

# 21-1365-cv

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## United States Court of Appeals *for the* Second Circuit

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SELINA SOULE, a minor, by BIANCA STANESCU, her mother; CHELSEA MITCHELL, a minor, by CHRISTINA MITCHELL, her mother; ALANNA SMITH, a minor, by CHERYL RADACHOWSKY, her mother; ASHLEY NICOLETTI, a minor, by JENNIFER NICOLETTI, her mother,  
*Plaintiffs-Appellants,*

– v. –

CONNECTICUT ASSOCIATION OF SCHOOLS, INC. d/b/a Connecticut Interscholastic Athletic Conference; BLOOMFIELD PUBLIC SCHOOLS BOARD OF EDUCATION; CROMWELL PUBLIC SCHOOLS BOARD OF EDUCATION; GLASTONBURY PUBLIC SCHOOLS BOARD OF EDUCATION; CANTON PUBLIC SCHOOLS BOARD OF EDUCATION; DANBURY PUBLIC SCHOOLS BOARD OF EDUCATION,  
*Defendants-Appellees,*

ANDRAYA YEARWOOD; THANIA EDWARDS, on behalf of her daughter, T.M.; COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES,  
*Intervenor Defendants-Appellees.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

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**BRIEF OF FEMALE OLYMPIC ROWERS  
MARY I. O’CONNOR, CAROL BROWN, PATRICIA SPRATLEN ETEM,  
VALERIE MCCLAIN, AND JAN PALCHIKOFF  
AS *AMICI CURIAE* IN SUPPORT OF APPELLANTS**

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## **CORPORATE DISCLOSURE STATEMENT**

Mary I. O'Connor, Carol Brown, Patricia Spratlen Etem, Valerie McClain, and Jan Palchikoff (collectively, *amici curiae*) are private individuals with no parent corporation or stockholders.

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## INTEREST OF *AMICI CURIAE*<sup>1</sup>

*Amici* are five female Olympic rowers who lived through the enactment of Title IX and urge the Court to enforce this vital statute as written: to protect biological females.

Mary I. O'Connor, Carol Brown, Patricia Spratlen Etem, Valerie McClain, and Jan Palchikoff grew up during a time when female athletics were not prioritized, let alone afforded equal treatment. Some attended high schools that were banned from offering girls' sports by state law. Others cut their teeth in underfunded pre-Title IX collegiate programs, practicing with damaged equipment, and forbidden to enter the boathouse when the men's team was around. All benefitted mightily from Title IX's eventual passage, which enabled them to compete on female collegiate crew teams and advance to the highest levels of athletic achievement as United States Olympians.

Having experienced the harsh inequalities of female athletics prior to Title IX, *amici* are gravely concerned about the newest threat to women in sports: the forced inclusion of biological males who identify as women. They know personally that their athletic accomplishments would have been severely impacted if they had

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<sup>1</sup> Pursuant to Fed. R. App. P. 29(a)(4)(E), counsel for *amici* certifies that this brief was not authored in whole or in part by counsel for any party and that no person or entity other than *amici* or *amici*'s counsel has made a monetary contribution to its preparation or submission. Pursuant to Fed. R. App. P. 29(a)(2), all parties have consented to the filing of this brief.

competed under similar policies and have a strong interest in ensuring Title IX's legacy remains one of equality for other female athletes.

Moreover, as a doctor, an MBA, C-suite professionals, coaches, philanthropists, and mothers, *amici* are also well-positioned to attest to the indispensable role that athletic achievement plays in the academic, professional, financial, and personal lives of female athletes.

As such, *amici* submit this brief to ask the Court to refrain from resurrecting the inequality that characterized female athletic programs prior to Title IX. The athletic and professional futures of tens of thousands of girls and women across the country depend on it.

## SUMMARY OF ARGUMENT

The enactment of Title IX altered the course of history for women in athletics. Its legacy, however, is acutely threatened by policies like the one at issue in this case.

First, as written, Title IX created unprecedented opportunities for female athletes, which is powerfully demonstrated in the personal stories of five female Olympic rowers recounted below. *Amici* experienced the female athletic landscape pre-Title IX, when male athletic programs were the only ones deemed worthy of funds and resources. They were able to achieve tremendous athletic accomplishments because Title IX provided them “equal opportunity.” Nonetheless, *amici* submit that since biological sex is the single most important determinant in athletic performance, policies like that of Connecticut Interscholastic Athletic Conference (“CIAC”) eliminate fair competition and destroy the equality Title IX was intended to achieve.

Second, female athletes’ professional development is directly related to their athletic achievements and is also undermined by CIAC’s policy. *Amici*—who are exceptionally credentialed and accomplished professionals—can collectively confirm that the empowerment they experienced as athletes significantly influenced their professional lives, financial success, and overall well-being. In some instances, job offers came as a direct result of their athletic accomplishments. In others, the



skills they developed as female athletes were critical to their success in the classroom, in the Boardroom, and in professions dominated by males. They can thus speak to the tangible effect that even one athletic achievement can have on a female athlete’s professional career, and the ways these opportunities are jeopardized when biological males appropriate female athletes’ records and awards.

In short, as Title IX pioneers and first-generation U.S. Women’s Rowing Olympians, *amici* see disturbing parallels between pre-Title IX female athletic programs and the effect of policies like the one adopted by CIAC. They therefore ask this Court to refrain from returning to that era of discrimination and to preserve Title IX’s legacy of equality.

## ARGUMENT

### **I. Title IX As Written Has Created Unprecedented Opportunities for Female Athletes That Are Undermined by CIAC’s Policy**

Title IX of the Education Amendments of 1972 “prohibits discrimination on the basis of sex by educational institutions receiving federal financial assistance,” *McCormick v. Sch. Dist. of Mamaroneck*, 370 F.3d 275, 286 (2d Cir. 2004), 20 U.S.C. § 1681(a) (2000), and mandates “equal opportunity for both sexes,” *McCormick*, 370 F.3d at 295. “Treating girls differently regarding a matter so fundamental to the experience of sports – the chance to be champions” is “inconsistent” with Title IX’s mandate and contravenes the “level playing field for

female athletes” the statute created. *Id.* at 295, 288 (internal quotation marks omitted).

*Amici* experienced firsthand the “equality of opportunity” Title IX ushered in for biological females and achieved immense success as a result. They can state unequivocally that being forced to compete against biological males identifying as women under a policy like CIAC’s would have severely harmed their “chance to be champions” and subsequent academic, Olympic, and professional careers. Indeed, *amici* represented the United States in Olympic women’s rowing at a time when female athletes from Europe doped with testosterone to enhance their performance. This was condemned by the international athletic community, yet the practice of allowing *actual* biological males to compete—sometimes with no testosterone suppression required, like CIAC’s shocking policy—is deemed acceptable and even encouraged in some athletic programs today.

*Amici* understand that the well-being of transgender athletes is an area of deep concern and agree that they should have a venue for athletic competition. However, promoting the rights of one group by discriminating against another does not constitute a just solution, and is an unfair burden for women to carry. Instead, transgender athletes can compete fairly in an open category, to prevent discrimination against both groups.

In short, *amici*'s stories, set forth below, show the extraordinary ways Title IX has empowered women. But they are also a cautionary tale. Athletic programs are always one policy away from the inequality that characterized women's sports pre-Title IX. CIAC's policy is one such example and is a devastating step back for tens of thousands of female athletes across the country.

**A. Mary I. O'Connor, MD – U.S. Women's Olympic Rowing Team  
1980**

It is difficult for me to adequately share the incredible impact that Title IX had on my life. My passion for equity and justice was ignited by Title IX and my professional and financial success have been directly related to my athletic achievements.

When I was in high school, there were no girls' sports teams. I grew up in a small town, the second of six children. Neither of my parents graduated from college. They knew education was the key to opportunity, and we were encouraged to study hard, get good grades, and go to a great college. I still remember opening the acceptance letter to Yale. Through student loans, working in the cafeteria, and financial aid, I was able to afford college at Yale.

At Yale I was introduced to rowing. I loved being on a team, I loved being on the water, and I loved working hard and pushing myself. I did not love being cold and wet for 30 minutes on the bus ride back to campus from the boathouse after practice. There was no locker room for the women's crew. We would wait on the

bus for the guys to shower, while we shivered. This was injustice. I was at one of the most prestigious universities in the country and was being treated as a lesser student because of my sex. To be silent was to condone the unfair treatment of my teammates and myself.

The spring of my freshman year, 19 of us marched into the Athletic Director's office to protest. While our captain read a statement which began with the words "[t]hese are the bodies that Yale is exploiting," we stripped to show "Title IX" written on our bare chests and backs. Our story was picked up by the New York Times and International Herald Tribune. The University was embarrassed into action, and we had our locker room by the following spring. Our protest is heralded as the first stand for Title IX in college athletics. My lifelong commitment to fighting injustice began.

At Yale I became a successful athlete. We were Eastern Sprint champions for several years and national champions my senior year, which was the first year the women's national championship was held. I was selected to the U.S. National Team and earned a bronze medal at the 1979 World Championships. This was a major victory for U.S. women's rowing. I was also a member of the 1980 Women's Olympic Rowing Team.

During my time as an elite athlete, I competed against women who took testosterone, commonplace for Eastern European women athletes at that time. To

medal in an international race was a true accomplishment since winning was not a realistic goal. We were racing against women doping with anabolic steroids; the playing field was not level. I know what this feels like, and it is emotionally abusive. Do others not see the injustice? Why are sports leaders not standing up for fairness and integrity?

This devaluation of women in sports happens regularly today. For example, the national governing body, USRowing, has a policy which permits men identifying as women to compete as women, with limitations placed only on international teams. Only in one racing category is female sex a requirement: mixed boats. In this category, half the athletes are men and half are women, and the women must be biologically female. Why? Because otherwise, a boat of 50 percent males and 50 percent females could be racing against a boat of 50 percent males and 50 percent biological males identifying as women. The boat of biological males would be faster than the boat of males and females. Fairness for the males would be compromised. Thus, the USRowing board members have said it is acceptable to destroy fairness for females, but fairness must be protected for males at all costs.

This misogynistic policy was made by people who are not evil, but who do not realize that saying “transwomen are women” devalues women. Transwomen can identify as women, but they are not biological women. They cannot change their sex. And as a physician-scientist, I reiterate that there is no amount or duration of

testosterone suppression for a male who identifies as a woman that will level the playing field.

Our society socialized girls to “play nice with dolls” and boys to “win on the football team.” As a result, boys learned the life skills of working within a hierarchy and how to win and lose. Girls need these lessons too, and they get them through sports. Sports has therefore been the great equalizer for girls to learn the life skills boys historically obtained from athletics, teaching them self-discipline, patience, determination, teamwork, and grit.

Compromising opportunities for girls to participate in sports by allowing males to take their place on a team, win medals, and invade their private spaces will destroy the culture of sex equality we worked so hard to achieve over the last 50 years. Our sons will suffer too as they will grow up in a society in which they see girls as less than them. After all, if boys deserve fairness in competition but girls do not, what else would a boy think but that he matters more than a girl?

This is not to mention that when denied fair competition due to the inclusion of biological males in their sport, female athletes lose trust in the societal institutions that are supposed to protect them. This leads to depression, anxiety, feelings of marginalization, learned helplessness, and emotional trauma. The impacts of such subjugation on women are profound and long-lasting.

I want everyone to have opportunities in sports and in life. Athletes with gender dysmorphia should be allowed to participate in sports for their own health and mental welfare. However, the path forward is not to blatantly discriminate against females by allowing males to compete as women and to take their medals, honors, scholarships, private spaces, sense of personal security, and recognitions that will advance their professional careers. We must create an arena that is safe and just for these athletes, without denying women fairness or decreasing opportunities for them. There are other solutions. For example, by defining the women's category as females only and allowing all other athletes to participate in an "open" category, all individuals can enjoy the benefit of sports. Additionally, those athletes would not have to be in a controlled, tested and validated forum (e.g., testosterone suppression) and could determine whether they wish to transition to a different gender without the pressure of meeting competitive requirements.

Science is real. Facts matter. Sex matters in sports, and boys and men outperform girls and women in sports. At any matched level, many men beat the best woman. Sex differences go far beyond the impact of testosterone. Please do not destroy the dreams of young girls in our county to be treated equally and with respect. Protect the female category in sports.

**B. Carol Brown, MBA – U.S. Women’s Olympic Rowing Team 1976, 1980, 1984**

My pedigree as a three-time Olympic rower and Olympic bronze medalist is in spite of the blatant discrimination I faced as a female athlete.

I did not participate in high school athletics because there was a ban on girls sports in the Illinois public school system until Title IX was passed. I then became a member of the third class of women at Princeton University, but Title IX was not enacted until my sophomore year.

Prior to and during Title IX’s enactment, the conditions for female athletes were challenging. We were not permitted in the boathouse when the men’s team was around and were forced to use the bushes instead of the boathouse restroom. Our coach was a volunteer and we held bake sales to buy him a raincoat and a megaphone because the University did not provide them. We were always last to the dining hall because of our practice schedule and since there were no women’s showers at the boathouse, we ate while still dripping wet from practice.

Fortunately, we were able to leverage Title IX to address these inequalities. When the statute was passed, it leveled the playing field for me and all women who came after me. Not having been an athlete growing up, the experience of playing sports in college changed my life forever. Without Title IX, I would never have had access to a viable rowing program and the opportunity to become an Olympian in Montreal 1976, which was the first time women’s rowing was on the Olympic



program. Title IX also fueled the founding of a women's ice hockey team at Princeton, which I joined my senior year. These were both sports most men felt were "not appropriate for women," and I am so grateful Title IX gave me the opportunity to participate anyway. I also started the women's swim team and was captain for three years, becoming a three-sport athlete and rounding out my athletic career at Princeton.

In addition to the bronze medal in the 1976 Olympics, I earned one bronze and three silver world championship medals as part of the U.S. National Team. I was also inducted into the U.S. Rowing Hall of Fame in 1991 and 2016.

I know what it feels like to challenge oneself to achieve the seemingly impossible, to commit to your teammates to always try your hardest, and to set lofty goals and follow through, regardless of setbacks, distractions, and naysayers. I also know what it feels like to walk into an Olympic stadium with your country's name on your back and hear more than 100,000 voices cheering "USA!" I still get goosebumps when I close my eyes and go back to those memories.

These memories, however, are clouded by the fact that the playing field was never fair my entire elite athletic career. The Eastern European women's teams were taking male steroids and competing with a significantly unfair physiological advantage. I still wonder what we could have achieved if the competition had been fair.

Today I am a passionate advocate for women's sports, for safe and fair athletic opportunities, and for the preservation of Title IX as originally written—to promote and protect opportunities for biological females. Everyone, male or female, should have the opportunity to benefit from the life values sports can provide, but inclusion for one group cannot be at the expense of fair play for another.

**C. Patricia Spratlen Etem, MPH – U.S. Women's Olympic Rowing Team 1980, 1984**

Title IX was legislated when I was in high school and enacted when I was in college. It has had a profound effect on my life, enabling me to reach every one of my academic, professional, philanthropic, and personal goals. And it has done so because it allowed biological females to have equal opportunities in sport.

I was raised by parents who fearlessly advanced civil rights, racial justice, multicultural respect, personal achievement, and access to quality education for all. Our household ran on discipline, accountability, trustworthiness, hard work, earned advancement, and fairness. Excellence in sport, school, family, work, and life could not be achieved without upholding these tenets, and cheating was never tolerated.

While youth sports in the 1960s were co-ed through elementary school, my fifth-grade physical education teacher advocated for all-boys and all-girls soccer teams. I was fiercely competitive and kicked the winning goal in the city elementary school girls' playoffs. I would not have been chosen for the role if I was playing on a co-ed team. The thrill of that accomplishment has stayed with me my entire life.

Biological girls at every competitive level deserve to have that experience, and to develop teamwork skills, leadership, agency, esteem, and a sense of belonging with other biological girls, unfettered by the presence of boys.

I dreamed of becoming an Olympian. The enactment of Title IX and practicing my parents' tenets for success allowed me to achieve that dream.

I became the second African American woman to make the U.S. Women's Olympic Rowing Team in 1980 and 1984, a World Championship U.S. Women's Rowing medalist in 1979, 1981, and 1983, the Cal Crew Athlete of the Decade for 1976-1986, and a member of the California Athletics Women's Hall of Fame. How? My beloved university—University of California, Berkeley (“Cal”)—complied with Title IX, creating a women's rowing team and providing equal access and fair, safe, exclusively biological female competition. I thrived in this budding team's tight-knit community. I even went from being the slowest runner my first year to being the fastest runner during my last two years, because I practiced relentlessly, was coachable, and I was not compromised by competing against a biological male.

Title IX next enabled me to travel the world through my university and U.S. National Team experiences. I thrived, making solid contributions to the team's success in Europe, and mastering yet another level of competition. I soon earned a spot on the 1979 World Championship Team and the 1980 Olympic Team.

In the early 1980s, I courageously asked the Cal men's coach if I could train with the men. He permitted me to fill the empty seat in the men's "slowest" boat, yet it always felt like we were flying, and it was clear just how much more muscle mass and force the men had. Across all competitive levels in rowing, men's ergometer times are a minute to 1.5 minutes faster than women's times. My lived training experience is clear: there is no possible way to erase male athletic advantage in competition and a female-only category is essential for fair competition.

I went on to win a 1983 silver medal at the World Championships, and to compete on the 1984 U.S. Women's Olympic Rowing Team. After 1984, I married my husband, an oarsman out of the U.S. Naval Academy, and we continued the scholar-athlete legacy, raising three amazing children who excelled to elite or professional levels in their sports. Title IX has supported economic viability for our family, as it has for millions of girls since its inception.

Title IX policy gave me a lifetime of educational, professional, and personal accomplishments. And it created a community of oarswomen who have remained close friends and raised families together. We have championed our daughters as they achieved scholar-athlete status, embarked on various athletic careers, and became successful professionals. We guided our sons as they too became national and professional athletes. And we continue to support the female-only category in sport, as it is integral to the legacy of Title IX.

**D. Valerie McClain – U.S. Women’s Olympic Rowing Team 1980, 1984**

I started rowing at the club level before Title IX was implemented, because that was the only way women could compete. I was a national champion in high school and attended University of California, Berkeley for college after Title IX was enacted.

Without Title IX in effect, I would never have been able to achieve athletic and academic success. At Cal, I was one of the few varsity athletes to compete on both the men’s and women’s crew teams as a coxswain. This position does not involve pulling an oar and is unrelated to physiological strength, so I was not at a disadvantage when competing against men. It did, however, require excellent judgment, technical ability, and communication skills.

Being the first female in the history of Cal athletics to earn a varsity letter on a men’s team taught me to pursue my dreams with relentless strength and courage. It empowered me for the rest of my life and was foundational to my academic and professional success.

I went on to earn three silver medals at the World Championships between 1981 and 1983, was a member of the 1980 U.S. Women’s Olympic Rowing Team, rowed on the U.S. Women’s Olympic team in 1984, and served as a member of the Women’s Olympic Rowing Committee from 1974-78 and 1980-84.

Having participated at an elite level in both all-male and all-female boats, I witnessed firsthand the importance of fairness in sport. I can say unequivocally that there is a distinct difference between the speed and power in a boat of men versus a boat of women. Even if you replaced an elite woman with a mediocre man, the difference in speed off the line, speed through the water, and overall speed against the clock is significant. At all levels of competition, male rowers will outperform their female counterparts. Not only does race data absolutely validate these statements, but I felt these differences as an individual coxswain responsible for steering the boat and instructing the crew.

Reading Title IX to permit biological males to compete in female races would fundamentally change the nature of the competition and turn an empowering experience into an unfair and demeaning one.

**E. Jan Palchikoff, MS – U.S. Women’s Olympic Rowing Team 1976, 1980**

I have experienced both sides of Title IX, before and after its enactment. I was a vocal advocate for Title IX on campus, serving as a founding member of the Union of Women Athletes which advocated for the statute, and filing a complaint with the U.S. Department of Health, Education, and Welfare. I also experienced many inequalities. My swim team at University of California, Los Angeles (“UCLA”) included three Olympic medalists, but we had a volunteer coach, no travel expense fund, and limited access to the competition level pool. My rowing team was

sometimes locked out of the boathouse by the men's coach. Women athletes paid for all team expenses and used damaged and oversized equipment meant for heavyweight men. We did not have access to the full experience of college athletics, but the fees we paid for tuition, housing, and books were the same as the men's fees. The experience was demeaning and yet we persevered.

I did not experience the benefit of Title IX until I became a collegiate rowing coach six years later, after I made the U.S. Women's Olympic Rowing Teams in 1976 and 1980. While there were still huge inequities, the team had paid coaches, new equipment, a budget, and scholarship funds. In addition, women athletes and staff for women's athletic programs could leverage Title IX when advocating for support.

I experienced the impact of unfairness not only as a college athlete, but also as an Olympian. I competed in the Olympics during a time when competitors from Eastern European nations were using performance enhancing drugs (male anabolic steroids). The three medal-winning crews in my event at the 1976 Olympics were from countries that were systematically doping in their quest for medals. We suspected doping was occurring but were powerless to do anything.

Nevertheless, rowing had a truly life-changing impact on me. In addition to being a member of the 1976 and 1980 Olympic teams, I helped UCLA reach the U.S. Women's Rowing Association National Championships for the first time in

1974 and was a five-time member of the U.S. National Team and a National Champion in double sculls in 1979.

Through these experiences, I established lifelong friendships and learned how to be an effective team member and leader. I learned the value of committing to goals, dealing with adversity, and becoming an effective advocate. I also kept participating in sports and set four track cycling masters world records: the hour record in three consecutive age groups (60-64 record in 2014, 65-69 record in 2017, and 70-74 record in 2021), and the 65-69 record in the 2016 500-meter time trial.

Sport is how countless girls and women express themselves, in the same way artists, dancers, musicians, and writers express themselves. For me, the essence of sport is the pure joy and exhilaration of pushing and testing myself against other equally committed women. The integrity of sport is based on fairness and the expectation that people entrusted with policy and decision-making will apply the best available evidence in support of that fairness. Without fairness in competition, there can be no sport for women and girls.

I have dedicated my career to ensuring that as many people have access to sport as possible. However, such access must be fair and cannot come at the disadvantage of biological females. Representing my country and the experience of being celebrated for all I worked so hard to achieve is something I will never forget.



This life-changing experience will be lost for women if we fail to preserve Title IX as written.

## **II. Female Athletes' Professional Development Is Directly Related to Their Athletic Achievements and Is Undermined by CIAC's Policy**

The relationship between female athletic achievement and professional development is far from speculative, and the notion that revisions to female athletes' records may have “no bearing” on their “employment prospects,” as the lower court held, *Soule v. Conn. Ass'n of Schs.*, No. 3:20-cv-00201 (RNC), 2021 U.S. Dist. LEXIS 78919, at \*22 (D. Conn. Apr. 25, 2021), is belied by the collective experience of *amici*.

A staggering 94% of women serving as business executives—including several *amici*—are former athletes, and 52% of them participated in college athletics. Rebecca Hinds, *The 1 Trait 94 Percent of C-Suite Women Share (And How to Get It)*, Inc., <https://www.inc.com/rebecca-hinds/the-1-trait-94-percent-of-c-suite-women-share-and-how-to-get-it.html> (Feb. 8, 2018).

*Amici* were hired specifically because of their athletic achievements, and used the skills and qualities they developed as female athletes to thrive in the professional world. They are singularly accomplished, having earned advanced academic degrees, served as senior executives and Board members in prestigious organizations, and one becoming one of the most well-known female orthopedic surgeons in the nation. *Amici's* collective experience makes it clear that policies like

CIAC's deprive female athletes of recognition, medals, records, and awards—all of which could be cited on a resume or used to attract a potential employer—and destroy the equality of opportunity Title IX was meant to ensure.

**A. Mary I. O'Connor, MD – U.S. Women's Olympic Rowing Team 1980**

My professional success and subsequent financial security for my family is directly related to the sports opportunity provided to me by Title IX.

After the disappointment of the 1980 Olympic boycott, I returned to my academic pursuits and entered medical school. I decided to become an orthopedic surgeon, a profession that was and remains dominated by white males. There are still very few women in orthopedics, but there were even fewer when I entered training. I was accepted to the prestigious residency program at Mayo Clinic in Rochester, Minnesota. While I had great letters of recommendation and strong grades and board scores, I was accepted because I was an Olympian. I achieved something the male orthopedic surgeons selecting me could relate to and respect. It was okay for them to let me into the club. If my place on the Olympic team had been taken by a male who identified as a woman, my entire life would have been negatively impacted.

After residency and fellowship at Mayo Clinic, I was invited to become the first woman orthopedic surgeon to join the staff there. I was one of the very few women to obtain the level of full academic professor and chaired an orthopedic department. I was honored with the Mayo Clinic Distinguished Clinician Award. In

2015, I was recruited to Yale School of Medicine to be the inaugural Director of the Center for Musculoskeletal Care. In 2021, I left academic medicine to co-found and serve as Chief Medical Officer of Vori Health, a virtual musculoskeletal medical practice with a mission to empower all humanity to lead a healthier life.

I have also interviewed and selected hundreds of young people for residency positions, fellowships, or academic jobs. What I seek to learn is if they have excelled at anything, which includes sports. If they excelled at something, I can support them to excel in medicine.

While I risk this being interpreted as boasting, I share my prominence in orthopedics as it reflects the opportunity Title IX provided me and the indispensable role athletics plays in career opportunities. I was the first female surgeon to be a member of the Musculoskeletal Tumor Society (“MSTS”), the International Society of Limb Salvage (“ISOLS”), the American Association of Hip and Knee Surgeons (“AAHKS”), and The Knee Society. I was the first woman to be president of MSTS, ISOLS, and AAHKS and have been president of the Association of Bone and Joint Surgeons and the Ruth Jackson Orthopaedic Society. I chaired the American Academy of Orthopedic Surgery Women’s Health Issues Advisory Board and the Diversity Advisory Board. I served on the Advisory Committee on Research on Women’s Health at the National Institutes of Health. In 2010, I became the inaugural Chair of Movement is Life, a multi-stakeholder coalition committed to eliminating

musculoskeletal health disparities. In 2023, I was honored with the American Academy of Orthopedic Surgery Diversity Award. I broke many glass ceilings for women in my profession and am one of the most well-known female orthopedic surgeons in this country. None of this would have occurred without my prior success in athletics, and policies like CIAC's would have deprived me and many others of these opportunities.

**B. Carol Brown, MBA – U.S. Women's Olympic Rowing Team 1976, 1980, and 1984**

My academic and professional development was strongly influenced by my participation in athletics. My experiences as an elite athlete taught me to believe in myself, to persevere in tough times, to prepare thoroughly, and to persist amidst obstacles. These are lifelong skills which my peers and I added to our resource toolbox, all because of Title IX.

After graduating from Princeton, I obtained my master's degree in business administration while working full-time and raising my two-year-old son. I was able to balance that demanding schedule because of the perseverance I learned as an elite athlete.

In the workplace I took on challenges I never would have considered without the self-confidence that came from my Olympic journey. I thrived working with dependable teams and supervisors who set high expectations for themselves. I led by example and my confidence in doing my best influenced those around me. Having

“Olympian” on my resume opened a lot of doors and helped me secure multiple interviews.

I became the first female truck driver for Coke or Pepsi and was subjected to abundant sexism but still proved my competence. After that grueling experience, I moved into sales and management positions within the company. Because I gained respect as a driver, I led a successful campaign to permit other females to move directly into sales and management positions rather than requiring them to serve as drivers first.

Throughout my career, I also held many senior level management positions. I was elected to numerous volunteer leadership roles in sports organizations due to my status as a former athlete. I served as the Vice President of the U.S. Olympians and Paralympians Association from 2012-2021. Additionally, I served as an officer with USRowing for 18 years, an officer with the U.S. Olympic Committee for 16 years, and as Vice President of the Athlete’s Advisory Council for four years. I have also held paid executive positions in non-profit finance and administration, serving as the Manager of Business and Operations of an elementary school, Vice President of Finance and Operations at Center for Financial Services Innovation, and Associate Director of Finance and Operations at the University of Chicago, Medicine and Biological Sciences Development Division. I was prepared for these high-level roles because of the qualities I acquired as a student athlete, as well as the

advocacy skills I developed when pushing for Title IX protections at Princeton. I have also hired numerous individuals over the years and have observed that athletes always rise to the top in the interview process.

Ultimately, I believe in the profound importance of sport and want to ensure that the values it represents survive. CIAC's policy threatens those values. While I believe all people should have the opportunity to benefit from sport, this cannot be achieved by depriving the very individuals Title IX was intended to protect of equal opportunity.

**C. Patricia Spratlen Etem, MPH – 1980, 1984 Women's Olympic Rowing Team**

Title IX was seminal to my personal success and gave me the tools to excel not only athletically, but also academically and professionally. Rowing had such a profound impact on my career because it taught me how to work with a group of people to achieve collective success, to refrain from being combative when given feedback, and to be unflappable when faced with adversity. My coaches and teammates pushed me to live up to standards higher than I knew existed, not just in physical performance but also in mental fortitude.

I carried these experiences with me through parenthood, grandparenthood, philanthropic coalition volunteerism, and certainly into the C-suite as regional vice president of a national non-profit.

As a parent, I witnessed Title IX's legacy come full circle when my daughter received a full athletic scholarship to my alma mater and achieved Academic All-American status as a collegiate rower. I also supported my sons as they achieved elite and professional athletic status, and watched as my grandchildren began playing sports.

Professionally, I obtained a master's in public health and spent over 20 years developing public health programs for hospitals, city health and youth development divisions, and non-profit organizations. For the past eight years, I have served as the Vice President of Southern California Health Career Connection, a position designed to increase diversity in the health profession workforce, including by increasing LGBTQ+ representation. I have also held senior executive positions with other non-profits like the American Lung Association and Public Health Foundation Enterprises. The skills I learned as a collegiate and elite athlete helped me negotiate my contracts and salary raises, understand the value of each individual's contribution to the team, and bring the teams I managed to new levels of achievement.

In terms of philanthropy, I received a prestigious governor's appointment to the California Tobacco Education Research Oversight Committee which I served in a volunteer capacity for 12 years, overseeing the use of funds for tobacco control and prevention education in California. My elite athlete background gave me the

confidence to thrive in times of stress, to form effective relationships with high stakes individuals, and to work with others to develop state public policy.

I can say with certainty that being an athlete got me job interviews. I have also seen athletes shine in interviews I conducted as an employer. Employers are looking for competency, discipline, accountability, and motivation—all of which are in the toolbox of collegiate and elite athletes.

As an athlete, I also learned to respect science. Whether it was taking VO2 max tests as part of my athletic training, utilizing data to prepare a tobacco presentation to Congress in my volunteer appointment, or emphasizing the vast physiological differences between males and females in Title IX advocacy, I have learned to trust data and its implications when making athletic, policy-oriented, or professional decisions.

Policies like CIAC's, which ignore the science and the inherent physiological advantages men possess, risk returning female sport to a pre-Title IX era and stripping female athletes of the personal, academic, professional, and philanthropic opportunities it has afforded me and countless others.

**D. Valerie McClain, U.S. Women's Olympic Rowing Team 1980, 1984**

I attribute my professional success directly to my experience in team sports and being a recipient of Title IX.



Women face an uphill battle in many professions as they strive to be promoted for their performance and attain greater gender equality. I was prepared for this battle because rowing taught me resilience. You do not win every fair race. What sets you apart from your peers is coming back to practice stronger on Monday after you lose a race on Saturday, knowing that you can win the next race if you put in the hard work required. This only works if the competition is fair.

Rowing also gave me the confidence to express my opinions and share my experiences in a group of male colleagues. It enhanced my problem-solving, critical thinking, and decision-making skills. It empowered me to take control of a project as the leader, support my teammates, and provide expertise as an individual contributor. I clearly understand that what a team can do together greatly outweighs what a single individual can accomplish, and I have used that understanding when building teams throughout my career.

I was hired directly out of college by Hyatt Corporation specifically because I was an Olympian through their Olympic Jobs Opportunity program. I was immediately placed in their management trainee program and progressively promoted throughout their organization. Hyatt understood that athletic commitment, hard work, teamwork, and resilience would equate to solid work performance, and this understanding paid off.

Since working for Hyatt, I have held senior management positions within the financial services industry, specifically in Compliance, Risk, Governance, and Ethics. Despite the blatant glass ceiling in this field, Title IX afforded me the opportunity to build confidence in my abilities; that confidence gave me the courage to step into a man's world and expect to be heard and respected. I also coached high school girls' rowing, women's college rowing, and masters rowing. My experiences in college and as an Olympian certainly prepared me for these roles and allowed me to teach the skills I developed to a younger generation of athletes.

My status as an Olympian always came up in the interview process, and I was able to explain how those experiences affected my leadership and management style. I have also hired hundreds of employees and have found that athletes effectively articulate the ways their athletic skills transfer to the workplace. Protecting the female-only category in sport is critical to preserving these kinds of opportunities for female athletes.

**E. Jan Palchikoff, MS – U.S. Women's Olympic Rowing Team 1976, 1980**

My career path was transformed by rowing. I realized how important sports were to me and elected to earn my master's degree in sports management after I graduated from college. This was a field with very few women and my long career as a leader in sport management began.

My work included coaching multiple women's crew teams at the collegiate level, major event production (Olympic Games, World Cup, Special Olympics World Games), senior leadership roles with U.S. Olympic & Paralympic Committee, USRowing, and FISA (now known as World Rowing), and 18 years with Special Olympics Southern California, serving in executive positions including Senior Vice President & Chief Program Officer. I was thoroughly equipped to hold these high-level positions and develop a successful career in a male-dominated field because of the skills I developed as a student athlete. I could not have done that if I was forced to compete against biological males.

Many of the athletes I coached have told me that my presence as an accomplished athlete and female coach inspired them. The qualities I developed as an athlete enabled me to have a positive impact and helped me become an effective role model and leader. They also enabled me to fight against inequality, which I have been doing my whole career, from my Title IX advocacy, to my work opposing the 1980 Olympic boycott, to my recent international efforts to organize women to challenge the Union Cycliste Internationale's lack of age group divisions after age 55, an inherently unfair practice I helped eradicate.

Policies like those of CIAC are the next frontier of inequality under Title IX and undermine the incredible advances we have made in the 50 years since its inception. We must preserve the female-only category in sport to protect the

opportunities that changed my life and the lives of so many of my female friends and colleagues.

### CONCLUSION

For these reasons, *amici* respectfully request that the Court honor Title IX's legacy of equality that we fought so hard to achieve and protect the female-only category in sport.

Dated this 30th day of March 2023

Respectfully submitted,

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## CERTIFICATE OF COMPLIANCE

This brief complies with the word limit, as provided in Fed. R. App. P. 29(a)(5), Local Rule 29.1(c), and Local Rule 32.1(a)(4)(A), because, excluding the portions exempted by Fed. R. App. P. 32(f), it contains 6,992 words.

This brief also complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Dated this 30th day of March 2023

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