter is accompanied by a draft resolution agreement that specifies the actions that, when taken by MDOE, will remedy both the individual discrimination at issue and any similar instances where future violative conduct may recur. In light of the serious facial and as-applied aspects of MDOE’s violations of Title IX, OCR will conclude that attempts to secure MDOE’s voluntary compliance are at an impasse unless MDOE executes a resolution agreement within 10 days of the date of this letter.

If no agreement has been executed by that date, OCR will issue to MDOE a letter of impasse that confirms MDOE’s refusal to voluntarily come into compliance with Title IX and informs MDOE that OCR will issue a letter of impending enforcement action 10 days following the letter of impasse. Unless MDOE executes a resolution agreement by that time, the letter of impending enforcement action will notify MDOE that OCR is referring its non-compliance determinations to

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the U.S. Department of Justice for enforcement including termination of MDOE's funding from the Department.

Respectfully,

Bradley R. Burke
Regional Director

Enclosure: Draft Resolution Agreement

EXHIBIT F

U.S. Department of Education

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OCR Launches Investigations into Illinois DOE, the Chicago Public School District 299, and Deerfield Public Schools District 109 Over Reported Title IX Violations

MARCH 20, 2025

Today, the U.S. Department of Education's Office for Civil Rights (OCR) opened investigations into the Illinois Department of Education, the Chicago Public Schools District 299, and the Deerfield Public Schools District 109 in Illinois amid allegations that these entities violated Title IX by requiring girls in the school to share their locker room with a boy.

These investigations are based on complaints filed with OCR, including [a complaint](#) filed by the Defense of Freedom Institute and Liberty Justice Center, against the Illinois State Board of Education and Chicago Public Schools for discrimination on the basis of sex, in part, emanating from the Deerfield School District's alleged repeated violations of Title IX.

"Congress enacted Title IX to end sex-based discrimination against females in educational programs, and its implementing regulations have long reflected the common sense practice of schools providing separate intimate facilities for males and females. The architects of Title IX understood that males and females, especially minors, have a right to be free from compelled exposure of their bodies or from engaging in intimate activities—like changing their clothes in a locker room—in front of the opposite sex," **said Acting Assistant Secretary for Civil Rights Craig Trainor**. "This preserves the privacy and safety of all involved,

especially young girls. The Department is deeply troubled by these allegations and will investigate this matter fully.”

“It is shocking that school administrators would allegedly harass and bully a student for objecting to sharing intimate facilities with members of the opposite sex,” **said Robert Eitel, President and Co-Founder of the Defense of Freedom Institute.** “We applaud the Department for launching an investigation and urge the agency to take action to terminate federal funding until the bad actors comply with Title IX.”

Background:

According to a parent’s testimony during a District 109 School Board Meeting last month, female students at Shepard Middle School complained to school administrators that there was a male present in their locker room while they were changing for gym class. The next day, the Assistant Superintendent for Student Services, the Assistant Principal, and the Director of Student Services reportedly reprimanded the female students for refusing to undress in front of the male student and allegedly forced them back into the locker room to change, which allegedly went on for the remainder of the week. According to a complaint filed with OCR, an administrator told the female students that the male student may use the female intimate facilities as long as that student identifies as female.

Title IX of the 1972 Education Amendments to the Civil Rights Act and its implementing regulation prohibit discrimination on the basis of sex in any education program or activity receiving federal financial assistance. Violations of Title IX may result in an educational entity’s loss of federal funding.

CONTACT

Press Office | press@ed.gov | (202) 401-1576 | Office of Communications and Outreach (OCO)

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EXHIBIT G

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MAINE DEPARTMENT OF EDUCATION,

Defendant.

Case No.

COMPLAINT

The United States brings this civil action pursuant to Title IX, 20 U.S.C. § 1681 *et seq.*, for declaratory, injunctive, and damages relief. The United States alleges on information and belief as follows:

INTRODUCTION

The State of Maine, through its Department of Education, is openly and defiantly flouting federal anti-discrimination law by enforcing policies that require girls to compete against boys in athletic competitions designated exclusively for girls. This discriminatory practice violates the core protections of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, which guarantees equal educational opportunities for all students, regardless of sex. By prioritizing gender identity over biological reality, Maine's policies deprive girl athletes of fair competition, deny them equal athletic opportunities, and expose them to heightened risks of physical injury and psychological harm.

The undeniable physiological differences between males and females provide boys with inherent advantages in strength, speed, and physicality that pre-determine the outcome of athletic

contests. These differences are precisely why Title IX and its implementing regulations, *e.g.*, 34 C.F.R. Part 106 and 45 C.F.R. Part 86, permit and encourage sex-separated sports to ensure girls have an equal opportunity to participate, excel, and reap the educational benefits of athletics. Yet Maine’s policies flout this core Title IX principle by allowing boys to compete in girls’ sports without regard for these biological realities. The results are stark: girls are displaced from podiums, lose opportunities for advancement to regional and national competitions, and miss out on critical visibility for college scholarships and recognition.

This discrimination is not only unfair but also demeaning, signaling to girls that their opportunities and achievements are secondary to accommodating others. It erodes the integrity of girls’ sports, diminishes their competitive experience, and undermines the very purpose of Title IX: to provide equal access to educational benefits, including athletics. Despite repeated warnings from the United States Department of Education, the Department of Health and Human Services, and the Department of Justice, Maine’s leadership has doubled down, publicly declaring defiance with statements like “We’ll see you in court.” The United States accordingly files this action to stop Maine’s unapologetic sex-discrimination against female student athletes.

NATURE OF THE ALLEGATIONS

1. The United States brings this action to enforce Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and the implementing regulations of the United States Department of Education, 34 C.F.R. Part 106, and Department Health and Human Services, 45 C.F.R. Part 86.

2. Defendant MAINE DEPARTMENT OF EDUCATION’s policies and actions are harming girls by denying girls the opportunity to compete in student sports on a level playing field in which they have the same opportunities as boys. Defendant’s athletics policies and

practices unfairly force girls to compete against boys in competitions designated for girls. These policies and actions discriminate on the basis of sex and harm female student athletes under Defendant's educational charge.

3. Title IX's core purpose is to ensure that both boys and girls have equal educational opportunities. This includes ensuring both sexes have an "equal athletic opportunity" to participate in school athletic programs. *See* 34 C.F.R. § 106.41(c); 45 C.F.R. § 86.41(c).

4. The inherent physiological differences between the two sexes make them generally dissimilarly situated in athletics. These physiological differences exist regardless of how a person identifies.

5. Because of these physiological differences, providing athletic teams, competitions, and events for girls has long ensured that female student athletes are afforded an equal, and equally safe, opportunity to participate and effectively compete, and thereby to enjoy the same educational benefits from sports as boys.

6. Defendant continues to violate federal law. Despite Title IX's equal opportunity mandate, Defendant has adopted and implemented a policy that forces girls to compete against boys—despite the real physiological differences between the sexes—if the boy asserts that he is a girl.

7. Defendant's adopted and implemented policy intentionally denies and has the effect of denying girls equal athletic opportunities.

8. The United States accordingly seeks a judgment granting declaratory, injunctive, and damages relief for Defendant's violations of Title IX and the federal funding contracts it signed promising to comply with Title IX and its implementing regulations.

PARTIES

9. Plaintiff is the United States of America.

10. Defendant MAINE DEPARTMENT OF EDUCATION (“MDOE”) is an agency of the State of Maine that administers both state education subsidy and state and federal grant programs; coordinates the authoring of the rules for Maine state education statutes passed by the Maine State Legislature; provides professional development, information, supports and resources, as well as a system for educator credentialing; and leads many collaborative opportunities and partnerships in support of local schools and districts.

11. MDOE is a current and past recipient of federal funding; MDOE distributes that federal funding to public and private local schools.

12. All MDOE’s operations constitute an educational program or activity within the meaning of Title IX.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, because this action arises under federal law and the United States is the Plaintiff.

14. The United States is authorized to initiate this action under 20 U.S.C. § 1682.

15. Declaratory and injunctive relief is sought as authorized by 28 U.S.C. §§ 2201 and 2202.

16. Venue is proper in the District of Maine pursuant to 28 U.S.C. § 1391(b) because Defendant resides in Maine, and a substantial part of the events or omissions giving rise to this claim occurred in this judicial District of Maine.

FACTS

A. TITLE IX IMPLEMENTING REGULATIONS

17. Title IX provides that “[n]o 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.

18. The regulations of the United States Department of Education (“USDOE”) implementing Title IX (“Implementing Regulations”) are codified at 34 C.F.R. §§ 106.1-106.82.

19. The regulations of United States Department of Health and Human Services (“HHS”) implementing Title IX are codified at 45 C.F.R. §§ 86.1-86.71.

20. The HHS’s regulations implementing Title IX are substantially the same as USDOE’s Implementing Regulations. *Compare* 34 C.F.R. §§ 106.1-106.82, *with* 45 C.F.R. §§ 86.1-86.71.

21. The Implementing Regulations provide that “no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance.” 34 C.F.R. § 106.31(a); 45 C.F.R. § 86.31.

22. Title IX and the Implementing Regulations use of the term “sex” means biological sex; the term “sex” does not mean gender identity.

23. Consistent with “sex” meaning biological sex in Title IX, the President of the United States issued on January 20, 2025, Executive Order 14168, “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,” and issued on February 5, 2025, Executive Order 14201, “Keeping Men Out of Women’s Sports,” which both confirmed the definition of the term “sex” for Title IX:

(a) “Sex” shall refer to an individual’s immutable biological classification as either male or female. “Sex” is not a synonym for and does not include the concept of “gender identity.”

(b) “Women” or “woman” and “girls” or “girl” shall mean adult and juvenile human females, respectively.

(c) “Men” or “man” and “boys” or “boy” shall mean adult and juvenile human males, respectively.

(d) “Female” means a person belonging, at conception, to the sex that produces the large reproductive cell.

(e) “Male” means a person belonging, at conception, to the sex that produces the small reproductive cell.

...

(g) “Gender identity” reflects a fully internal and subjective sense of self, disconnected from biological reality and sex and existing on an infinite continuum, that does not provide a meaningful basis for identification and cannot be recognized as a replacement for sex.

24. The Implementing Regulations include a regulation particularly explaining Title IX’s application to athletics (“Athletics Regulation”). 34 C.F.R. § 106.41; *accord* 45 C.F.R. § 86.41.

25. The Athletics Regulation first declares a general prohibition of the use of sex in athletics, providing that “[n]o person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.” 34 C.F.R. § 106.41(a); *accord* 45 C.F.R. § 86.41.

26. The Athletics Regulation then provides a limited exception to that general prohibition by allowing some separation by sex, namely that “a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon

competitive skill or the activity involved is a contact sport.” 34 C.F.R. § 106.41(b); *accord* 45 C.F.R. § 86.41(b).

27. Because such separation cannot disadvantage either sex, the Athletics Regulation requires that if an educational program separates teams by sex, the teams that the program designates as female teams must be completely separated by sex. *See* 34 C.F.R. § 106.41(b); *accord* 45 C.F.R. § 86.41(b).

28. The Athletics Regulation provides a single qualification to the exception for complete separation of female teams by sex, namely that “where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.” 34 C.F.R. § 106.41(b); *accord* 45 C.F.R. § 86.41(b).

29. The Athletics Regulation also provides that “[a] recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes.” 34 C.F.R. § 106.41(c); *accord* 45 C.F.R. § 86.41(c).

30. The Implementing Regulations provide that funding recipients must comply with the Implementing Regulations regardless of “any rule or regulation of any organization, club, athletic or other league, or association which would render . . . student ineligible to participate or limit the eligibility or participation of any . . . student, on the basis of sex, in any education program or activity operated by a recipient and which receives Federal financial assistance.” 34 C.F.R. § 106.6(c); *accord* 45 C.F.R. § 86.6.

B. DEFENDANT’S DISCRIMINATION AGAINST GIRL STUDENTS IN ATHLETICS

1. MDOE’s Control over School Athletics and Obligation to Ensure Equal Athletic Opportunities

31. Maine state law charges MDOE with control over schools, including over school athletics, and obligates MDOE to ensure equal athletic opportunities for girls.

32. MDOE is responsible for supervising and guiding all public schools, coordinating a system of public education, and enforcing applicable regulatory requirements, providing educational leadership for the state, and other rules. *See* Me. Rev. Stat. Ann. tit. 20-A, §§ 201, 202, 251-A, and 255.

33. MDOE’s authority includes general supervision over all public schools, and advising and directing superintendents and school boards in the discharge of their duties. Me. Rev. Stat. Ann. tit. 20-A, § 254.

34. All Maine public schools and all Maine private schools that receive public funds are required to follow directives and guidelines from MDOE demonstrating adherence to regulatory requirements and other rules. *See* Me. Rev. Stat. Ann. tit. 20-A, § 258-A.

35. Schools must also submit to MDOE reports and comprehensive education plans demonstrating compliance with various statutory and regulatory requirements. *See* Me. Rev. Stat. Ann. tit. 20-A, §§ 4502, 4504, 258-A.

36. MDOE’s authority includes the power to require schools to submit documentation and data showing adherence to state and federal requirements. 05-071-125 Me. Code R. § 4.

37. In 2021, Maine amended its Human Rights Act to declare that “[t]he opportunity for an individual at an educational institution to participate in all educational, counseling and vocational guidance programs, all apprenticeship and on-the-job training programs and all

extracurricular activities without discrimination because of sex, sexual orientation or gender identity . . . is recognized and declared to be a civil right.” Me. Rev. Stat. Ann. tit. 5, § 4601.

38. Maine Governor Janet Mills signed this amendment to the Human Rights Act into law.

39. The Maine Human Rights Act also declares: “It is unlawful educational discrimination in violation of this Act [to] on the basis of sex, sexual orientation or gender identity . . . [d]eny a person equal opportunity in athletic programs.” Me. Rev. Stat. Ann. tit. 5, § 4602.

40. MDOE and the Maine Human Rights Commission have enacted a Joint Rule addressing equal educational opportunity.

41. The MDOE Joint Rule defines “unlawful educational discrimination,” which means: action *on the basis of sex* to:

- (1) Exclude a person from participation in, deny a person the benefits of, or subject a person to, discrimination in any academic extracurricular, research, occupational training or other program or activity;
- (2) *Deny a person equal opportunity in athletic programs;*
- (3) Apply any rule concerning the actual or potential family or marital status of a person or to exclude any person from any program or activity because of pregnancy or related conditions;
- (4) Deny admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or
- (5) Deny financial assistance availability and opportunity.

MDOE, Joint Rule 05-071, Equal Educational Opportunity, Chapter 4.02 (emphasis added).¹

¹ <https://www.maine.gov/sos/cec/rules/05/071/071c004.doc> [<https://perma.cc/FK52-ZDKG>; <https://perma.cc/8E3A-KJTN>].

42. The MDOE Joint Rule also prohibits discrimination in “Athletics” and, similar to Title IX, directs when athletic teams can be separated by sex.

43. The MDOE Joint Rule that prohibits discrimination in “Athletics” particularly states:

A. General

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by an educational institution.

B. Equal Opportunity

An educational institution which sponsors or participates in interscholastic, intercollegiate, club or intramural athletics shall provide an overall equal athletic opportunity for both sexes.

To provide equal opportunity in these programs, an institution must select sports and levels of competition which effectively accommodate the interests and abilities of both sexes and provide equal opportunities on a seasonal basis.

This section does not require all teams to be integrated or the provision of identical sports for both sexes.

In determining whether equal opportunities are available in athletics programs, the Commission shall consider whether the following are substantially equal:

- * The provision of equipment and supplies;
- * Scheduling of games and practice time;
- * Travel and per diem allowance;
- * Opportunity to receive coaching and academic tutoring;
- * Assignment of coaches, tutors and officials;
- * Provision of locker rooms, practice and competitive facilities;
- * Provision of medical and training machine facilities and services;
- * Provision of housing and dining facilities and services;

- * Provision of supportive services and benefits, including publicity, band and cheerleading support sponsored by the educational institution.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if an educational institution operates or sponsors separate teams will not constitute per se noncompliance with this section, but the Commission may consider the failure to provide necessary funds for teams of one sex in assessing general equality of opportunity.

C. **Single-Sex Teams**

An educational institution may sponsor single-sex team in interscholastic or inter-collegiate athletics competitions in the following instances:

- (1) The institution sponsors a team for each sex in the same sport.
- (2) The sport is boxing.
- (3) The educational institution establishes one team in a sport and, as a result of athletic competition for places on the team, or the lack of interest of students, only the members of one sex become members of the team.

In such a case, the educational institution must provide equal opportunity in athletics by sponsoring a team in another sport which effectively accommodates the interests and abilities of the opposite sex.

- (4) The educational institution establishes a single sex team in one or more sports in order to accommodate effectively the interests and abilities of one sex and to increase the general opportunities for participation by that sex.

This may be done where competition open to both sexes has or will likely result in an overall lessening of equal opportunities in athletics for one sex.

MDOE, Joint Rule 05-071, Equal Educational Opportunity, Chapter 4.11.²

44. Like Title IX, MDOE's Joint Rule refers to "sex," and does not include the words "gender identity."

² <https://www.maine.gov/sos/cec/rules/05/071/071c004.doc> [<https://perma.cc/FK52-ZDKG>].

2. The Maine Principals' Association's Organizational Structure and Control Over Maine School Sports

45. MDOE, despite having the obligation and authority to control athletics for primary and secondary education schools in Maine, has effectively ceded that control to the Maine Principals' Association ("MPA").

46. The MPA is a corporation located in Maine that is the governing body for youth sports in the state of Maine for primary and secondary education. The MPA promotes, organizes, and regulates interscholastic athletics activities in the state of Maine and assumes control of "all interscholastic tournaments, meets or other forms of competition" for its members. *See* MPA Information – About Us.³

47. The MPA's membership includes all public high schools and many private high schools in the state; these member schools vote on MPA issues and pay dues to the MPA.

48. The MPA governs and controls interscholastic youth athletic programs for MPA member schools in Maine.

49. Through its Interscholastic Management Committee, currently comprised of 12 members from Maine high schools and other liaisons, the MPA establishes, amends, and revises basic rules governing interscholastic activities, which include eligibility and competition rules.

50. MPA member schools are bound by the rules and decisions made by the MPA for participation in "all interscholastic tournaments, meets or other forms of competition" for its members. According to the MPA bylaws, "these rules shall be designed to ensure fair competition, equal opportunity to compete, and adequate protection of student athletes." MPA 2023-2024 Handbook, Article I, § 1.

³ <https://www.mpa.cc/page/3012>.

51. The MPA administers its athletics programs by way of a constitution, bylaws, regulations, and other policy directives. The MPA issues a Handbook with its constitution, and these bylaws, regulations, and other policy directives. *See, e.g.*, MPA 2023-2024 Handbook.

52. The MPA has dozens of standing committees. Many of these standing committees correspond to particular sports, such as indoor track, outdoor track, and ski committees.

53. Beyond particular sports, the MPA's standing committees include a Diversity, Equity, Inclusion, and Belonging Committee.

54. The Athletic Director of North Yarmouth Academy is a current member of the MPA's Diversity, Equity, Inclusion, and Belonging Committee.

55. MPA has the authority to penalize schools for violation of MPA bylaws and other rules and policies.

56. For example, MPA's bylaws enact penalties for playing an ineligible student, commanding that in "any interscholastic athletic contest in which a participating school plays an ineligible student, the contest shall be declared a loss for the school using the ineligible player. In multiple interscholastic meets, any school playing an ineligible student shall be given no rating in any event in which the ineligible student participates." MPA 2023-2024 Handbook, Article II, § 8.

3. The Maine Principals' Association's Athletics Participation Bylaw that Only Partially Separates Sports by Sex

57. The MPA has enacted an athletics participation bylaw, currently entitled "Gender Identity Participation Policy," that conflicts with Title IX and the Implementing Regulations and discriminates against girl student athletes.

58. The MPA's athletics participation bylaw separates some sports by sex, *i.e.*, some sports have a team designated for boys and a team designated for girls. The bylaw, however, allows boys to participate on a team designated for girls.

59. The MPA's athletics participation bylaw also prevents equal athletic opportunities for girls.

60. Since 2021, MPA's athletics participation bylaw for athletics participation has gone through multiple iterations that show the MPA modified its current bylaw intentionally to decrease the educational athletic opportunities of, and discriminate against, girls based on sex.

61. While allowing some boys who assert they are girls to compete with girls, the MPA's 2021-22 athletics participation bylaw, then entitled "Transgender Student Athlete Participation," admitted that allowing boys in girls' sports can decrease girls' educational opportunities, result in unfair athletic advantage, and risk injury.

62. The MPA 2021-22 athletics participation bylaw iteration stated in its introduction:

The MPA is committed to maximizing the opportunities for all students to participate in interscholastic activities and athletics, regardless of their gender identity or expression. *At the same time, the MPA is committed to ensuring fair competition and adequate protection of student athletes.* Consistent with its principles, the MPA believes that all students should have the opportunity to participate in MPA activities in a manner that is consistent with their gender identity, *unless such participation would result in an unfair athletic advantage or would present an unacceptable risk of injury to other student athletes.*

MPA 2021-2022 Handbook, Article II, § 12 (emphasis added).

63. The MPA's 2021-22 athletics participation bylaw iteration also required a process for an athlete to participate in an opposite sex sport that involved documentation and approval by a MPA "Gender Identity Equity Committee," which could deny the student participation on an opposite sex sport if it found that "allowing the student to compete on a single sex team consistent with his or her gender identity would likely give the student athlete an unfair athletic

advantage or pose an unacceptable risk of physical injury to other student athletes.” MPA 2021-2022 Handbook, Article II, § 12.

64. The MPA’s 2022-23 athletics participation bylaw iteration, entitled “Gender Equity and Inclusion Policy,” kept the 2021-2022 iteration’s wording admitting that allowing boys in girls’ sports can decrease girls’ educational opportunities, result in unfair athletic advantage, and risk injury. MPA 2022-2023 Handbook, Article II, § 12.

65. The MPA’s 2022-23 athletics participation bylaw iteration also kept the 2021-2022 iteration’s wording requiring a procedure involving documentation and a MPA committee purporting to find that a particular athlete’s participation in an opposite sex sport would not “likely give the student athlete an unfair athletic advantage or pose an unacceptable risk of physical injury to other student athletes.” MPA 2022-2023 Handbook, Article II, § 12.

66. The MPA’s 2022-23 athletics participation bylaw iteration added a provision that admitted that the MPA generally separates sports teams by “sex,” rather than gender, and that single sex teams “ensure equal athletic opportunities for girls,” and that boys have a “distinct athletic advantage.”

67. That MPA 2022-23 athletics participation bylaw iteration stated:

BINARY (SINGLE SEX) SPORTS TEAMS. The MPA supports student athletes regardless of their gender identity or expression. The MPA also recognizes that high school sports teams have traditionally been binary (single sex) and believes that it is important to continue to offer single sex interscholastic athletic teams in order to ensure equal athletic opportunities for girls. Although there are many exceptions to the rule, most high school aged boys have a distinct athletic advantage competing against their female counterparts.

MPA 2022-2023 Handbook, Article II, § 12.

68. In the current MPA athletics participation bylaw iteration, adopted on May 6, 2024, the MPA intentionally deleted its previous admissions regarding “sex,” fair competition,

ensuring equal opportunities for girls, distinct athletic advantages of boys, and risk of injury.

The current iteration also deleted most of the procedural requirements for an athlete to participate in an opposite sex sport.

69. In the current MPA athletics participation bylaw introduction, the MPA intentionally stripped previous admissions that allowing boys in girls' sports can decrease girls' educational opportunities, result in unfair athletic advantage, and risk injury.

70. The MPA cut its current athletics participation bylaw introduction, in relevant part, down to:

The Maine Principals' Association is committed to providing all students with an equal opportunity to participate in interscholastic athletics regardless of their sex, sexual orientation, or gender identity.

MPA 2023-2024 Handbook, Article II, § 12.

71. In the current MPA athletics participation bylaw, the MPA also intentionally completely deleted MPA's previous admission that MPA generally separates sports teams by "sex," rather than gender identity, and that single sex teams "ensure equal athletic opportunities for girls," and that boys have a "distinct athletic advantage." *Compare* MPA 2023-2024 Handbook, Article II, § 12, *with* MPA 2022-2023 Handbook, Article II, § 12.

72. In the current MPA athletics participation bylaw, the MPA also intentionally deleted much of the procedural approval process regarding documentation and the required MPA committee finding. The bylaw intentionally cuts the requirement that a MPA committee find that an athlete's participation in an opposite sex sport would not "likely give the student athlete an unfair athletic advantage or pose an unacceptable risk of physical injury to other student athletes." *Compare* MPA 2023-2024 Handbook, Article II, § 12, *with* MPA 2022-2023 Handbook, Article II, § 12.

73. As for procedural process, the MPA's current athletics participation bylaw states:

The member school shall have the sole authority to verify the student's gender identity assignment for the purposes of athletic registration and participation in MPA sponsored events. No medical records or official documents shall be requested or required to establish a student's gender identity.

MPA 2023-2024 Handbook, Article II, § 12.

74. The current MPA athletics participation bylaw thus gives any boy the discretion to play in girls' sports.

75. The current MPA athletics participation bylaw states that a "student shall be eligible to participate in accordance with either their birth sex or in accordance with their gender identity, but not both." MPA 2023-2024 Handbook, Article II, § 12.

76. The MPA's athletics participation bylaw discriminates on the basis of sex against girls in both its language and effect.

77. MPA member schools adhere to the MPA athletics participation bylaw and treat it as policy that they must follow for interscholastic athletic activities.

78. For example, Maine Regional School Unit 51, which includes Greely High School, recently issued a statement through its Superintendent about recent Federal executive orders, indicating that the School Unit would follow MDOE and MPA's direction regarding athletes' participation on teams designated for a particular sex.

79. The Maine Regional School Unit 51 Superintendent's statement on athletes' participation on teams designated for a particular sex in more detail was:

The Maine Dept. of Education sent out a memo to districts stating, "The Executive Order Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government applies to the federal government/federal government agencies only and does not inhibit the force of Maine law or locally-adopted school board policies. Maine schools are expected to abide by the Maine Human Rights Act (MHRA)." At this time, we are following state law as directed by the MDOE. In the case of athletics, the Maine Principals' Association (which oversees high school athletic rules statewide) has adopted the

Department of Education's position in following state law. There are continued legalities around how this executive order could affect federal funding to school districts, but this issue rests with the state and not local districts.

Maine Regional School Unit 51, Update from the Superintendent - February 10, 2025.⁴

80. As another example, Maine Regional School Unit 21's policy on "Other Gender Segregated Facilities or Activities" lays out a general "gender" segregation policy but goes on to qualify that "[p]articipation in interscholastic athletic activities will be addressed in accordance with current Maine Principals Association guidelines and procedures." *See* Maine Regional School Unit 21, School Board Policy Details - Transgender and Gender Expansive Students.⁵

81. Despite numerous warnings by federal officials, MDOE has not directed the MPA to change the athletics participation bylaw.

82. Despite numerous warnings by federal officials, MDOE has not directed schools to urge MPA to change the athletics participation bylaw.

83. Despite numerous warnings by federal officials, MDOE has not directed schools to cease their association with the MPA while the MPA has its athletics participation bylaw in effect.

84. Despite numerous warnings by federal officials, MDOE has not directed schools to cease their participation in athletic activities that allow boys to compete in athletics designated for girls.

⁴ <https://www.msad51.org/apps/news/article/2031233>.

⁵ <https://www.rsu21.net/school-board/rsu-21-school-board-policy/rsu-21-school-board-policy-details/~board/school-board-policy/post/acaaa-transgender-and-gender-expansive-students>.

4. MDOE's Responsibility for MPA's Discriminatory Athletics Participation Bylaw

85. While the MPA established the athletics participation bylaw, MDOE bears legal responsibility for Title IX compliance in Maine schools, including in athletics.

86. MDOE has a non-delegable legal duty under Title IX to ensure compliance with federal non-discrimination requirements at all Maine educational institutions receiving federal funding, regardless of whether MDOE has delegated certain athletic governance functions to another entity.

87. The Implementing Regulations specifically provide that funding recipients must comply with Title IX “regardless of any rule or regulation of any organization, club, athletic or other league, or association” that would limit participation on the basis of sex. 34 C.F.R. § 106.6(c); accord 45 C.F.R. § 86.6. This regulation expressly precludes MDOE from evading its Title IX obligations by delegating athletic governance to the MPA.

88. As part of its receipt of federal funds, MDOE signed contractual assurances where it contractually assured the United States that all entities with which MDOE arranges to provide services or benefits are not discriminating on the basis of sex and violating Title IX and its implementing regulations.

89. MDOE retains ultimate supervisory authority over all Maine educational institutions, including their athletic programs. *See generally* Me. Rev. Stat. Ann. tit. 20-A.

90. MDOE knowingly permits, and effectively encourages, Maine schools to participate in and follow MPA policies that violate Title IX, despite having statutory and contractual obligations to direct schools not to follow discriminatory policies. *See* Me. Rev. Stat. Ann. tit. 20-A, § 254.

91. MDOE actively facilitates the implementation of MPA's discriminatory policy by, among other things: (a) providing state and federal funding to schools that follow MPA's discriminatory bylaw; (b) permitting the use of school facilities, resources, and personnel for athletic events conducted under MPA's discriminatory bylaw; and (c) publicly endorsing and defending MPA's policy as consistent with Maine state law.

92. MDOE has repeatedly been notified by federal authorities that the current MPA athletics participation bylaw violates Title IX, yet MDOE has taken no action to require MPA to modify its policy or to direct Maine schools not to follow the discriminatory aspects of MPA's policy.

93. MDOE's deliberate inaction in the face of known Title IX violations constitutes discrimination against female athletes based on sex, in violation of Title IX and its implementing regulations.

5. MDOE's Failure to Stop the Maine Principals' Association's Athletics Participation Bylaw Denies Equal Benefits and Opportunities to Girl Athletes

94. MDOE has the authority and obligation to stop schools from following the MPA's athletics participation bylaw, and its failure to do so denies girl athletes equal educational benefits and opportunities based on their sex.

95. The MPA's athletics participation bylaw causes disparities of a substantial and unjustified nature in the benefits, treatment, services, and opportunities afforded to female athletes.

96. Because of males' biological athletic advantage, which is not affected by how the male "identifies," the MPA's athletics participation bylaw has no meaningful impact on the benefits, treatment, services, and opportunities afforded to male athletes.

97. According to a MPA Memorandum to the Maine Committee on Judiciary, from 2013 to 2021, when the athletics participation bylaw still required the MPA to approve individual athletes' participation on teams other than those of their sex, the MPA Gender Equity and Inclusion Committee held hearings for 56 such students wishing to participate in high school athletics.⁶

98. In 2023, approximately 2,374 Maine high schoolers, or approximately 4.5%, identified as something other than their sex, according to the Maine Integrated Youth Health Survey.

99. Boy athletes are currently competing against girls in sports designated for girls in Maine.

100. For example, Student A is a boy currently and recently competing as on the girls' track and field team for Greely High School, in Cumberland, Maine.

101. Greely High School is part of Maine Regional School Unit 51, which as explained above recently confirmed it would continue to adhere to the MPA's athletics participation bylaw. *See supra* ¶¶ 78-79.

102. On approximately February 17, 2025, Student A competed in the girls' competition and won first place with a pole vault of 10 feet, 6 inches at the Maine Indoor Track & Field Meet, Class B state meet for Greely High School.

103. Student A's victory surpassed all girl competitors, including two from Freeport High School, who both cleared 10 feet to tie for second. In addition, Greely High School won both the boys' and girls' team state indoor titles.

⁶ See <https://legislature.maine.gov/legis/bills/getTestimonyDoc.asp?id=178976>.

104. Greely High School beat Freeport High School in the girls' division by one point, and in turn the overall girls' team title by just one point. Greely's one-point victory over Freeport in the girls' division was impacted by Student A's pole vault win.

105. Student A's victory qualified Student A for the multistate regional championships, which displaced a girl athlete who would have taken the spot had Student A competed in the boys' division.

106. If Student A had competed in the boys' division, Student A's 10 feet, 6 inch jump would have tied for 10th out of 13 boy participants.

107. Student A previously competed in boys' athletics under a different name for Greely High School. On approximately February 19, 2024, Student A participated in the Maine Class B state meet against other boys and tied for ninth place.

108. Student A currently intends to keep competing on the girls' track and field team for Greely High School.

109. Student A's participation in sports designated for girls has displaced and will continue to displace girls and harm girls' equal educational athletic opportunities.

110. As another example, Student B is a boy currently and recently competing in girls' skiing for MPA member Maine Coast Waldorf School, which includes a high school and is located in Freeport, Maine.

111. On approximately February 18-19, 2025, Student B competed in the girls' High School State Nordic Skiing Championships at Maine's Black Mountain.

112. Student B took third place in girls' Class C Freestyle and Pursuit races and took fourth place in girls' Class C Classical ski competitions. Student B's placements in these events

facilitated Student B's school, Maine Coast Waldorf School, to win third place overall at the girls' state meet.

113. Student B is also currently and recently competing in girls' cross country running for Maine Coast Waldorf School, and in girls' outdoor track for MPA member North Yarmouth Academy (because Maine Coast Waldorf School does not field an outdoor track team).

114. In October 2024, Student B placed first in the girls' five-kilometer cross-country run at the Western Maine Conference Championship. If Student B had participated in the boys' five-kilometer cross-country run at the competition, Student B's time would have dropped Student B to 43rd place.

115. In September 2023, Student B placed fifth in the girls' category at the Maine XC Festival of Champions in Belfast. At this same competition in 2022, Student B competed in the boys' category and placed 206th.

116. When competing in boy competitions as a freshman in 2022, Student B was ranked as 172nd in cross country running; when competing in girl competitions as a sophomore in 2023, Student B was ranked at least as high as 4th; when competing in girl competitions as a junior in 2024, Student B was ranked as high as 2nd.

117. In 2022, Student B placed 213th in the Class C boys' cross country state tournament. In 2023 and 2024, however, Student B placed 3rd in the girls' cross country state tournament both years, displacing a girl from the podium in each year.

118. Student B is also currently and recently competing in girls' track and field for North Yarmouth Academy.

119. In 2023, Student B competed in the boys' 1600 meters for North Yarmouth Academy. In that event, Student B placed 12th in the boys' Maine Class C state tournament.

120. In 2024, Student B competed in three girls' track and field events, namely the girls' 800, 1600, and 3200 meters for North Yarmouth Academy. In June 2024, Student B won the girls' 800 meters and finished third in the girls' 1600 and 3200 meters in the Maine Class C state tournament.

121. Student B currently intends to keep competing in Maine high school girls' skiing, cross country running, and track and field.

122. Student B's participation in sports designated for girls has displaced and will continue to displace girls and harm girls' equal educational athletic opportunities.

123. As another example, Student C is boy recently competing on the Portland High School girls' basketball team.

124. Student C's participation in sports designated for girls has displaced girls and harmed girls' equal educational athletic opportunities.

125. Beyond Students A, B, and C, other boy athletes have competed in, and will continue to compete in, athletic sports and competitions designated for girls, and have displaced, and will continue to displace, girls and harm their equal educational athletic opportunities due to the discriminatory policies MDOE has facilitated and failed to stop.

126. Girl athletes and their families have an interest, and have expressed this interest to schools and MDOE, in female-only sports teams and competitions that effectively accommodate their interests and abilities.

127. Girl athletes and their families have an interest, and have expressed this interest to schools and MDOE, in revoking or ending enforcement of the MPA's bylaw that decreases the quality of their competitive opportunities.

128. The MDOE's facilitation of and failure to stop the MPA's athletics participation bylaw denies girls the equal athletic opportunity to qualify for, to compete and advance in, and to win or place higher in post season competitions.

129. Because of males' biological athletic advantage, MDOE's facilitation of and failure to stop the MPA's athletics participation bylaw make it impossible for girls' educational athletic interests and abilities to be fully and effectively accommodated.

130. The MDOE's facilitation of and failure to stop the MPA's athletics participation bylaw deny girls the equal athletic benefit of public visibility and recognition of athletic competition accomplishment, and increased opportunity for college athletic recruiting and scholarships.

131. The MDOE's facilitation of and failure to stop the MPA's athletics participation bylaw cause girls to have materially fewer athletic opportunities than they previously enjoyed because they no longer can compete in fair, exclusively girl competition.

C. DEFENDANT MDOE RECEIVES FEDERAL FUNDING

132. Title IX applies to education programs and activities receiving financial assistance from the federal government, including from USDOE and HHS.

133. MDOE receives federal financial assistance from USDOE and HHS and other federal departments and agencies.

134. As part of receiving federal financial assistance, MDOE signed contractual assurances that it would comply with Title IX and the implementing regulations.

135. In the current fiscal year, Maine is distributing millions in federal funds to school districts.

D. TITLE IX INVESTIGATIONS AND FINDINGS BY USDOE AND HHS

136. After Executive Orders 14168 and 14201, which confirmed Title IX's term "sex" means biological sex, MPA's executive director stated that the Executive Orders and Maine's Human Rights Act are in conflict and that the MPA would continue to follow the state's law when it comes to gender identity.

137. On February 21, 2025, in response to Executive Orders 14168 and 14201, Maine Governor Mills stated that Maine was going to continue to allow boys to compete in girls' sports and that the federal executive branch would need to file a lawsuit to attempt to secure compliance with Title IX, and at one point stating: "We'll see you in court."

138. On February 21, 2025, USDOE, through its Office of Civil Rights, and HHS, through its Office of Civil Rights, both notified MDOE of their initiation of Title IX compliance review investigations, based on public statements by Maine Governor Mills and MDOE leadership, as well as other public reports, indicating that MDOE was violating Title IX in student athletics.

139. On February 25, 2025, United States Attorney General Pamela Bondi sent Maine Governor Mills a letter reiterating that Title IX prohibits requiring girls to compete against boys in sports and athletic events and that Title IX trumps any state law that conflicts with Title IX, and also urging Maine to voluntarily comply with Title IX.⁷

1. HHS Findings and Attempts to Secure Voluntary Compliance

140. On February 25, 2025, HHS sent MDOE a Notice of Violation, finding MDOE in violation of Title IX, and warning of a potential referral to the United States Department of Justice for potential remedial enforcement.

⁷ See <https://www.justice.gov/ag/media/1390796/dl>.

141. On February 27, 2025, HHS sent MDOE a proposed Voluntary Resolution Agreement that outlined the actions that MDOE needed to take to come into voluntary compliance with Title IX.

142. On March 12, 2025, HHS met with MDOE, and MDOE would not sign or provide a counteroffer to the proposed Voluntary Resolution Agreement.

143. On March 17, 2025, HHS sent MDOE an Amended Notice of Violation and a revised, proposed Voluntary Resolution Agreement; this notice also warned of a potential referral to the United States Department of Justice for potential enforcement.

144. MDOE failed to respond substantively to HHS's Amended Notice of Violation and the revised, proposed Voluntary Resolution Agreement.

145. HHS made concerted efforts to bring Defendant into compliance with Title IX. HHS subsequently determined that Defendant's compliance could not be achieved by voluntary means.

146. On March 28, 2025, HHS referred its findings of Defendant's Title IX violations to the United States Department of Justice for enforcement and notified Defendant of the referral.

2. USDOE Findings and Attempts to Secure Voluntary Compliance

147. On March 19, 2025, USDOE sent MDOE a notice of Finding of Noncompliance with Title IX and a Proposed Resolution Agreement.

148. After that March 19, 2024, notice, USDOE attempted to discuss a voluntary resolution with MDOE, and MDOE refused to engage in substantive discussions.

149. On March 31, 2025, USDOE sent MDOE a letter finding that voluntary compliance attempts were at an impasse, and warning that if a voluntary agreement was not reached by April 11, 2025, the USDOE would refer the notice of violation to the United States Department of Justice for enforcement.

150. On April 11, 2025, MDOE affirmatively responded that it would not enter into a voluntary compliance agreement and that attempts to secure compliance were at an impasse.

151. USDOE made concerted efforts to bring Defendant into compliance with Title IX. USDOE subsequently determined that Defendant's compliance could not be achieved by voluntary means.

152. On April 11, 2025, after MDOE affirmed impasse, USDOE referred its findings of Defendant's Title IX violations to the United States Department of Justice for enforcement, and notified Defendant of the referral.

153. All prerequisites to filing this lawsuit have been satisfied.

CLAIMS

COUNT I VIOLATION OF TITLE IX

154. The United States realleges and incorporates by reference the allegations set forth in all the above paragraphs numbered 1-153.

155. Defendant MDOE received, and continues to receive, federal financial assistance for its educational programs and activities.

156. Title IX provides that "[n]o 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.

157. Based on all the foregoing, Defendant has violated Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and its implementing regulations.

158. Defendant's Title IX violations harm, and continue to harm, student athletes.

159. Unless restrained by this Court, Defendant will continue to violate Title IX.

COUNT II
VIOLATION OF TITLE IX CONTRACTUAL ASSURANCES

160. The United States realleges and incorporates by reference the allegations set forth in all the above paragraphs numbered 1-157.

161. Defendant has expressly agreed to comply with Title IX and its implementing regulations, and to ensure all parties with whom it arranges to provide services or benefits also comply, as a condition of receiving federal financial assistance by signing contractual assurance agreements with the United States.

162. Defendant's Title IX violations are material breaches of its contractual assurance agreements.

163. The United States has suffered damages from Defendant's breach of its contractual assurance agreements.

164. Unless restrained by this Court, Defendant will continue to materially breach its contractual assurance agreements with the United States.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court grant the following relief:

- (a) A declaratory judgment that Defendant's policies, practices, and actions violate Title IX and Defendant's Title IX contractual assurances;
- (b) A permanent injunction prohibiting Defendant, and its officers, agents, servants, employees, and attorneys, and other persons who are in active concert or participation with Defendant, from further violating Title IX and Defendant's Title IX contractual assurances;

- (c) A permanent injunction ordering Defendant to:
- (1) Issue directives to all Maine schools prohibiting the participation of males in athletic competitions designated for females;
 - (2) Require schools to cease their association with the MPA unless and until the MPA amends its bylaws to prohibit males from participating in athletic competitions designated for females;
 - (3) Implement a monitoring and enforcement system to ensure compliance with Title IX's requirement of equal athletic opportunity;
 - (4) Establish a process to compensate female athletes who have been denied equal athletic opportunities due to Defendant's violations, including correcting past athletics records; and
 - (5) Submit regular compliance reports to the Court and the United States for a period of no less than five years;
- (d) A damages award to the United States;
- (e) An award of any applicable costs and fees; and
- (f) An award of all such other additional relief as the interests of justice may require.

JURY DEMAND

The United States requests trial by jury on all eligible claims.

DATED: April 16, 2025

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EXHIBIT H


HOME (/HOME) ABOUT (/#ABOUT-SECTION)
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OUR TEAM (/#STAFF-SECTION)

ISSUES (/#LEARN-ABOUT-THE-ISSUES-SECTION)

CONNECT (/#CONNECT-SECTION)

CASES

RESOURCES

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Save Girls' Sports

JOIN US

We invite California students, grades K-12, and their parents to stand with us in protecting fair and safe opportunities for girls in athletics. Save Girls' Sports is dedicated to preserving separate spaces and competition categories for females while empowering young athletes to thrive.

By supporting Save Girls' Sports, you join a movement that champions fairness, equality, and the right to speak out for these values. Complete this form with your parent or guardian to show your support and commitment to the protection of girls' sports.

MISSION STATEMENT:

Save Girls' Sports exists to advocate for and protect opportunities for biological girls in athletics. Through advocacy, policy change, and bold conversations, we seek to empower girls and ensure integrity, safety, and common sense in sports for generations of female athletes to come.

STRATEGY:

We seek to preserve girls' sports and girls' spaces through our strategy of engaging, equipping and empowering athletes to advocate for separate spaces and competition and lead others to do the same.

AFFIRMATIONS:

- Save Girls' Sports supports policies and laws that recognize and uphold separate categories specifically for biological females.
- Save Girls' Sports is committed to advocating for fair and safe competition within female athletics.
- Save Girls' Sports supports the preservation of female-only spaces, such as bathrooms and lockers, exclusively for biological females.

Save Girls' Sports is a California unincorporated association. By joining this association, the members acknowledge and agree that Advocates for Faith and Freedom will serve as the legal representative for the association, providing legal advice and services as necessary. Advocates for Faith and Freedom does not represent any individual member of Save Girls' Sports, unless a separate written agreement is made to that effect. By participating and submitting this form, no attorney-client relationship is established between Advocates for Faith and Freedom and any individual member of Save Girls' Sports.

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EXECUTIVE ORDERS
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SAVE-GIRLS-SPORTS)**

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DONATE (/DONATE) OUR STORY (/OUR-STORY)

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