Nos. 24-43, 24-44

In The Supreme Court of the United States

WEST VIRGINIA, *ET AL.*, PETITIONERS

v.

B.P.J., *ET AL.*, RESPONDENTS

On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Fourth Circuit

BRIEF OF THE AMERICAN CIVIL RIGHTS PROJECT, AS AMICUS CURIAE, SUPPORTING THE PETITIONERS

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INTEREST OF AMICUS CURIAE[1]

The American Civil Rights Project (the "ACR Project") is a public-interest law firm, dedicated to protecting and where necessary restoring the equality of all Americans before the law.

This case interests the ACR Project because it focuses on the proper interpretation of some of America's most important civil rights enactments.

INTRODUCTION & SUMMARY

This case asks whether Title IX of the Education Amendments of 1972 (as amended), the Equal Protection Clause of the Fourteenth Amendment, or both ban single-sex athletic teams. The Fourth Circuit held below that in at least most circumstances, both *do* at least likely ban single-sex teams, and moreover *require* that teams be segregated by "gender identity" instead.

The Court of Appeals' discovery of these bans on single-sex sports teams and parallel mandates for single-"gender identity" sports teams (each open to both males

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[1] No counsel for a party authored any part of this brief. No one other than the amicus curiae, its members, or its counsel financed the preparation or submission of this brief. The amicus curiae sent counsel of record notice under Rule 37.2 of its intent to file this brief. Two days after timely sending this notice to the parties' counsel, amicus counsel J. Bingham received a bounceback notification from one recipient due to an apparent typo in the recipient's email address. He immediately followed up with the affected counsel at the corrected address to apologize and ensure receipt. Amicus offered to include herewith any position from affected counsel on the resulting sufficiency of notice, but received no response.

and females who feel girly on the one hand or boyish on the other) depends on its redefinition of "sex" to mean "gender identity" instead of biological sex.

In fact, the court below flatly decrees that *any* use of sex as a basis for separating athletics amounts to unconstitutional gender-identity discrimination when applied to people who identify as transgender. *See* App.28a. To get there, the court relies on its own prior decisions attempting to read a purported version of *Bostock* into Title IX and the Fourteenth Amendment's Equal Protection clause.[2]

This purported application of *Bostock* follows some of its words, but none of its logic. *Bostock*, which is a decision based on statutory *text*, doesn't redefine "sex" (or authorize the Fourth and Ninth Circuits to do so) in *any* context; to the contrary. Its holding *depends* on "sex" meaning "sex" in the traditional, universally understood, biologically-based, plain-meaning, English-language sense of the word. Because an employee fired for being transgender is fired for behavior his employer would have tolerated from

[2] *See* App.37a. In *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020), the Fourth Circuit asserted that: (1) *Bostock* had held all discrimination on the basis of transgender identity to be sex discrimination; (2) single-sex *anything* is "discrimination on the basis of transgender identity;" leaving (3) just about all single-sex policies banned by both Title IX and the Fourteenth Amendment.

an employee of another sex, the firing is—using the words in precisely that sense—"because of sex."

This brief explores how the court get *Bostock* wrong in several steps:

(1) It outlines *Bostock*'s own account of its internal logic (Section I).

(2) It uses the unique provisions of Title IX, which contain exceptions absent from Title VII of the Civil Rights Act of 1964, to show that *Bostock*'s logic *forbids* rather than requires reading Title IX to ban federal funding recipients from separately treating the two sexes in particular, specified contexts (including both the provision of separate "living facilities" like bathrooms and the maintenance of separate sports programs) (Section II).

(3) It flags that if the Fourth Circuit were right that the Equal Protection Clause banned single-sex athletics, Title IX *as a whole* would likely be unconstitutional (Section III).

(4) It observes the linguistic impossibility and impracticality of the Court of Appeals' version of Equal Protection (Section IV). This bizarro Equal Protection goes beyond barring what has long been practiced and celebrated to instead compel answers that cannot be described as "equal" anything. More, it would replace the clear rules of this

> Court's Equal Protection jurisprudence with a requirement to equalize treatment across an unmeasurable, ever-shifting quantum.

We conclude that federalism, an approach that finds support in the Constitutional (and statutory) text, offers a coherent and more flexible alternative (Section V).

This Court should grant the petition in order to resolve the deepening circuit split on the proper reading of *Bostock* in a way that assures the federal courts will follow both the reasoning of its major precedents and the on-point instructions of Congress. The Court should accept certiorari to preserve a central enactment of the modern Congress from a spurious Constitutional quandary. It should take this case to and assure that our case law continues to present workable standards for the lower courts and the sovereign states to apply in assuring the fair treatment of Americans of all sexes.

ARGUMENT

I. *BOSTOCK* ITSELF MAKES SENSE; THE FOURTH CIRCUIT'S VERSION OF *BOSTOCK* DOES NOT.

The court below's invocation of *Bostock* , to justify its preferred outcome lacks fidelity to the decision. *Bostock* explicitly declines to reach beyond the Title VII (employment) context.[3] Moreover, it does not find a new protected class in Title VII 56 years after its passage.

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[3] *Id.* at 1753 (of "other federal or state laws prohibit[ing] sex discrimination" and "sex-segregated bathrooms, locker rooms, and

Instead, it assesses the treatment of employees exhibiting the same behavior and correctly notes that Title VII bans ***sex*** discrimination: if an employer would accept behavior from a biological woman (including identifying as a woman), then it must not differently treat an otherwise comparable biological man. This is a perfectly coherent approach.

II. *BOSTOCK*'S REASONING APPLIES *VERY* DIFFERENTLY OUTSIDE TITLE VII

A. Title IX's Carveouts Make it Different from Title VII

But watch what happens when that logic is transposed to another area – for example, Title IX, a statute whose carveouts distinguish it from Title VII.[4] Title IX generally forbids federally funded education programs or activities from engaging in sex discrimination. Its key provision 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

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dress codes[,]" noting that "none of these other laws are before us;" "we do not purport to address bathrooms, locker rooms, or anything else of the kind[;]" and concluding that "[w]hether other policies and practices might not qualify as unlawful discrimination or find justifications under other provisions of [even] Title VII are questions for future cases, not these.").

[4] The analysis uses the facilities exception of Title IX to demonstrate the proper analysis required by *Bostock*, but the analysis underlying lower courts' anti-textual misappropriation of *Bostock* below plays out identically in both contexts.

education program or activity receiving Federal financial assistance…." 20 U.S.C. § 1681(a). There is no other section of Title IX that forbids other kinds of discrimination. *If it isn't sex discrimination, it isn't forbidden by Title IX.*

Title IX contains an important exception to its sweeping rule against sex discrimination. "[N]othing contained herein shall be construed to prohibit any educational institution … from maintaining separate living facilities for the different sexes." 20 U.S.C. § 1686. Congress expressly directs that, even if a recipient's policies of maintaining separate living facilities for the different sexes would otherwise qualify as sex discrimination, Title IX "shall [not] be construed to prohibit" that policy.

Without § 1686, *any* boarding-school boy (not just one who identifies as a girl) would be able to point to a girls' dorm and say, "if I were a girl, I would be allowed to sleep there. But since I am a boy, my school bars me from doing so. That's sex discrimination!" And he would be right; *it would be* sex discrimination. Indeed, it *is* sex discrimination. But given § 1686, it is *lawful* sex discrimination.[5]

Soon after the passage of Title IX, in 1975, President Ford approved a related regulation, clarifying § 1686.[6] That regulation was codified as 34 C.F.R. § 106.33 (the

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[5] Exactly the same would be true if the sexes and genders were reversed, with a biological girl identifying as a boy.

[6] § 1682 of Title IX requires that regulations promulgated under the statute receive direct Presidential approval in order to take effect.

"1975 Bathroom Regulation").[7] The 1975 Bathroom Regulation, which demonstrates how the original interpretive community understood § 1686 at its enactment, reads: "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."

The 1975 Bathroom Regulation is simply an interpretation of § 1686. It clarifies, (though no clarification was needed) that "living facilities" includes "toilet, locker room, and shower facilities." This was not controversial in 1975 and has never been controversial since. We have searched and have found no examples of anyone: (a) interpreting § 1686 between Congress's passage of Title IX and President Ford's approval of the 1975 Regulation as requiring the abolition of single-sex bathrooms, locker

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[7] The current administration amended Title IX's regulations effective as of August 1, 2024. The impact of those alterations, including their impact on the 1975 Bathroom Regulation, is subject to voluminous litigation across the federal courts at this time. That litigation has seen at least eight preliminary injunctions or stays pending appeal, which have cumulatively blocked the alteration from taking effect in more than half of the states. See, *Louisiana v. U.S. Dep't of Educ.*, W.D. La. Case No. 3:24-cv-563; *Alabama v. U.S. Dep't of Educ.*, 11th Cir. Case No. 24-12444-G; *Arkansas v. U.S. Dep't of Educ.*, E.D. Mo. Case No. 4:24-cv-636; *Kentucky v. U.S. Dep't of Educ.*, E.D.Ky. Case No. 2:24-cv-72; *Okla. v. U.S. Dep't of Educ.*, 5:24-cv-461; *Texas v. U.S.*, N.D. Tex. Case No. 2:24-cv-86; *Caroll I.S.D. v. U.S. Dep't of Educ.*, N.D. Tex. Case No. 4:24-cv-461; and *Kansas v. U.S. Dep't of Educ.*, D. Kan. Case No. 5:24-cv-4041.

rooms, and showers;[8] or (b) contending in the years since that President Ford overstepped his regulatory authority or misinterpreted § 1686 in issuing the 1975 Regulation.[9]

Similarly, in 1974 Congress passed the Javits Amendment.[10] Some, including the U.S. Department of Education, read the Javits Amendment to have enacted an additional exception to Title IX, specifically for athletics. Notice of Proposed Rulemaking Concerning Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance: Sex-Related Eligibility Criteria for Male and Female Athletic Teams (the "NPRM") (34 CFR 106, Docket ID ED -2022-OCR-0143) [Fed. Reg. Vol 88, No. 71, pp. 22860-22891] [RIN 1870-AA19], pp. 22863 ("Congress indicated in the Javits Amendment that a different approach to athletics was appropriate and that the Title IX regulations should include

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[8] Indeed, we have been unable to identify either: (a) any court case whatsoever referencing § 1686 prior to 1995; (b) any article or treatise referencing § 1686 at all, published prior to 1985; or (c) (b) any article or treatise referencing § 1686 in conjunction with bathrooms, locker rooms, or showers prior to 1995.

[9] Even when the Fourth and Seventh Circuit Courts of Appeals recently applied what they wrongly described as *Bostock*'s reasoning to find that sex-specific restrooms violate Title IX, they did so by side-stepping the 1975 Regulation, rather than by contending that the 1975 Regulation was arbitrary or capricious. *See Metropolitan Sch. Dist. of Martinsville v. A.C.*, 75 F.4th 760, 770 (7th Cir. 2023); *Grimm v. Gloucester Co. Sch. Bd.*, 972 F.3d 586, 618 (4th Cir. 2020).

[10] Education Amendments of 1974, § 844.

'reasonable' provisions governing intercollegiate athletic activities in light of the 'nature of particular sports.'").

In 1975, the Education Department followed through on the Javits Amendment, promulgating 34 CFR § 106.41 (the "1975 Sports Regulation"), which President Ford promptly approved. § 106.41(b) expressly authorized funding recipients "[n]otwithstanding the" general prohibition on sex separation to "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;" §106.41(c) added that the condition that such separation was permissible only where the "recipient … operates or sponsors … equal athletic opportunity for members of both sexes."

If that contention is right, then the Javits Amendment and the 1975 Sports Regulation created a parallel to § 1686 and the 1975 Bathroom Regulation for sports, specifically carving out the maintenance of equal men's and women's sports programs from the otherwise applicable general prohibition on separation of the sexes.

Meanwhile, *Bostock* was of course a Title VII case, not a Title IX case. It did not hold that when Title VII says "sex," it really means "sex or sexual orientation or gender identity." To the contrary, it held that Congress's prohibition on sex discrimination prohibited discrimination based on sex—"an employer who fires a transgender person who was identified as a male at birth but who now identifies as female" while "retain[ing] an otherwise identical employee who was identified as female at birth … penalizes" the fired employee "for traits or actions that it tolerates in an employee identified as female at birth.

[That] employee's sex plays an unmistakable and impermissible role in the discharge decision." *Bostock*, 140 S.Ct. at 1742.

The transgender plaintiff prevailed in *Bostock* ***precisely because***, however the plaintiff "identified," the plaintiff's sex had not changed. Title VII only applied because an employer who fires a biological *male* employee who identifies as a woman, but would not have fired a biological *female* employee identifying as a woman, definitionally makes the fired employee's sex a "but-for cause" of the termination. *Bostock*, 140 S.Ct. at 1741-42. The plaintiff's gender identification was relevant only as a behavior the employer accepted from a woman, but not from a man, not as an additional form of discrimination whose prohibition had been newly discovered in Title VII's 56-year-old text. *Id.* at 1739 (noting that "[t]he *only* statutorily protected characteristic at issue in today's cases is '*sex*,'" and stipulating that "sex" in Title VII "refer[s] *only* to biological distinctions between male and female" (emphasis added)).

Bostock's logic is entirely consistent with the analysis above. Like the hypothetical boarding-school student, a hypothetical transgender boy[11] would be entirely right to say: "I am a biological boy who identifies as a girl, but am not allowed to use the showers, locker rooms, and bathrooms my school provides for girls. If I were a biological girl who identified as a girl, I would be able to use them. That is sex discrimination!" That student would be

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[11] Again, this example would work precisely the same with all roles reversed.

correct. It is sex discrimination. But it is precisely the kind of sex discrimination expressly authorized by Congress in § 1686 and by President Ford in the 1975 Bathroom Regulation, and that type of sex discrimination does not violate Title IX.

Precisely the same would remain true if the same boarding school student declared a preference for competing on that school's girls' basketball team—were the student to say: "I am a biological boy who identifies as a girl and plays basketball. My school does not allow me to compete on the girls' team. If I were a biological girl, I would be able to play on that team. That's sex discrimination!" Again, that assertion would clearly be right. But so long as the school maintained both boys' and girls' teams, it would be precisely the kind of sex discrimination that Congress and the Ford Administration protected in law in the 1970s.

In both cases, the actions of Congress distinguish our boarding school hypothetical from *Bostock*.

It would be no answer for that hypothetical transgender boy to insist that "I really *am* a girl," either in arguing that, as such, she "should have access to my school's single-sex girls' showers, locker rooms, and bathrooms" or that she should be allowed onto the girls' basketball team. *Title IX prohibits sex discrimination, not discrimination between different kinds of girls (or different kinds of boys).* Whatever one chooses to call this kind of discrimination, it can't be called *sex* discrimination, because—even accepting the hypothetical transgender individual's assertion—it would remain discrimination between individuals stipulated to share the same sex. It

cannot, then, violate Title IX, because it would not differentiate the treatment of anyone because of their sex, as *Bostock* would require to undergird an instance of sex discrimination.

B. The Fourth Circuit Swaps Out "Sex" for "Gender Identity and Not 'Sex'" in Ways Irreconcilable with the Court's Reasoning in *Bostock*

The Fourth Circuit reverses all of this reasoning, in nominal reliance on this Court's work in *Bostock*. The core of the Fourth Circuit's reasoning lies in attacking West Virginia for

> …insisting the Act does not discriminate based on gender identity because it treats all "biological males"—that is, cisgender boys and transgender girls—the same. . . . But that is just another way of saying the Act treats transgender girls differently from cisgender girls, which is—literally—the definition of gender identity discrimination."

App. 25a.

This completely ignores the text of Title IX (and of the Equal Protection clause). It utterly fails to apply *Bostock*'s reasoning. It rejects *Bostock*'s search for differences in treatment of men and women as they are because of their categorical sex difference. It replaces *Bostock*'s

application of an enacted prohibition on the differential treatment of men and women behaving the same with a categorical prohibition on the recognition of men and women as legal categories.

In nominally applying *Bostock*, the Fourth Circuit would render *Bostock*'s analysis unconstitutional.

III. IF IT DID NOT, TITLE IX WOULD BE UNCONSTITUTIONAL.

If—as various lower courts contend—Title IX prohibits as "sex discrimination" the exclusion of a biological boy (who identifies as a girl) from the girls' facilities or from the girls' basketball team, then it follows that *all* boys must be allowed to use the girls' facilities and to play on the "girls'" team. Title IX would then prohibit the maintenance of single-sex facilities *entirely* and *require* that all facilities and sports programs be unisex.

Bearing in mind that the Constitution imposes precisely the same constraints on the federal government that the Fourteenth Amendment imposes on the states,[12]

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[12] At least seven (7) of the current Justices have recognized this parallelism. The Chief Justice did so, at least, in *Sessions v. Morales-Santana*, 198 L.Ed.2d 150, 159 n. 1 (2017), and—with Justice Alito—in *Ashcroft v. Iqbal*, 556 U.S. 662, 675 (2009). Justices Sotomayor and Kagan have done so repeatedly, including in *Sessions*. In *U.S. v. Madero*, 142 S.Ct. 1439, 1544 (2022), Justice Thomas agreed, anchoring this constraint in the Fourteenth Amendment's citizenship clause, but continuing to find it subject to the same limits. Justice Gorsuch's concurrence in *Madero*, slightly less explicitly, recognizes the same contours. *Madero*, 142 S.Ct., at 1556 (noting that the majority, on the theory that the relevant Constitutional provision of the Fifth Amendment was "fundamental," had applied Fourteenth Amendment

the Court of Appeals' analysis *cannot* remain localized only to invalidate state statutes. What is bad for the state-goose will be bad for the federal-gander.

If *Bostock* means that the Equal Protection Clause bans single-sex athletic teams, as the Fourth Circuit held below, it would equally dictate that the Constitution bans Title IX, which together with its implementing regulations explicitly permits single-sex facilities such as locker rooms and "separate teams for members of each sex [that provide] equal athletic opportunity for members of both sexes." Unless, that is, Title IX *also* bans the same carved-out programs that Congress specifically acted to protect. As we've shown, Title IX doesn't do that.

IV. BIZZARO EQUAL PROTECTION WOULD BE BOTH LINGUISTICALLY UNTENABLE AND COMPLETELY IMPRACTICABLE.

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jurisprudence, and had held it to have been satisfied, and writing separately only to object to any analysis of what portions of the Constitution are sufficiently "fundamental" to apply). In 2021, Justice Kavanaugh joined a concurrence to a denial of certiorari, which agreed (by citation to *Sessions* and other authorities) that the "Fifth Amendment to the United States Constitution prohibits the Federal Government from discriminating" in terms paralleling the Court's application of the Equal Protection Clause of the Fourteenth Amendment. *Nat'l Coal. for Men v. Selective Srv. Sys.*, 141 S.Ct. 1815, 1815 (2021). The remaining Justices appear to have not yet taken a position since their investitures.

Decisions like the one below inevitably leave the thoughtful reader with the sense that he is being gaslit. He might ask incredulously:

> Wait. Title IX's text and related regulations specifically and explicitly endorse segregation by sex in various contexts. Can it be that after *Bostock*'s specific focus on the text of a statute, courts must now read Title IX's statutory language to *ban* segregation by sex in those same contexts *and* to require segregation according to a different a criterion invented decades after it was enacted? *Bostock* relies on standard English usage of "sex" to mean "sex," but courts "following" it understand that "sex" means not even "sex and…," but "***not*** sex ***and instead*** gender identity"?

Such a reader would not be mad or unsophisticated. The emperor really does have no clothes.

The road away from *Bostock*'s logical textualism and toward the Fourth and Ninth Circuits' linguistic shell-game doesn't choose the lesser of two evils or accept inevitable tradeoffs. Instead, it declares x=/=x, because x, a rule that could be drawn straight from the pages of Lewis Carroll or Hans Christian Anderson, if not Kafka.

Consider just two independently disqualifying features of the lower courts' general move to redefine "sex" as "not sex, but gender identity": (i) internal incoherence;and (ii) the impossibility of citizens, states, or courts

applying the resulting rules to order their lives, public and private institutions, and future cases.

First, the lower courts' gnostic version of *Bostock* are incoherent on their own terms. The courts assure us that "sex" doesn't denote the human trait denoted by past standard usage of the English word "sex," but instead somehow means both "sex" and "gender identity," a concept which that has since its 1964 invention always been understood entirely in *dichotomy* with sex.[13]

Incoherence is frankly inevitable here, because the logic of *Bostock* forbids what wayward appellate courts *really* want to say: "the law requires that the United States of America pretend that some members of the male sex are members of the female sex (and vice versa)."

The courts below reject *Bostock*'s *logic* in order to jam its squarely text-based *holding* into a Title-VII-shaped hole, one that simply doesn't exist in Title IX or the Constitution. *Bostock* cannot coherently serve the purposes for which these courts seek to repurpose it, because the tools (words) *Bostock* employs have fixed meanings. The Ninth and Fourth Circuits, among others, have dared this

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[13] *See* Stoller, Robert J., *The Hermaphroditic Identity of Hermaphrodites*, THE JOURNAL OF NERVOUS AND MENTAL DISEASE, 139(5) November 1964 (originating term and concept) (available at https://journals.lww.com/jonmd/citation/1964/11000/the_hermaphroditic_identity_of_hermaphrodites.5.aspx (last accessed August 15, 2024)). The term would later be popularized by John Money, but the human experiments for which he'd later achieve infamy were hardly underway when Title IX passed in 1972. *See* Burkeman, Oliver and Younge, Gary, *Being Brenda*, The Guardian (12 May 2004) (available at https://www.theguardian.com/books/2004/may/12/scienceandnature.gender (last accessed August 15, 2004)).

Court to raise and address the real issue out loud, and this Court should accept that invitation and announce that male and female Americans exist and matter, and the law may reasonably recognize them as a category for some purposes.

Second, the incoherence of the regime makes it cruelly and uselessly unpredictable. Countless American actors at all levels of public and private life must structure their institutions and lives around the requirements that civil rights law imposes on educational institutions. That law, like all law, best serves its purpose when regulated parties can determine what conduct is and is not required of them or permitted for them by these provisions and the decisions of this Court and those below interpreting them. The lower courts' approaches here fail spectacularly to satisfy law's goal of predictability in every respect.

- How are parents to understand the contours of their children's civil rights when courts tell them they aren't sure what "sex" means, except that it definitely doesn't mean "sex"?
- How are school boards to establish rules replacing single-sex regimes with single-gender regimes when they can't be sure whether any particular instance of "sex" in civil rights law refers to "sex" or "not-sex"?
- What are the implications as new genders develop and multiply? What is the relationship of these genders and others yet to come to "sex" in the law when "sex" means "gender identity."?

- How many athletic divisions are schools required to create and maintain to treat not only male and female "boys" identically to one another, but also male, female, intersex, genderfluid, and "two-spirit" students?
- How many scholarships may or must a college trying to comply with its legal obligations allot to its male, female, intersex, genderfluid, and "two-spirit" students? Will that answer change over the course of a day as the latter two's preferred pronouns shift?
- What word should *legislators* use to refer to a human female when courts tell them the constitution won't let them use "girl" or "women" to refer to that class of people?

These problems are insoluble. If the Court were to leave standing the rule announced below, it would assure that actors cannot safely plan their affairs to comply, that lower courts will have no bright lines to gauge the merits of future lawsuits, and that this Court will face an unending stream of future cases plumbing the unmeasurable depths of this new-found deep.

The Court should accept certiorari to prevent that fate.

V. THERE IS A BETTER WAY: FEDERALISM.

It hasn't been so long since the 9th Circuit (of all places) pointed in a better direction: federalism. In

Parents for Privacy v. Barr, 949 F.3d 1210 (9th Cir. 2020), The court rightly observed that

> just because Title IX authorizes sex-segregated facilities does not mean that they are required, let alone that they must be segregated based only on biological sex and cannot accommodate gender identity. Nowhere does the statute explicitly state, or even suggest, that schools may not allow transgender students to use the facilities that are most consistent with their gender identity. That is, Title IX does not specifically make actionable a school's decision not to provide facilities segregated by "biological sex[.]"

Id. at 1257.

Let the people of West Virginia decide how West Virginia will regulate its athletics, and let the people of Virginia decide how Virginia will regulate its athletics.

CONCLUSION

For the aforementioned reasons, this Court should grant the Petition for Certiorari and clarify that the existence of single-sex female athletics does not violate the civil rights of the other sex.

Respectfully submitted,

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