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IN THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

SAVE GIRLS' SPORTS, et al.;

Plaintiff(s)

v.

CALIFORNIA DEPARTMENT OF EDUCATION; RIVERSIDE UNIFIED SCHOOL DISTRICT; et al.;

Defendant(s).

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

PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION

Date: March 27, 2026
Time: 2:00 p.m.
Dept.: 2
Judge: Hon. Sunshine S. Sykes

I. INTRODUCTION

The School Defendants' and State Defendant's Oppositions (ECF Nos. 93 and 94) confirm the errors in the Court's February 5, 2026, Order (ECF 91) that warrant reconsideration under Local Rule 7-18. The School Defendants explicitly concede they "do not dispute that School Defendants did not raise challenges to Plaintiffs' First through Fourth Claims for Relief" (EFC No. 93, Page ID#: 1195), yet the Order dismissed those claims in full. Both Oppositions ignore that Plaintiffs seek monetary damages for past harms under Title IX and § 1983, relief the Court previously allowed to proceed (ECF 68, Page ID#: 765, n.4, 766-67) and that is not mooted by M.L.'s graduation or the absence of a current specific competitor.

The Oppositions repeat mootness arguments the Court has already considered. However, the Order contains manifest error because it failed to account for material facts presented to the Court. Specifically, the Court found no live controversy despite the continued statewide enforcement of AB 1266 and the District's policies, as well as new allegations regarding A.H., which show that the controversy is capable of repetition. The State's claim that "clear error" is unavailable under Local Rule 7-18 is misplaced (ECF No. 94, Page ID#: 1210); the motion satisfies the rule's grounds and Ninth Circuit standards for reconsideration because the Order failed to consider material facts presented (damages requests, unchallenged claims, ongoing policy, and A.H.).

Reconsideration is not re-litigation. It corrects the Order's overbroad dismissal of claims never challenged and relief never rendered moot. The Court should grant the Motion, vacate the Order as to the affected claims, and allow the case to proceed.

II. ARGUMENT

A. The Court Clearly Erred In Dismissing Unchallenged Claims 1–4

School Defendants admit they "did not raise challenges to Plaintiffs' First through Fourth Claims for Relief stated in Plaintiff's Second Amended Complaint" (ECF No. 93, Page ID#: 1195) and that the Court "declined to dismiss Plaintiffs' Fourth Claim for Relief" in the prior order (*id.*). Claims 1–3 (free speech and due process challenges to the Speech Policy) and Claim 4 (Title IX sex discrimination) were never subject to any motion to dismiss. Yet, the Order dismissed the entire action as moot based solely on M.L.'s graduation and the absence of a current teammate competitor.

This *sua sponte* dismissal of unchallenged claims without notice or briefing on the merits constitutes clear error and a failure to consider material facts presented to the Court. *Reed v. Lieurance*, 863 F.3d 1196, 1207 (9th Cir. 2017). The Order provides no analysis why these claims are moot. The Speech Policy remains in effect,

and Plaintiffs' facial and as-applied challenges do not depend on any single athlete. Dismissal of these claims must be vacated.

B. Monetary Damages Claims In Counts 5 And 6 Are Not Moot

School Defendants now assert they moved to dismiss Counts 5 and 6 in their entirety for failure to state a claim. ECF No. 93, Page ID#: 1198-99. But the Order dismissed the entire action solely on mootness grounds (ECF 91, Page ID#: 1178-79), without reaching or relying on any failure-to-state arguments. This Court previously permitted Plaintiffs' Title IX claim (including damages) to proceed past the First Amended Complaint (ECF 68, Page ID#: 771-72, denying dismissal of Claim 4 and allowing related claims).

Monetary damages under Title IX and § 1983 remedy past injuries and are not mooted by graduation or the absence of a current competitor. *See Franklin v. Gwinnett Cnty. Pub. Schs.*, 503 U.S. 60 (1992); *Mansourian v. Regents of Univ. of Cal.*, 602 F.3d 957 (9th Cir. 2010); *Uzuegbunam v. Preczewski*, 592 U.S. 279 (2021); *Doe v. Madison Sch. Dist. No. 321*, 177 F.3d 789 (9th Cir. 1999). The Order's jurisdictional mootness ruling cannot reach retrospective damages relief. School Defendants' merits arguments do not cure the error.

C. Plaintiffs' Request For Damages Is Not Limited To School Defendants And The Order's Blanket Mootness Ruling Was Error

CDE asserts that Claims 7 and 8 do not seek damages. ECF 94, Page ID#: 1213-14. This is a red herring that misses the broader error in the Court's Order. The SAC expressly seeks "INJUNCTIVE AND DECLARATORY RELIEF AND DAMAGES" in its caption and prayer for relief, and the harms alleged—displacement from roster spots, lost opportunities, emotional distress, and unequal treatment—are directly traceable to CDE's enforcement and implementation of AB 1266 statewide. SAC ¶¶ 23-24 (CDE "has authority over the interscholastic athletic policies of local school districts" and "distributes federal funding"); *id.* ¶¶ 400-434 (Claims 7 and 8 demonstrate the ongoing Title IX violations caused by CDE's policy).

The Order dismissed the *entire action* as moot based solely on the absence of a current specific competitor for T.S. and K.S. ECF 91, Page ID#: 1178-79. That ruling necessarily swept in the damages sought throughout the SAC for the past and ongoing Title IX injuries facilitated by CDE's enforcement of the allegedly preempted law. Plaintiffs' Opposition to CDE's Motion to Dismiss expressly presented these material facts: the SAC alleges "ongoing, concrete, and redressable injuries" to T.S., K.S., and SGS members from the *statewide* policy that CDE continues to enforce, including lost competitive opportunities, privacy harms, and unequal treatment that are compensable under Title IX principles. ECF 85, Page ID#: 1116-20 (detailing live controversy from ongoing policy enforcement); *id.* at 1128-36 (Title IX violations caused by CDE's actions); SAC ¶¶ 412, 429 (identifying instances of past harm). The Court failed to consider these facts.

Damages for past injuries are retrospective and not subject to mootness. *See Franklin*, 503 U.S. 60; *Doe*, 177 F.3d 789. CDE's enforcement of AB 1266 is the but-for cause of those injuries. Because the Court dismissed the entire case without addressing these damages requests or the material facts in Plaintiffs' opposition, reconsideration is required.

D. Injunctive Relief Is Not Moot Because The Policies Remain In Effect And The Controversy Is Capable Of Repetition

School Defendants label Plaintiffs' arguments about ongoing policies and A.H. as "restated arguments." ECF 68, Page ID#: 1198. But the Order committed clear error by limiting the injury to M.L.'s specific participation and deeming A.H. (at a different school) irrelevant. AB 1266 and the District's policies remain in full force and effect. As the Ninth Circuit recognized, "although the particular situation precipitating a constitutional challenge to a government policy may have become moot, the case does not become moot if the policy is ongoing." *United States v. Brandau*, 578 F.3d 1064, 1067 (9th Cir. 2009) (cited in Plaintiffs' Opposition Briefs, EFC Nos. 83 and 85).

A.H.'s participation (state champion in girls' high jump/long jump; volleyball competitor causing physical-contact risk) demonstrates the same or greater harm and that the controversy is capable of repetition yet evading review. SAC ¶¶ 162–74. The Order's distinction (different school) ignores that the injury flows from the statewide policy enforced by all Defendants.

The same arguments apply with even greater strength to Claims 7 and 8 against CDE. Those claims directly challenge CDE's ongoing enforcement and implementation of AB 1266 – the very statewide statute that compels every school district, including RUSD, to permit biological males in girls' sports and facilities. SAC ¶¶ 400-434; ECF 85, Page ID#: 1118 at 4-6 (the action is not moot "Plaintiffs remain subject to the challenged policy"). T.S. and K.S. "will continue to face harm as long as males are allowed to compete in their sports programs and access female spaces," with "upcoming athletic seasons during which a biological male could participate." SAC ¶ 172. CDE's enforcement of AB 1266 is the but-for cause of the ongoing Title IX violations alleged throughout the SAC. The Order failed to consider these material facts presented in Plaintiffs' opposition to CDE's motion and instead adopted CDE's narrow focus on M.L. alone. Additionally, it is CDE's enforcement of its gender identity policies that resulted in the harm suffered by all Plaintiffs and the continued harm suffered by Plaintiffs. A plaintiff in a Title IX case can seek monetary damages for emotional distress, pain and suffering, and other non-economic damages. *See Lopez v. Regents of Univ. of California*, 5 F.Supp.3d 1106, 1119 (N.D. CA 2013).

Notably, Plaintiff Save Girls' Sports ("SGS"), an unincorporated California association and named Plaintiff, possesses associational standing to pursue injunctive relief on behalf of its members – who include current and prospective female student-

athletes continuing to be subject to the ongoing policies.[1] The Court's Order failed to address SGS's independent standing or the broader protective impact that injunctive relief would have on the association's membership. This omission further demonstrates clear error in dismissing the injunctive claims in their entirety.

The claims for injunctive relief remain live against all Defendants.

E. The Motion Complies With Local Rule 7-18 And Ninth Circuit Standards And Does Not Merely Re-Litigate Prior Arguments

CDE argues "clear error" is unavailable under Local Rule 7-18 and that Plaintiffs are re-litigating mootness. ECF 94, Page ID#: 1210, 1214-15. This mischaracterizes the Motion. The Motion identifies a manifest failure to consider material facts presented (damages requests, unchallenged claims, ongoing policy enforcement, and A.H. allegations), satisfying Local Rule 7-18(c). It also demonstrates clear errors under the Ninth Circuit's coextensive standard. *School Dist. No. 1J v. AC&S, Inc.*, 5 F.3d 1255 (9th Cir. 1993); *Kona Enters. v. Estate of Bishop*, 229 F.3d 877 (9th Cir. 2000).

The Motion does not seek to relitigate prior arguments. Instead, it identifies the Order's overbreadth in dismissing claims that no Defendant challenged and forms of relief – such as damages and facial policy challenges – that were never rendered moot. Accordingly, CDE's re-litigation objection fails.

F. A.H. Allegations And Ongoing Policy Cure Any Deficiency

The allegations surrounding A.H. and Defendants' ongoing enforcement of their gender identity policies continue to harm Plaintiffs: loss of opportunities and placements due to biological males competing under the policy. The policy's continued existence, not any single athlete, creates the live controversy. The Order failed to consider these material facts.

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[1] The impact of injunctive relief on SGS's associational standing is significant: a favorable injunction would protect not only the individual named Plaintiffs but the association's broader membership from ongoing and future violations caused by Defendants' policies.

III. CONCLUSION

The Oppositions confirm the Order's clear errors: dismissal of unchallenged claims, dismissal of non-moot damages relief, and erroneous mootness as to ongoing policy challenges. For the foregoing reasons, Plaintiffs respectfully request that the Court grant the Motion for Reconsideration, vacate the February 5, 2026, Order, reinstate Claims 1-8 or set the matter for further proceedings on the merits.

DATED: March 13, 2026

ADVOCATES FOR FAITH & FREEDOM

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