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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)

The Hon. Sunshine Suzanne Sykes

DEFENDANTS RIVERSIDE UNIFIED SCHOOL DISTRICT, LEANN IACUONE, AND AMANDA CHANN'S MOTION TO DISMISS AND STRIKE SECOND AMENDED COMPLAINT FOR FAILURE TO STATE A CLAIM

DATE: April 24, 2026
TIME: 2:00 p.m.
DEPT.: Courtroom 2

Trial Date: None Set

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TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on April 24, 2026, at 2:00 p.m., or as soon thereafter as counsel may be heard via Zoom in the courtroom of the Honorable Sunshine Suzanne Sykes, located in the United States Courthouse, 3470 Twelfth Street, Courtroom 2, Riverside, CA 92501, Defendants Riverside Unified School District ("District"), Dr. Leann Iacuone ("Iacuone"), and Amanda Chann ("Chann") (the District, Iacuone, and Chann collectively hereinafter "Defendants") will and hereby do move this Court to dismiss Plaintiffs T.S., K.S., and Save Girls' Sports' (collectively "Plaintiffs") Fifth and Sixth Claims for Relief in Plaintiffs' Second Amended Complaint ("SAC"). Defendants further move to strike Plaintiffs' allegations regarding A.H.

Defendants Iacuone and Chann are named as defendants to each of Plaintiffs' first three claims for relief. The District is named as a defendant to Plaintiffs' Fourth, Fifth, and Sixth Claims for Relief. Defendants move for dismissal as to the Fifth and Sixth Claims for Relief under 12(b)(6) as Plaintiffs have not alleged facts sufficient to state a Claim for Relief. Defendants further move to strike Plaintiffs' allegations related to Plaintiffs' amendment of those allegations 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.

This motion is made following the L.R. 7-3 conference of counsel which took place between March 20, 2026, via teleconference. This Motion is based upon this Notice of Motion and the attached Memorandum of Points and Authorities, filed concurrently herewith, all of the pleadings, files, and records in this proceeding, any matters to which the Court may properly judicially notice at the pleading stage, and any argument or evidence that may be presented to or considered by the Court prior to its ruling.

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DATED: March 27, 2026

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By: _____

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND SUMMARY OF ARGUMENT

Plaintiffs T.S., K.S., and Save Girls' Sports' ("SGS") (T.S., K.S., and SGS collectively "Plaintiffs") Second Amended Complaint ("FAC") should be dismissed under Federal Rule of Civil Procedure ("FRCP") Rule 12(b)(6) as to Plaintiffs' Fifth and Sixth Claims for failure to state a claim for which relief can be granted.

District Defendants bring this Motion to Dismiss and Strike Plaintiffs' SAC so as to avoid any procedural waiver of arguments raised herein. District Defendants are unable to determine whether the Court, in determining Plaintiffs' lacked standing, previously considered the arguments raised by District Defendants in support of its prior Motion to Dismiss and Strike. District Defendants thus respectfully submit this Motion to Dismiss and Strike to ensure that the merits of the arguments raised herein are fully considered.

Plaintiffs' Fifth and Sixth Claims for Relief each arise under 20 U.S.C. section 1681 et seq ("Title IX"). Plaintiffs' Fifth and Sixth claims rely upon the theory that M.L. and other unnamed transgender athletes displaced Plaintiffs T.S. and K.S. as well as other biological female athletes on the Martin Luther King High School ("King") girls' varsity cross country and track teams. Plaintiffs also point generally to another male athlete competing for another school district contributing to the forfeiture of over ten volleyball games and loss of position. Plaintiffs allegations are insufficient to establish violated the effective accommodation or equal treatment requirements of Title IX.

Further, Plaintiffs' amendments adding allegations regarding A.H. are entirely inapposite to Plaintiffs' claims for relief, and therefore subject to strike.

II. SUMMARY OF RELEVANT FACTS

A. Dr. Leann Iacuone and Amanda Chann are Employed by the District at King High School

The District is a school district located in Riverside County, California. SAC

¶ 25. The District is responsible for the adoption and implementation of District policies and is further responsible for ensuring enforcement of District policies. *Ibid.* Martin Luther King High School ("King") is a high school maintained and operated by the District. FAC ¶ 80.

Dr. Iacuone is the Principal at King and is responsible for implementing and enforcing District policies on the King campus. SAC ¶ 26. Dr. Iacuone is provided with discretion in the implementation of District policies on an individualized basis. *Ibid.* Ms. Chann serves as both the Assistant Principal and Athletic Director at King and is similarly given discretion to implement and enforce District policies. SAC ¶ 27. Ms. Chann would run with M.L. when M.L. was able to attend cross country team practices. SAC ¶ 128. Ms. Chann is alleged to have made the decision to place M.L. on the girls' cross-country team. SAC ¶ 122.

B. Plaintiffs T.S. and K.S. Compete on the King Girls' Cross Country Team

Plaintiff T.S. is alleged to be an eleventh-grade student at King and a member of the King girls' cross-country team. SAC ¶¶ 19, 85. T.S. has received multiple accolades while competing as a member of the King girls' cross-country team related to her time improvements. SAC ¶ 87. T.S. was first designated as a member of the King girls' cross-country team in August 2024. SAC ¶ 88.

Plaintiff K.S. is alleged to be a ninth-grade student at King and similarly competes as a member of the King girls' cross-country team. SAC ¶¶ 18, 81. Prior to entering high school, K.S. accumulated various accolades in cross country, track and field, volleyball, basketball, and soccer at the middle school level. SAC ¶¶ 82-84. K.S. consistently ranked second or third on the King girls' cross country junior varsity team. SAC ¶ 81.

The 2024 cross country season was K.S.'s first at King, and T.S.'s third season. SAC ¶¶ 81, 85. T.S. and K.S. allege each attended every practice during the 2024 cross country season. SAC ¶¶ 90-92. Plaintiffs allege T.S. has served in a

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leadership role as a girls' cross country team captain since August 2024 and is responsible for demonstrating a strong work ethic, upholding a high standard of responsibility, and fostering a positive attitude to inspire and motivate the team. SAC ¶ 88.

C. M.L. Earns Her Way Onto the King Girls' Varsity Cross Country Team for the Prestigious Mt. SAC Invitational

King provides athletic programs and opportunities separated by sex and maintains 4 separate cross-country teams: a boys' varsity team, a girls' varsity team, a boys' junior varsity team, and a girls' junior varsity team. SAC ¶¶ 94-95. The girls' varsity team lineup is typically left to the coaching staff's discretion based on the following criteria: (1) previous race times, (2) practice attendance, (3) "'varsity-level effort' at practice during the week (or specifically a lack of it), (4) attitude, (5) long-term team strategy by the coaching staff, (6) illness/injury, (7) varsity "exposure," and (8) other unforeseen issues. SAC ¶ 99. It is also left to the coach's discretion to determine whether consequences shall be employed as a result of multiple missed workouts. SAC ¶ 102. Any one of the above factors could warrant selection for the varsity lineup. *See* SAC Ex. 1, at p. 7.

Because King's cross-country teams rank in the top 10 of the California Interscholastic Federation Southern Section, Division 1, the girls' team is regularly invited to the annual Mt. SAC Cross Country Invitational ("Mt. SAC Invite"). SAC ¶ 107. The Mt. SAC Invite is a premier cross-country event and was held on October 25, 2024, and October 26, 2024. SAC ¶ 107.

M.L. transferred to King in June 2024 after being ranked as the top performer on her prior school's girls' cross-country team. FAC ¶¶ 119-120. Between August 2024 and October 2024, Plaintiffs allege that M.L. attended only 13 of the 74 scheduled cross-country practices. SAC ¶ 126. M.L. is alleged to have attended the last 50-60 minutes of the approximately two and a half hour practices. SAC ¶ 127.

On October 19, 2024, M.L. competed as a member of the King girls' cross-

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country team for the first time in the 2024 cross country season. SAC ¶ 115. M.L. posted a time of 19:41 on that race day. *Ibid.* T.S. also competed on that race day and posted a time of 20:42. SAC ¶ 116. M.L. placed sixth out of the competing female athletes, qualifying her to receive a top 30 medal. SAC ¶ 149.

Days later, on or about October 22, 2024, the girls' varsity lineup for the Mt. SAC Invite was released. SAC ¶ 117. T.S. was not included on the varsity lineup and was instead listed under the junior varsity lineup. SAC ¶ 118. M.L. was instead listed as a member of the varsity lineup. *Ibid.* M.L. ultimately competed at the Mt. SAC Invite as a member of the varsity team. SAC ¶ 135.

M.L. again competed at the Big VII League Finals ("League") on or about November 8, 2024. SAC ¶ 150. The top 21 female athletes at League were awarded medals. *Ibid.* At League, M.L. finished in fourth place, qualifying her to receive a medal. SAC ¶ 150. On or about December 17, 2024, M.L. received the "MLKHS Senior Girl" award. SAC ¶ 151.

D. M.L. Also Competed on the King Track & Field Team as a Varsity Member

In addition to competing as a member of the King girls' cross-country team, M.L. was also permitted to compete on the King girls' track and field team. SAC ¶ 152. M.L. is alleged to have participated in approximately twenty-seven (27) different track and field events as a member of the King girls' track team during the 2024-2025 track & field season. SAC ¶ 161. M.L. would also be permitted to use the same bathrooms and lockers as Save Girls' Sports members, including T.S. and K.S., and allegedly due to the District's enforcement of AB 1266. SAC ¶¶ 169-171.

On February 8, 2025, M.L. competed in the girls' 200-meter race as well as the varsity 300-meter hurdles. SAC ¶¶ 154, 156. M.L. finished in seventh and first in each respective event, ahead of Save Girls' Sports members. SAC ¶¶ 155, 157. On February 26, 2025, M.L. competed in the women's varsity 300m hurdles, again finishing ahead of another Save Girls' Sports member. SAC ¶ 158. On April 9,

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2025, M.L. competing in the women's varsity 100m hurdles, finishing ahead of a Save Girls' Sports member. SAC ¶ 159. On April 29, 2025, M.L. again competing in the women's varsity 300m hurdles, and again finished ahead of a Save Girls' Sports member. SAC ¶ 160.

E. Plaintiffs' Alleges Other Students Competing Pursuant to AB 1266

In addition to M.L., Plaintiffs' identify another transgender student athlete in their SAC. Plaintiffs specifically identify A.H., an alleged biological male who competed on Jurupa Unified School District's girls' track and field team during the 2024-2025 season and won the California state titles in the girls' high jump and long jump. SAC ¶ 163. A.H. is alleged to have participated in approximately forty-two (42) track and field events, and displaced female athletes including Save Girls' Sports members. SAC ¶¶ 163-166. Additionally, A.H. competed as a member of the JVHS girls' volleyball team and resulted in at least ten (10) schools forfeiting matches against JVHS. SAC ¶ 168.

III. PROCEDURAL POSTURE

On November 25, 2025, District Defendants as well as the California Department of Education ("CDE") each filed respective motions seeking to dismiss Plaintiffs' SAC. ECF 76, 77. Both District Defendants and the CDE argued that Plaintiffs' lacked standing to seek injunctive relief. *Id.* District Defendants raised further arguments which it now reasserts below. ECF 77.

On February 5, 2026, the Court issued its order granting Defendants' motions to dismiss. ECF 91. Therein the Court determined, without addressing the merits of District Defendants' Motion to Dismiss and Strike Plaintiffs' SAC, that it lacked subject matter jurisdiction as Plaintiffs' claims were found to be moot. *Id.* at 1178. Accordingly, the Court dismissed the entirety of Plaintiffs' SAC without prejudice. *Id.* at 1179.

Plaintiffs thereafter filed a Motion for Reconsideration, arguing that the Court's dismissal of Plaintiffs' SAC was an error as Plaintiffs' monetary damages

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claims were not moot and that District Defendants never sought dismissal of Plaintiffs' First through Fourth Claims for Relief in their Motion to Dismiss and Strike Plaintiffs' SAC. On March 16, 2026, the Court granted in part Plaintiffs' Motion for Reconsideration, thereby finding Plaintiffs' claims for monetary damages against District Defendants were not moot. ECF 96. In its order, the Court restated an erroneous argument raised by Plaintiffs, specifically that District Defendants never moved to dismiss Claims 5 and 6. *Id.* at 1227. The Court ordered District Defendants to file an answer by Friday, March 27, 2026. *Id.*

District Defendants now bring this Motion to Dismiss and Strike Plaintiffs' SAC so as to avoid any prejudicial waiver of the District Defendants' arguments and to ensure that Defendants arguments are considered on their merits. Upon review of the court's prior orders, there was no discussion of Defendants prior arguments which they now re-raise. Defendants were unable to determine whether the Court considered Defendants prior arguments previously, or whether the Court made its ruling solely based upon its finding of Plaintiffs' claims and moot and thus has yet to review the merits of Defendants positions regarding Plaintiffs' Fifth and Sixth Claims for Relief, as well as to Defendants' request strike those allegations related to A.H. that go beyond the Court's prior grant of leave to amend.

IV. LEGAL ARGUMENT

A. Standard of Review

1. FRCP Rule 12(b)(6)

Defendants bring this Motion to Dismiss under Rule 12(b)(6) for "failure to state a claim upon which relief can be granted." Fed.R.Civ.Proc. 12(b)(6). To survive a motion to dismiss under this rule, a plaintiff must show that he or she has alleged sufficient facts which, if true, would confer upon him or her the relief sought. *Sacks v. Office of Foreign Assets Control*, 466 F.3d 764, 771 (9th Cir. 2006). A complaint must provide "factual allegations" that "raise a right to relief above the speculative level" to the "plausible" level. *Bell Atlantic Corp. v. Twombly*, 550 U.S.

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544, 545 (2007).

For a claim to be "plausible," it is insufficient that the facts alleged are "'consistent with' a defendants' liability" or that a violation is "conceivable." *Ashcroft v. Iqbal*, 556 U.S. 662, 680 (2009) (quoting *Twombly*, 550 U.S. at 567). "[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged-but it has not 'show[n]'-'that the pleader is entitled to relief.'" *Id.* at 679 (quoting Fed. R. Civ. P. 8(a)(2)).

Interpreting *Iqbal* and *Twombly*, the Ninth Circuit employs a two-step approach:

> First, to be entitled to the presumption of truth, allegations in a complaint or counterclaim may not simply recite the elements of a cause of action but must contain sufficient allegations of underlying facts to give fair notice and to enable the opposing party to defend itself effectively. Second, the factual allegations that are taken as true must plausibly suggest an entitlement to relief, such that it is not unfair to require the opposing party to be subjected to the expense of discovery and continued litigation.

Levitt v. Yelp! Inc., 765 F.3d 1123, 1135 (9th Cir. 2014) (quoting *Eclectic Props. E., LLC v. Marcus & Millichap Co.*, 751 F.3d 990, 996 (9th Cir. 2014)). Additionally, "[w]hen faced with two possible explanations, only one of which can be true and only one of which results in liability, plaintiffs cannot offer allegations that are merely consistent with their favored explanation but are also consistent with the alternative explanation. Something more is needed, such as facts tending to exclude the possibility that the alternative explanation is true, in order to render plaintiffs' allegations plausible." *In re Century Aluminum Co. Sec. Litig.*, 729 F.3d 1104, 1108 (9th Cir. 2013) (internal citations omitted).

"Taken together, *Iqbal* and *Twombly* require well-pleaded facts, not legal conclusions." *Whitaker v. Tesla Motors, Inc.*, 985 F.3d 1173, 1176 (9th Cir. 2021) (citations omitted). And, civil rights litigants are not entitled to a more lenient pleading standard. *Id.* at 1177. Additionally, "the Supreme Court has been clear

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that discovery cannot cure a facially insufficient pleading." *Id.* at 1177. Accordingly, a complaint that does not provide the "when, where, in what or by whom" to support conclusory allegations fails to state a claim. *Center for Bio-Ethical Reform v. Napolitano*, 648 F.3d 365, 373 (6th Cir. 2011).

2. FRCP Rule 12(f)

Pursuant to Rule 12(f), "[t]he court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." "The function of a 12(f) motion to strike is to avoid the expenditure of time and money that must arise from litigating spurious issues by dispensing with those issues prior to trial...." *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir.1993) (quotation marks, citation, and first alteration omitted), rev'd on other grounds by *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 114 S.Ct. 1023, 127 L.Ed.2d 455 (1994). A motion to strike pursuant to Rule 12(f) is proper to address new claims, parties or factual allegations of an amended complaint that are beyond the permissible scope of a court's prior order granting leave to amend. *See, e.g., Gerritsen v. Warner Bros. Entm't Inc.*, 116 F. Supp. 3d 1104, 1125 (C.D. Cal. 2015) (striking new claims "that exceed[ed] the **leave** to **amend** granted" and collecting cases granting similar Rule 12(f) motions)

B. <u>District Defendants Should not be Deprived of an Opportunity to be Heard on the Merits of Their Motion</u>

As stated herein, the Court issued an order dismissing Plaintiffs' claims in their entirety on February 5, 2026. ECF 91 at 1179. The Court based its Order on a finding that Plaintiffs' claims are moot. *Id.* at 1178-9. Thus, the Court determined at the time that it no longer maintained subject matter jurisdiction over Plaintiffs' claims and subsequently dismissed Plaintiffs' claims. *Id.*

In its order dismissing Plaintiffs' SAC based on the mootness of Plaintiffs' claims and lack of subject matter jurisdiction, the Court provided no ruling on the merits of District Defendants motion to dismiss Plaintiffs' Fifth and Sixth Claims

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for Relief. ECF 91. Similarly, in its Order Granting in Part Plaintiffs' Motion for Reconsideration, the Court did not appear to consider the merits of District Defendants' motion to dismiss Plaintiffs' Fifth and Sixth claims. ECF 96. The Court further has not addressed District Defendants motion to strike Plaintiffs; allegations related to A.H. *Id.*

Although District Defendants have been ordered to answer Plaintiffs' SAC, to do so without any ruling on the merits of its motion to dismiss Plaintiff's Fifth and Sixth Claims for Relief and strike Plaintiffs' allegations related to A.H. would be unduly prejudicial to District Defendants. District Defendants should not be required to waive the arguments previously asserted based upon the Court's initial finding that the entirety of Plaintiffs' claims were moot which would have thereby deprived the Court of jurisdiction. Accordingly, District Defendants respectfully request that the Court now consider the merits of its Motion to Dismiss and Strike which have thus far not been considered by the Court.

C. Plaintiffs' Amendments are Beyond the Leave Granted by the Court

Plaintiffs' SAC goes beyond the leave to amend granted by the Court. Pursuant to Rule 15 of the Federal Rules of Civil Procedures, a party may only amend its pleading once as a matter of course. Fed. R. Civ. P. 15(a)(1). Further amendments require the written consent of opposing party or the court's leave. Fed. R. Civ. P. 15(a)(2).

In its Order Granting in Part and Denying in Part Defendant Riverside Unified School District's Motion to Dismiss and Granting the State of California's Motion to Dismiss (the "Order"), Plaintiff was solely granted leave to amend per the Court's Order. In its Order, the Court stated, "Any amended complaint **SHALL ONLY** address the deficiencies identified herein." Order Granting in Part and Denying in Part Riverside Unified School District's Motion to Dismiss and Granting the State of California's Motion to Dismiss, ECF 68, T.S. et al. v. Riverside Unified

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School District et al. (Emphasis in original).

Plaintiffs' allegations related to A.H. are immaterial and impertinent to this controversy at hand and go beyond the leave to amend granted by the Court. A.H. is not alleged to have competed with either T.S. or K.S. Further, A.H. is a student outside of the District, attending another California school district. The relative success by A.H. has no bearing on whether the number of participation opportunities for female athletes is proportional to the number of participation opportunities for male athletes nor does it have any bearing on the number of participation opportunities that the District offers to its female students generally. Plaintiffs' SAC further make no reference to what extent A.H.'s participation on teams outside the District's control has diminished participation opportunities offered by the District to its female students.

Plaintiffs' allegations related to A.H. further have no relation to Plaintiffs' Title IX equal treatment claim. 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. Similarly, AB 1266 makes it clear that both the boys' and girls' teams offered by the District at King are based upon gender identity.

It is unclear from the SAC how Plaintiffs' amendments related to A.H. relate to the case and controversy at hand in this matter, specifically the provision of athletic opportunities to female athletes at Martin Luther King High School as well as the temporary restriction on the wearing of the Save Girls' Sports shirts. The Court may thus strike those allegations related to A.H. in the following paragraphs of Plaintiffs' SAC: 23-24, 77-78, 152, 162-168, 360, 361 as to A.H., 378 as to A.H., 393 as to A.H., and 400-434.

D. Plaintiffs Fail to State Their Claims Under Title IX

Section 901(a) of Title IX of the Education Amendments of 1972 provides that, subject to certain exceptions, "[n]o person in the United States shall, on the

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basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." 20 U.S.C. § 1681(a). Title IX's implementing regulations require that schools provide "equal athletic opportunity for members of both sexes." 34 C.F.R. § 106.41(c).

Title IX's implementing regulations "establish two components of Title IX's equal athletic opportunity requirement: 'effective accommodation' and 'equal treatment.' " *Mansourian v. Regents of Univ. of California*, 602 F.3d 957, 964 (9th Cir. 2010). Effective accommodation requirements derive from 34 C.F.R. § 106.41(c)(1) and equal treatment requirements derive from 34 C.F.R. § 106.41(c)(2)-(10). *Id.* "Effective accommodation claims thus concern the opportunity to participate in athletics, while equal treatment claims allege sex-based differences in the schedules, equipment, coaching, and other factors affecting participants in athletics." *Id.*

1. Plaintiffs Fail to State a Claim for Title IX: Effective Accommodation Violation

In deciding whether a plaintiff can state an "ineffective accommodation" claim, courts look to the three-part compliance test set forth in 44 Fed.Reg. 71,418. *Brust v. Regents of Univ. of Cal.*, 2007 WL 4365521, at *3 (E.D. Cal. Dec. 12, 2007). To determine whether an institution is complying with the "effective accommodation" requirement, the court must consider the following:

> (1) Whether ... participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or
>
> (2) Where the members of one sex have been and are underrepresented among ... athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interest and abilities of the members of that sex; or
>
> (3) Where the members of one sex are underrepresented among ... athletes, and the institution cannot show a continuing practice of program expansion such as that cited above, whether it can be demonstrated that

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> the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.

Ollier v. Sweetwater Union High Sch. Dist., 768 F.3d 843, 854 (9th Cir. 2014) (citing 44 Fed.Reg. 71,413, 71,418 (Dec. 11, 1979)). Title IX plaintiffs bear the burden of proving a defendant's failure to satisfy Prong One's substantial proportionality requirement by showing an actionable "disparity" in participation opportunities by sex. *Anders v. California State Univ., Fresno, No. 121CV00179AWIBAM*, 2021 WL 3115867, at *5 (E.D. Cal. July 22, 2021) (citing *Horner v. Kentucky High Sch. Athletic Ass'n*, 43 F.3d 265, 275 (6th Cir. 1994)).

Under the first prong, the court first determines the number of participation opportunities afforded to male and female athletes before considering whether the number of participation opportunities "is substantially proportionate to each sex's enrollment." *Ollier*, 768 F.3d at 855. Substantially proportionate participation is unnecessary however if the District can show "a history and continuing practice of program expansion responsive to the interest and abilities of 'female athletes.' " *Id.* at 857 (citing 44 Fed.Reg. at 71,418). The District can alternatively satisfy Title IX if it proves the interests and abilities of female students have been fully and effectively accommodated. *Id.* at 858.

Plaintiffs' SAC fails to allege that Defendants have failed to satisfy the first prong stated above. Plaintiffs' SAC does not allege any facts regarding the proportionality of participation opportunities for male and female students. Plaintiff offers only conclusory allegations that the District's "policies and practices cause Plaintiffs to have materially fewer athletic opportunities than they previously enjoyed because they no longer can compete in fair, exclusively female competition." SAC ¶ 347. Plaintiffs further allege that biological males have "displac[ed] biological females and reduc[ed] their overall performance and participation rates." SAC ¶ 360. Plaintiffs have not alleged the extent to which the inclusion of transgender athletes on teams aligning with their gender identity has

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impacted the substantial proportionality between the number of boys' and girls' athletic opportunities.

To the extent Plaintiffs' rely on M.L.'s and A.H.'s athletic participation, each is insufficient to establish a cause of action for effective accommodation pursuant to Title IX. Such allegations do not relate to any of the three-part test to demonstrate compliance with Title IX's institution wide effective accommodation test. Plaintiffs allege no facts related to how M.L. has impacted the proportionality of the number of athletic opportunities offered to female athletes. As to A.H., it is clear that another athlete competing for another school in another school district can have no impact on the proportionality of athletic opportunities offered to District students. Plaintiffs have made no allegations that the District does not provide substantially proportionate athletic opportunities to the District's female students.

Plaintiffs SAC fails to establish that M.L.'s participation on the track & field and cross-country teams have affected the substantial proportionality of participation opportunities available for female athletes at King High School on an institutional basis. Plaintiff therefore has failed to state their Fifth Claim for Relief.

2. Plaintiffs Fail to State a Claim for Title IX: Equal Treatment Violation

"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, 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' SAC lacks any allegations to establish unequal treatment based on

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an overall comparison of the male and female athletic programs. Plaintiffs incorrectly allege that AB 1266 creates a biological boys' team and an integrated team, a misrepresentation of AB 1266. 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). Both the girls and boys teams are thus subject to the same requirement that students be allowed to participate on the team consistent with their gender identity. Accordingly, Plaintiffs cannot establish any difference in the treatment to the boys' and girls' cross-country teams.

To the extent Plaintiffs allege the allowance of M.L. to compete in cross country and track & field constitute unequal treatment, the statistics alleged by Plaintiff undermine the claim. Plaintiff alleges that M.L.'s cross-country time was 19:41. SAC ¶ 115. Plaintiffs also allege that M.L.'s times were often, but not always, sufficient to warrant placement in the Top 7. SAC ¶ 378. T.S. ran a 20:42 (SAC ¶ 116) while the fastest female on the team ran an 18:07. SAC ¶ 344. The boys' Top 7 team times range from 15:29 to 17:08. Id. M.L.'s times clearly fall within the times typical of cisgender girls, and thus Plaintiffs have not been deprived of competitive opportunities that reflect their abilities.

Plaintiffs' Sixth Claim for Relief therefore fails to state a claim upon which relief may be granted.

E. Leave to Amend Should be Denied

Leave to amend typically 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 amendments do not

V. CONCLUSION

For all of the foregoing reasons, Defendant respectfully requests that the

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Court grant this Motion to Dismiss and Strike Plaintiffs' Second Amended Complaint.

DATED: March 27, 2026

FAGEN FRIEDMAN & FULFROST, LLP

By: 

Milton E. Foster III
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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendants Riverside Unified School District, Leann Iacuone, and Amanda Chann, certifies that this brief contains 4,595 words, which complies with the word limit of L.R. 11-6.1.

DATED: March 27, 2026

By: 

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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 March 27, 2026, I served true copies of the following document(s) described as **DEFENDANTS RIVERSIDE UNIFIED SCHOOL DISTRICT, LEANN IACUONE, AND AMANDA CHANN'S MOTION TO DISMISS AND STRIKE SECOND AMENDED COMPLAINT FOR FAILURE TO STATE A CLAIM** 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 United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 27, 2026, at Corona, California.

Lisa Spencer

Lisa Spencer

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

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