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FAGEN FRIEDMAN & FULFROST, LLP
Milton E. Foster III, SBN 250357
mfoster@f3law.com
Nathaniel Rosilez, SBN 339229
nrosilez@f3law.com
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Phone: 951.215.4900
Fax: 951.215.4911

Attorneys for RIVERSIDE UNIFIED SCHOOL DISTRICT, AMANDA CHANN, and LEANN IACUONE

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

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

Plaintiffs,

vs.

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

Defendants.

CASE NO. 5:24-cv-02480-SSS (SPx)

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

The Hon. Sunshine Suzanne Sykes

DATE: February 6, 2026
TIME: 2:00 p.m.
DEPT.: Courtroom 2

Trial Date: None Set

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

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Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Save Girls' Sports' ("SGS"), T.S.'s, and K.S.'s (SGS, T.S., and K.S. collectively "Plaintiffs") Opposition to Defendants RIVERSIDE UNIFIED SCHOOL DISTRICT ("District"), Dr. LEANN IACUONE ("Iacuone"), and AMANDA CHANN ("Chann") (District, Iacoune, and Chann collectively herein "Defendants") Motion to Dismiss and Strike ("Motion")(Plaintiffs' Opposition to Defendants Motion hereinafter "Opposition") does not bolster Plaintiffs arguments that Plaintiffs pled sufficient facts to properly state Plaintiffs' Fifth and Sixth Claims for Relief found in Plaintiffs' Second Amended Complaint ("SAC"). Plaintiffs' Opposition further fails to bolster Plaintiffs' argument that they have constitutional standing to bring Plaintiffs' Fifth and Sixth Claims for Relief. Accordingly, Plaintiffs' Fifth and Sixth Claims for Relief should be dismissed with prejudice.

Plaintiffs further fail to establish that Plaintiffs' amendments naming the California Department of Education as a defendant in this matter as well as those related to A.H. pursuant to Rule 12(f) on the grounds each are immaterial and impertinent as well as beyond the leave to amend granted by the Court. Accordingly, Plaintiffs' Seventh and Eighth Claims for Relief as well as those allegations related to A.H. as well as the California Department of Education should be stricken by the Court.

II. ARGUMENT

A. Plaintiffs Have Failed to State Their Title IX Effective Accommodation and Equal Treatment Claims

1. The District has not Violated Title IX as a Structural Matter

Plaintiffs Opposition relies heavily on whether Title IX requires funding recipients to separate its athletics teams based on students biological sex. See, e.g., Opposition at 6:17 – 21. However, at the time of the specific incidents underlying

Plaintiffs' SAC, Title IX did not exclude transgender student athletes from competing on sex-segregated teams in a manner consistent with their gender identity. Plaintiffs also cite to no case law that would require the District to separate its athletic teams based on biological sex. Plaintiffs reliance on recent executive orders offering new interpretations of Title IX's definition of sex are inapposite to the application of Title IX at all pertinent times to Plaintiffs' allegations. Rather, the prior administration in place at the time of Plaintiffs' alleged harm caused by the District issued Executive Order 13988 which directed Federal agencies to enforce prohibitions on sex discrimination on the basis of gender identity. Exec. Order No. 13988, 86 FR 7023 (2021).

Plaintiffs first argue that Title IX requires an institution to create an exclusively female team when a male team exists, "if (i) the opportunity to play the sport have been historically limited for the excluded sex; (ii) there is sufficient interest from the excluded sex to sustain a team and (iii) the members of the 'excluded sex' must not possess sufficient skill to be selected for a single integrated team or to compete actively if selected." Opposition at 7:13 – 20. Plaintiffs further contend that female teams are extinct under AB 1266, because there are no longer exclusively female teams, and contend the District has created a male team and a de facto "co-ed" or "integrated" team. Opposition at 8:19 – 20.

The 1979 Policy Interpretation of Title IX, "explains that, for purposes of the regulation, effective accommodation requires that 'if an institution sponsors a team for members of one sex in a contact sport, it must do so for members of the other sex' where (1) opportunities for members of the excluded sex have been historically limited; (2) there is sufficient interest and ability among the members of the excluded sex to sustain a viable team; and (3) there is a reasonable expectation of intercollegiate competition for that team." *Mansourian v. Board of Regents of University of California at Davis* (E.D. Cal. 2011) 816 F.Supp.2d 869, 927.

Contrary to Plaintiffs' assertion that Title IX's use of the term sex, male, and

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

female refer to biological sex, "[n]either Title IX nor its implementing regulations defines the term." *Roe v. Critchfield* (9th Cir. 2025) 137 F.4th 912, 927. Further, the Ninth Circuit Court of Appeals has twice held that categorically preventing students from participating in sports consistent with their gender identity likely violates the Equal Protection Clause. *Hecox v. Little,* 104 F.4th 1061, 1079 (9th Cir. 2024) , as amended (June 14, 2024), cert. granted (2025) 145 S.Ct. 2871; *Doe v. Horne*, 115 F.4th 1083, 1109 (9th Cir. 2024). Thus, the Court need not accept Plaintiffs' conclusion of law that "sex" as used in Title IX refers to biological sex. *See also Papasan v. Allain,* 478 U.S. 265, 286 (1986) (finding that on a motion to dismiss, courts "are not bound to accept as true a legal conclusion couched as a factual allegation").

AB 1266 fills in where Title IX and its implementation regulations lack clarity, effectively defining sex to include gender identity. See Cal. Educ. Code § 221.5(f). Plaintiffs' further contend that only the girls' team is "integrated," a contention that ignores the language of the very statute which Plaintiffs challenge in their SAC. This contention ignores the plain language of the statute. As stated in Defendants' Motion, AB 1266 expressly requires that pupils be permitted to participate in sex-segregated athletic teams and competitions consistent with their gender identity. Cal. Educ. Code § 221.5(f). To be clear, the plain language of Education Code section 221.5(f) effectively requires that transgender boys compete on male teams just as it requires transgender girls to compete on female teams.

The District's compliance with AB 1266 requires that transgender boys compete on boys' teams just as transgender girls compete on designated girls' teams, with AB 1266 effectively defining sex to reflect gender identity. The relevant athletic success of two transgender students in the state is inapposite to whether Title IX requires school sports teams to be delineated by biological sex. In defining sex in this manner and the District's policy in compliance with AB 1266, the comparison between sex-segregated teams may readily be made. Thus,

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

Plaintiffs have not established that the District has violated Title IX as a structural matter.

2. The District has Provided Effective Accommodations

Plaintiffs contend throughout their Opposition that to be effectively accommodated, the District must create exclusively biologically female sports teams. Again, however, "[n]either Title IX nor its implementing regulations defines [sex]." *Roe v. Critchfield*, 137 F.4th at 927. As stated herein, there is no requirement under Title IX that the District delineate teams by biological sex despite Plaintiffs' contention that Title IX assumes an exclusively female program.[1] Again, the District has complied with Education Code section 221.5, which effectively defines sex as a reflection of a student's gender identity where Title IX and its implementing regulations are silent. See Cal. Educ. Code § 221.5(f); *Roe v. Critchfield*, 137 F.4th at 927.

Plaintiffs further attempt to wave away the three part test to demonstrate compliance with Title IX, which specifically establishes that Title IX's effective accommodation requirement may be satisfied by:

> (1) showing substantial proportionality (the number of women in intercollegiate athletics is proportionate to their enrollment); (2) proving that the institution has a "history and continuing practice of program expansion" for the underrepresented sex (in this case, women); or (3) where the university cannot satisfy either of the first two options, establishing that it nonetheless "fully and effectively accommodate[s]" the interests of women.

Mansourian v. Regents of University of California (9th Cir. 2010) 602 F.3d 957, 965. To do so, Plaintiffs again rely upon the presumption that the District must

[1] Program, as used in the policy interpretation, refers to a funding recipient's institution-wide athletics program rather than individual teams as used by Plaintiff.

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

delineate its teams by biological sex rather than in a manner consistent with AB 1266 to establish that Title IX's "participation opportunities" requires exclusively female sports teams. As stated herein, Title IX makes no such delineation. See *Roe v. Critchfield*, 137 F.4th at 927.

Notwithstanding the District's disputes, Plaintiffs have not sufficiently plead that the District has not effectively accommodated female athletes. Plaintiffs argue that female athletes are not effectively accommodated as they are not given competitive opportunities they are entitled to, pointing to Plaintiffs' allegations regarding M.L.'s displacement of T.S. as well as A.H.'s competitive success. Plaintiffs further compare the rules made for boys and girls sports, arguing it is unfair for Plaintiffs to compete against males due to the physiological and physical differences males hold in athletic events. However, these allegations do not relate to any of the three-part test to demonstrate compliance with Title IX's institution wide effective accommodation test.

Plaintiffs further contend that as long as males take up female spots in events, females will be underrepresented. Title IX's effective accommodation test is determined at an institution wide level, and Plaintiffs have made no allegations that the District does not provide substantially proportionate athletic opportunities to the District's female students. Plaintiffs have thus failed to allege a Title IX effective accommodation claim.

3. The District has not Reduced the Quality and Kinds of Benefits and Opportunities Available to Women

"Title IX requires 'equal treatment,' which has been interpreted by the OCR to require 'equivalence in the availability, quality and kinds of other athletic benefits and opportunities provided male and female athletes.' " *Ollier*, 858 F. Supp. 2d at 1110 (quoting Policy Interpretation 44 Fed. Reg. at 71,417-18). "Compliance in the area of equal treatment and benefits is assessed based on an overall comparison of the male and female athletic programs, including an analysis of recruitment benefits,

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

provision of equipment and supplies, scheduling of games and practices, availability of training facilities, opportunity to receive coaching, provision of locker rooms and other facilities and services, and publicity." *Id.* (citing 34 C.F.R. § 106.41(c)).

Plaintiffs again contends that Title IX mandates separate male and female teams based upon biological sex and that the District's compliance with AB 1266 violates Title IX by permitting biological males to compete with sex-segregated women's teams. As stated herein, Title IX does not define the term "sex," and the Ninth Circuit has recognized that banning transgender girls from competing on teams in a manner consistent with their gender identity likely violates the Equal Protection Clause. See *Roe v. Critchfield*, 137 F.4th at 927; *Hecox v. Little,* 104 F.4th at 1079; *Doe v. Horne*, 115 F.4th at 1109. Again, Plaintiffs have not established that the District has violated Title IX as a structural matter.

Again, notwithstanding the District's dispute as to Plaintiffs' contention that Title IX require funding recipients to delineate teams based on biological sex, Plaintiffs have not established that the District's enforcement of AB 1266 results in unequal treatment. Plaintiffs state M.L. and A.H. typically, but no always, won most, but not all, of the events they competed in. Opposition at 12:26 – 28 (Emphasis added). Plaintiffs thus have not established that the District's compliance with AB 1266 has not deprived Plaintiffs of competitive opportunities that reflect their abilities.

Plaintiffs further argue that the District's enforcement of AB 1266 does not allow for the exclusivity of the locker rooms for female athletes. However, this contention again ignores the plain language of Education Code section 221.5 which equally applies to both the boys' and girls' teams' use of locker rooms and other facilities. Plaintiffs lastly appear to contend that the District's compliance with Education Code section 221.5 has had a disproportionately limiting effect upon the recruitment of female athletes. Opposition at 13:6 – 16. This contention is purely speculative and Plaintiffs have not actually alleged any such impact.

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

Accordingly, Plaintiffs have failed to establish that the District's enforcement of AB 1266 resulted in unequal treatment of female athletes in violation of Title IX.

B. Plaintiffs Have Failed to Establish Standing to Seek Injunctive Relief

To establish standing, a plaintiff must show he "(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Laird v. United Tchrs. Los Angeles*, 615 F. Supp. 3d 1171, 1178 (C.D. Cal. 2022), aff'd, No. 22-55780, 2023 WL 6970171 (9th Cir. Oct. 23, 2023) (*quoting Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016)).

Plaintiffs argue that because Plaintiffs remain enrolled and subject to the District's challenged conduct, Plaintiffs have standing to challenge the unconstitutional District policies. Opposition at 14:9 – 11. As stated above, however, Plaintiffs have failed to establish the unconstitutionality of any of the challenged policies. See *Hecox v. Little,* 104 F.4th at 1079; *Doe v. Horne*, 115 F.4th at 1109. Plaintiffs also broadly claim to challenge the District's enforcement of AB 1266 in every athletic season and every girls' sport. Opposition at 14:11 – 13. Plaintiffs also argue that Plaintiffs have been injured by the District's permitting of its schools to compete against teams with biological males. Opposition at 14:18 – 15:9. However, as stated herein, Plaintiffs have failed to allege that the District's compliance with AB 1266 violates Title IX. Thus Plaintiffs have not established that Plaintiffs have suffered harm as a result of the District's compliance with AB 1266.

Plaintiffs lastly argue that, by permitting biological males to use female space, namely locker rooms, female athletes suffer a continuing harm. Opposition at 15:10 – 14. However, the Ninth Circuit has recognized that, "just because Title IX authorizes sex-segregated facilities does not mean that they … cannot accommodate gender identity." *Parents for Priv. v. Barr*, 949 F.3d 1210, 1227 (9th Cir. 2020). Title IX does not state nor suggest, "that schools may not allow

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

transgender students to use the facilities that are most consistent with their gender identity." *Ibid.* Plaintiffs have thus failed to plead any harm as a result of the District's compliance with AB 1266.

Accordingly, Plaintiffs have failed to establish standing to seek an injunction prohibiting the District from enforcing AB 1266.

C. Plaintiffs Fail to Establish Their Amendments are Within the Leave Granted

1. Plaintiffs Amendments Naming the California Department of Education and Resulting Claims for Relief may be Stricken

Plaintiffs incorrectly contend that the District raises its arguments on behalf of an unrelated co-defendant. Plaintiffs' contention ignores the Defendants' argument, specifically that Plaintiffs' amendments go beyond the leave granted by the Court. Defendants, separate from the California Department of Education, have an interest in Plaintiffs' compliance with the Court's order limiting the scope of the permitted amendments Plaintiff may make. Defendants further have an interest in narrowing the scope of litigation to limit discovery to Defendants' own conduct at issue. Defendants arguments are thus raised on its own behalf, regardless of the potential effects of the arguments raised.

Plaintiffs further do not establish that naming the California Department of Education is related to the alleged deficiencies in Plaintiffs' First Amended Complaint. The addition of the California Department of Education does not answer the question as to whether and how AB 1266 is enforced by the previously named defendants and what an injunction would accomplish. The substitution of parties outside the leave granted by the Court instead ignores the question raised as to the formerly named defendants entirely.

Similarly, Plaintiffs' amendment does not address the deficiencies identified by the Court as to whether the formerly named defendants were proper defendants. Plaintiffs instead name the California Department of Education in place of the

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

former defendants. Thus, Plaintiffs have not established that the addition of the California Department of Education was in direct response to the alleged deficiencies noted by the order.

Defendants additionally do not dispute that Plaintiffs were instructed to bring facial and preemption based challenges in separate causes of action, and thus Defendants need not address this position herein. However, as stated above, the Court granted Plaintiffs leave to amend as to the formerly named defendants and did not leave the window open for any substitution of parties in its order. Thus, because the California Department of Education has been improperly named as the sole named Defendant to Plaintiffs' Seventh and Eighth Claims for Relief, each may be stricken accordingly.

2. Allegations Related to A.H. Should be Stricken

Plaintiffs' Opposition fails to establish that the allegations related to A.H. are permitted under the Court's prior order granting Plaintiffs leave to amend. Plaintiffs first argue that allegations related to A.H. establish that Plaintiffs will continue to be injured in the future as a result of AB 1266. As stated above, Plaintiffs have improperly added the California Department of Education, and thus Plaintiffs' challenges to AB 1266 should be stricken. With only Plaintiffs' allegations against the District Defendants properly plead, Plaintiffs' allegations related to A.H. are immaterial.

Plaintiffs again emphasize the relative success by A.H. to further argue that such facts demonstrate that the number of participation opportunities for female athletes is not proportional to the number of participation opportunities for male athletes. Plaintiffs incorrectly emphasize the results of athletic events as opposed to the number of opportunities provided by the District in support of their position. However, these allegations related to A.H. have no bearing the number of participation opportunities that the District offers to its female students. Specifically, these allegations make no reference to what extent A.H.'s participation

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

on teams outside the District's control has diminished participation opportunities offered by the District to its female students.

Plaintiffs further assert that allegations related to A.H. make a specific showing of why a Title IX equal treatment claim is appropriate, arguing that such allegations demonstrate unequal treatment of female athletes. Plaintiffs again fall back on the contention that female athletes are required to share a locker room with a male while male athletes receive their own locker room. As stated above, this allegation is an incorrect conclusory allegation of law held out as a factual allegation. AB 1266 leaves no ambiguity in providing biological females the right to access facilities which align with their gender identity, including those used by biological male athletes. Plaintiffs incorrect conclusory allegation should thus be rejected by the Court.

Accordingly, Plaintiffs allegations related to A.H. should be stricken by this Court.

D. Leave to Amend Should be Denied

As stated in Plaintiffs' Opposition, leave to amend must be "freely given" unless it is clear that the proposed amendment is brought after undue and unexplained delay; is offered in bad faith; would be futile; or would be prejudicial to the other parties. See Fed. R. Civ. P. 15(a)(2); *Foman v. Davis*, 371 U.S. 178, 182 (1962). Plaintiffs offer only a conclusory statement that none of those factors apply here. Absent any showing from Plaintiff that these factors do not apply, leave should be denied.

III. CONCLUSION

For all of the foregoing reasons and those stated in Defendants' Motion to Dismiss and Strike, Defendants respectfully request that the Court dismiss Plaintiffs' Fifth and Sixth Claims for Relief with prejudice. Defendants further respectfully request that the Court Strike Plaintiffs Seventh and Eighth Claims for Relief, the California Department of Education as a newly named defendatns, and

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

those allegations related to A.H. and the California Department of Education as beyond the leave granted by this court. .

DATED: January 30, 2026

FAGEN FRIEDMAN & FULFROST, LLP

By: _____

Milton E. Foster III
Attorneys for RIVERSIDE UNIFIED SCHOOL DISTRICT, AMANDA CHANN, and LEANN IACUONE

190-115/9190341.1

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911

PROOF OF SERVICE

T.S. and K.S. v. Riverside Unified School District, et al.
Case No. 5:24-cv-02480-SSS (SPx)

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Riverside, State of California. My business address is 4160 Temescal Canyon Road, Suite 610, Corona, CA 92883.

On January 30, 2026, I served true copies of the following document(s) described as **DEFENDANTS RIVERSIDE UNIFIED SCHOOL DISTRICT'S, LEANN IACUONE'S, AND AMANDA CHANN'S REPLY PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS AND STRIKE** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

☒ **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 30, 2026, at Corona, California.

Sara Rosas

SERVICE LIST
T.S. and K.S. v. Riverside Unified School District, et al.
Case No. 5:24-cv-02480-SSS (SPx)

Robert Tyler Julianne Fleischer ADVOCATES FOR FAITH & FREEDOM 25026 Las Brisas Road Murrieta, CA 92562 Telephone: (951) 600-2733 btyler@faith-freedom.com jfleischer@faith-freedom.com	Attorneys for Plaintiffs T.S. and K.S.
Rob Bonta Darrell W. Spence Stacey L. Leask Katherine J. Grainger Truman S. Braslaw OFFICE OF THE ATTORNEY GENERAL 455 Golden Gate Ave., Ste. 11000 San Francisco, CA 94102 Telephone: (415) 510-3524 Facsimile: (415) 703-5480 Stacey.leask@doj.ca.gov	Attorneys for Defendants, State Superintendent of Public Instruction Tony Thurmond and Attorney General Rob Bonta

Fagen Friedman & Fulfrost, LLP
4160 Temescal Canyon Road, Suite 610
Corona, California 92883
Main 951.215.4900 • Fax 951.215.4911