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SCHOOL DISTRICT, AMANDA
7 CHANN, and LEANN IACUONE

8
9 **UNITED STATES DISTRICT COURT**

10 **CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION**

11
12 SAVE GIRLS' SPORTS, an
unincorporated California association;
13 T.S., a minor by and through her father
and natural guardian, RYAN
14 STARLING, individually, and on
behalf of all others similarly situated;
15 and K.S., a minor by and through her
father and mother and natural
16 guardians, DANIEL SLAVIN and
CYNTHIA SLAVIN, individually, and
17 on behalf of all others similarly
situated;

18 Plaintiffs,

19 vs.

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

27 Defendants.
28

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

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

The Hon. Sunshine Suzanne Sykes

Trial Date: April 5, 2027

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

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

Plaintiffs further fail to establish that Plaintiffs' amendments related to A.H. are not subject to strike pursuant to Rule 12(f) on the grounds each are immaterial and impertinent as well as beyond the leave to amend granted by the Court. Accordingly, Plaintiffs' allegations related to A.H. should be stricken by the Court.

II. ARGUMENT

A. Plaintiffs Incorrectly Assert That Defendants did not Challenge Plaintiffs Claims for Monetary Damages

Plaintiffs' Opposition states, "This Court has already reviewed and ruled on School Defendants' prior motion to dismiss the SAC, as well as Plaintiffs' motion for reconsideration, both of which squarely addressed the merits." Plaintiffs' Opposition to Defendants' Motion to Dismiss and Strike Second Amended Complaint, ECF No. 104, Page ID #: 1311-2. This contention made by Plaintiffs is unsupported by Defendants filings.

In granting the Defendants and the California Department of Education's earlier motions, the Court appears to have relied upon a preliminary finding that Plaintiffs lacked standing and thus dismissed Plaintiffs' SAC without further

1 consideration of Defendants’ remaining arguments. *See* Order Granting
2 Defendants’ Motion to Dismiss [Dkt. Nos. 76,79] and Denying Plaintiffs’ Motion
3 for Judicial Notice., ECF No. 91, Page ID #: 1177 (“Because mootness implicates a
4 jurisdictional limitation, it must be addressed prior to reaching the merits of the
5 claims”). Thereafter the Court found the case to be moot and did not reach the
6 merits of Defendants’ arguments. *Id.* at Page ID #: 1178. Defendants should thus
7 not be required to forfeit the merits of their arguments which appear to have been
8 unreached by the Court in its prior order dismissing Plaintiffs’ Second Amended
9 Complaint.

10 Plaintiffs’ incorrectly asserted in their Motion for Reconsideration that
11 “neither Defendant moved to dismiss Counts V and VI’s monetary damages claim.”
12 Plaintiffs thus contend that Defendants’ arguments challenging Plaintiffs’ Fifth and
13 Sixth Claims for Relief are procedurally barred by Federal Rule of Civil Procedure
14 Rule 12(g)(2), which prohibits a party from filing successive Rule 12 motions
15 raising defenses or arguments that were available but omitted from an earlier
16 motion. Fed. R. Civ. P. 12(g)(2). Defendants clearly argued in their prior motion
17 that Plaintiffs also failed to state their Fifth and Sixth claims in their entirety. *See*
18 ECF No. 77, Page ID # 1013-1017. Contrary to Plaintiffs’ contention, Defendants
19 arguments were not limited to Plaintiffs’ request for injunctive relief and instead
20 challenged the Fifth and Sixth claims as a whole, inclusive of Plaintiffs’ requests for
21 monetary damages. As stated herein, the Court does not appear to have considered
22 these arguments based upon a preliminary finding that Plaintiffs lacked standing.

23 A side-by-side comparison of both motions filed by Defendants makes it clear
24 that Defendants have not raised any new arguments not included in Defendants’
25 original Motion to Dismiss and Strike Plaintiffs’ Second Amended Complaint.
26 Indeed, Plaintiffs’ own opposition admits that Defendants arguments mirror those
27 stated in Defendants’ original Motion to Dismiss and Strike Plaintiffs’ Second
28 Amended Complaint. *See* Plaintiffs’ Opposition to Defendants’ Motion to Dismiss

1 and Strike Second Amended Complaint, ECF No. 104, Page ID #: 1313. Thus,
2 Federal Rule of Civil Procedure Rule 12(g)(2) would not prohibit the Court from
3 considering the merits of Defendants' arguments.

4 Plaintiffs also contend that, in ruling on Plaintiffs' motion for reconsideration,
5 "the Court necessarily determined that the SAC states claims upon which relief can
6 be granted," and "implicitly rejected" Defendants arguments. Plaintiffs' Opposition
7 to Defendants' Motion to Dismiss and Strike Second Amended Complaint, ECF No.
8 104, Page ID #: 1312. This assumption does not accurately reflect the scope of
9 Plaintiffs' motion for reconsideration, nor the Court's order granting Plaintiffs'
10 motion for reconsideration. *See* Plaintiffs' Motion for Reconsideration, ECF No.
11 92; Order (1) Granting in Part and Denying in Part Plaintiffs' Motion for
12 Reconsideration [Dkt. No. 92] and (2) Reopening Case, ECF No. 96.

13 Plaintiffs' motion for reconsideration did not address the merits of
14 Defendants' arguments as to Plaintiffs' Fifth and Sixth Claims for Relief, and
15 instead asserted that Plaintiffs' claims were not moot as Plaintiff sought monetary
16 damages. *See* Plaintiffs' Motion for Reconsideration, ECF No. 92. Similarly,
17 Plaintiffs' Reply to Defendants Opposition to Plaintiffs' Motion for Reconsideration
18 did not touch upon the merits of Defendants' arguments as to Plaintiffs' Fifth and
19 Sixth Claims for Relief. *See* Plaintiffs' Reply to Defendants Opposition to
20 Plaintiffs' Motion for Reconsideration, ECF No. 95. Thus, Defendants' arguments
21 regarding Plaintiffs' Fifth and Sixth Claims for Relief were not before the Court as
22 part of Plaintiffs' Motion for Reconsideration.

23 Accordingly, the Court may now consider the merits of its Motion which
24 appear to have thus far not been considered by the Court.

25 **B. Plaintiffs Have Failed to State Their Title IX Effective Accommodation**
26 **and Equal Treatment Claims**

27 Plaintiffs reincorporate the arguments briefed in Plaintiffs' prior oppositions
28 (ECF No. 83 and ECF No. 84) and motion for reconsideration (ECF Nos. 92 and 95)

1 in their Opposition. As stated herein, Plaintiffs’ briefing related to Plaintiffs’
2 Motion for Reconsideration did not touch upon the merits of Defendants’ arguments
3 as to Plaintiffs’ Fifth and Sixth Claims for Relief. Plaintiffs thus did not place the
4 merits of Defendants arguments before the Court, and the Court does not appear to
5 have addressed those arguments in its ruling on Plaintiffs’ motion for
6 reconsideration. Defendants further restate their arguments stated in their reply to
7 Plaintiffs’ prior opposition below.

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

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

19 Plaintiffs first argue that Title IX requires an institution to create an
20 exclusively female team when a male team exists, “if (i) the opportunity to play the
21 sport have been historically limited for the excluded sex; (ii) there is sufficient
22 interest from the excluded sex to sustain a team and (iii) the members of the
23 ‘excluded sex’ must not possess sufficient skill to be selected for a single integrated
24 team or to compete actively if selected.” ECF No. 83, Page ID #: 1090. Plaintiffs
25 further contend that female teams are extinct under AB 1266, because there are no
26 longer exclusively female teams, and contend the District has created a male team
27 and a de facto “co-ed” or “integrated” team. *Id.* at Page ID #: 1090.

28 The 1979 Policy Interpretation of Title IX, “explains that, for purposes of the

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

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

20 AB 1266 fills in where Title IX and its implementation regulations lack
21 clarity, effectively defining sex to include gender identity. See Cal. Educ. Code §
22 221.5(f). Plaintiffs’ further contend that only the girls’ team is “integrated,” a
23 contention that ignores the language of the very statute which Plaintiffs challenge in
24 their SAC. This contention ignores the plain language of the statute. As stated in
25 Defendants’ Motion, AB 1266 expressly requires that pupils be permitted to
26 participate in sex-segregated athletic teams and competitions consistent with their
27 gender identity. Cal. Educ. Code § 221.5(f). To be clear, the plain language of
28 Education Code section 221.5(f) effectively requires that transgender boys compete

1 on male teams just as it requires transgender girls to compete on female teams.

2 The District's compliance with AB 1266 requires that transgender boys
3 compete on boys' teams just as transgender girls compete on designated girls'
4 teams, with AB 1266 effectively defining sex to reflect gender identity. The
5 relevant athletic success of two transgender students in the state is inapposite to
6 whether Title IX requires school sports teams to be delineated by biological sex. In
7 defining sex in this manner and the District's policy in compliance with AB 1266,
8 the comparison between sex-segregated teams may readily be made. Thus,
9 Plaintiffs have not established that the District has violated Title IX as a structural
10 matter.

11 **2. The District has Provided Effective Accommodations**

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

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

25 (1) showing substantial proportionality (the number of women in
26

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

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

Mansourian v. Regents of University of California (9th Cir. 2010) 602 F.3d 957, 965. To do so, Plaintiffs again rely upon the presumption that the District must delineate its teams by biological sex rather than in a manner consistent with AB 1266 to establish that Title IX’s “participation opportunities” requires exclusively female sports teams. As stated herein, Title IX makes no such delineation. *See Roe v. Critchfield*, 137 F.4th at 927.

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

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

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

“Title IX requires ‘equal treatment,’ which has been interpreted by the OCR to require ‘equivalence in the availability, quality and kinds of other athletic benefits and opportunities provided male and female athletes.’ ” *Ollier*, 858 F. Supp. 2d at 1110 (quoting Policy Interpretation 44 Fed. Reg. at 71,417-18). “Compliance in the area of equal treatment and benefits is assessed based on an overall comparison of the male and female athletic programs, including an analysis of recruitment benefits, provision of equipment and supplies, scheduling of games and practices, availability of training facilities, opportunity to receive coaching, provision of locker rooms and other facilities and services, and publicity.” *Id.* (citing 34 C.F.R. § 106.41(c)).

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

Again, notwithstanding the District’s dispute as to Plaintiffs’ contention that Title IX require funding recipients to delineate teams based on biological sex, Plaintiffs have not established that the District’s enforcement of AB 1266 results in unequal treatment. Plaintiffs state M.L. and A.H. typically, but no always, won most, but not all, of the events they competed in. ECF No. 83, Page ID #: 1095. Plaintiffs thus have not established that the District’s compliance with AB 1266 has not deprived Plaintiffs of competitive opportunities that reflect their abilities.

Plaintiffs further argue that the District’s enforcement of AB 1266 does not

1 allow for the exclusivity of the locker rooms for female athletes. However, this
2 contention again ignores the plain language of Education Code section 221.5 which
3 equally applies to both the boys' and girls' teams' use of locker rooms and other
4 facilities. Plaintiffs lastly appear to contend that the District's compliance with
5 Education Code section 221.5 has had a disproportionately limiting effect upon the
6 recruitment of female athletes. ECF No. 83, Page ID #: 1096. This contention is
7 purely speculative and Plaintiffs have not actually alleged any such impact.

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

10 **C. Plaintiffs Allegations Related to A.H. are not Within the Leave Granted**

11 Plaintiffs' Opposition fails to establish that the allegations related to A.H. are
12 permitted under the Court's prior order granting Plaintiffs leave to amend. Plaintiffs
13 first argue that allegations related to A.H. to demonstrate ongoing, concrete injury
14 from biological males competing in female sports. *See* Plaintiffs' Opposition to
15 Defendants' Motion to Dismiss and Strike Second Amended Complaint, ECF No.
16 104, Page ID #: 1313. Plaintiffs' argument again relate to Plaintiffs' dismissed
17 requests for injunctive relief, and allegations related to A.H. have no relation to
18 Plaintiffs' stated Claims for Relief.

19 Plaintiffs further state that, "as recent as April 4, 2026, at least one Plaintiff
20 Save Girls' Sports member from RUSD, D.N., lost an event placement as a direct
21 result of A.H.'s participation in the girls' athletic program." ECF No. 104, Page
22 ID#: 1313-1314. Plaintiffs again incorrectly emphasize the results of athletic events
23 as opposed to the number of opportunities provided by the District in support of
24 their position. However, these allegations related to A.H. have no bearing the
25 number of participation opportunities that the District offers to its female students.
26 Specifically, these allegations make no reference to what extent A.H.'s participation
27 on teams outside the District's control has diminished participation opportunities
28 offered by the District to its female students and makes no specific showing of why

1 a Title IX equal treatment claim is appropriate.

2 As stated herein, the Court does not appear to have previously ruled on the
3 merits of the arguments raised by Defendants in their prior motion to dismiss and
4 strike Plaintiffs' Second Amended Complaint. Thus, the Court may consider now
5 consider the merits of the Defendants' request to strike Plaintiffs' allegations related
6 to A.H. Accordingly, Plaintiffs allegations related to A.H. should be stricken by this
7 Court.

8 **D. Leave to Amend Should be Denied**

9 As stated in Plaintiffs' Opposition, leave to amend must be "freely given"
10 unless it is clear that the proposed amendment is brought after undue and
11 unexplained delay; is offered in bad faith; would be futile; or would be prejudicial to
12 the other parties. *See* Fed. R. Civ. P. 15(a)(2); *Foman v. Davis*, 371 U.S. 178, 182
13 (1962). Plaintiffs make no request for leave to amend, and Plaintiffs' prior
14 amendments have failed to cure the deficiencies identified in Defendants' Motion
15 and in the Court's prior order granting in part the motions to dismiss Plaintiffs' First
16 Amended Complaint. *See* Order Granting in Part and Denying in Part Defendant
17 Riverside Unified School District's Motion to Dismiss and Granting the State of
18 California's Motion to Dismiss, ECF No. 68.

19 **III. CONCLUSION**

20 For all of the foregoing reasons and those stated in Defendants' Motion to
21 Dismiss and Strike, Defendants respectfully request that the Court dismiss
22 Plaintiffs' Fifth and Sixth Claims for Relief with prejudice. Defendants further
23 respectfully request that the Court Strike those allegations related to A.H. as beyond
24 the leave granted by this court.

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1 DATED: April 24, 2026

FAGEN FRIEDMAN & FULFROST, LLP

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4 By:



Milton E. Foster III

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

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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 April 24, 2026, I served true copies of the following document(s) described as **DEFENDANTS RIVERSIDE UNIFIED SCHOOL DISTRICT'S, LEANN IACUONE'S, AND AMANDA CHANN'S REPLY PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS AND STRIKE** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

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

I declare under penalty of perjury under the laws of the 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 April 24, 2026, at Corona, California.



Sara Rosas

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

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