

Appeal Nos. 25-3722, 25-3835, 25-4137, 25-4150, 25-4190, 25-4218

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

IN RE COLLEGE ATHLETE NIL LITIGATION

GRANT HOUSE ET AL.,
Plaintiffs-Appellees,

v.

KACIE BREEDING ET AL.,
Objectors-Appellants,

v.

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION ET AL.,
Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
THE HONORABLE CLAUDIA A. WILKEN, JUDGE
CASE NO. 4:20-CV-03919-CW

**BRIEF OF WOMEN'S SPORTS FOUNDATION
AS AMICUS CURIAE IN SUPPORT OF APPELLANTS**

BEN FEUER
JOCELYN SPERLING
COMPLEX APPELLATE LITIGATION GROUP LLP
96 JESSIE STREET
SAN FRANCISCO, CALIFORNIA 94105
TELEPHONE: (415) 649-6700
BEN.FEUER@CALG.COM
JOCELYN.SPERLING@CALG.COM

Attorneys for Amicus Curiae Women's Sports Foundation

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), the undersigned counsel certifies that amicus curiae Women's Sports Foundation does not have any parent corporation and does not issue stock. Women's Sports Foundation is a 501(c)(3) not-for-profit organization.

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INTERESTS OF AMICUS CURIAE

Amicus curiae Women’s Sports Foundation (“WSF”) is a nonprofit educational organization that works to enable girls and women to reach their potential in sports and life. Founded by Billie Jean King in 1974, WSF is one of the first organizations to recognize the powerful connection between sport access and gender equity.

For more than fifty years, WSF has been working to expand opportunities of girls and women to participate in sports. It has invested over \$115 million in research, advocacy, and community programming to help girls and women play, compete, and lead—in sports and beyond. WSF answers countless inquiries each year about Title IX of the Educational Amendments of 1972 and other women’s sports-related questions.

WSF’s work on behalf of girls and women is put at risk when Title IX protections are put at risk. In this Title IX appeal, WSF believes it is important to draw the Court’s attention to the benefits that sports, and related Title IX protections, have on girls and women. WSF hopes to help the Court understand that while Title IX has expanded opportunities for girls and women, significant discrimination persists.

That unfairness will increase with the current damages formula in the settlement, and colleges' use of that formula to justify discriminatory future revenue sharing.¹

SUMMARY OF ARGUMENT

Opportunities to participate in sports are educational gateways to economic and professional success. Girls and women derive substantial employment and health benefits that continue throughout their lives from playing sports. Title IX has been instrumental in increasing these opportunities and benefits for women and girls.

Although Title IX has led to impressive gains in opportunities for girls and women, the playing field is still far from level. Women's athletic programs continue to lag behind men's programs in many ways, including participation opportunities, athletic scholarships, operating budgets, and recruitment dollars. Schools have already announced

¹ All parties have graciously consented to the filing of this brief. Amicus certifies that no party's counsel authored the brief in whole or in part; that no party or party's counsel contributed money that was intended to fund preparing or submitting the brief; and that no person—other than the amicus and their counsel—contributed money that was intended to fund preparing or submitting the brief.

plans for future revenue sharing similar to the current damages formula in the settlement, and use of that discriminatory formula will increase these gender-based imbalances.

ARGUMENT

I. Sports provide substantial benefits to women and girls

A. Sports improve educational outcomes for women and girls

The educational benefits for girls and women who participate in sports are dramatic. They have higher grades, academic achievement, and graduation rates than their non-athlete peers. *See, e.g.,* Ellen J. Staurowsky et al., Women’s Sports Found., *Chasing Equity: The Triumphs, Challenges, and Opportunities in Sports for Girls and Women* 28-29 (Jan. 2020), <https://tinyurl.com/337rph7h> (summarizing studies); NCAA Rsch., *Trends in NCAA Division I Graduation Rates* 6 (Nov. 2024), <https://tinyurl.com/58embfc9>.

According to nationwide federally funded longitudinal surveys from 2006 to 2018, girls who played sports in high school were more likely to attain an “A” average in school, had higher school attendance rates, and had greater academic aspirations than girls who did not.

Nicole Zarrett & Phillip Veliz, Women’s Sports Found., *Teen Sport in America, Part II: Her Participation Matters* 6, 18 (Apr. 2021), <https://tinyurl.com/379cdsmv>. A significantly higher percent of the girls who played sports reported that they would attend college, and would attend professional or graduate school, than their female non-athlete peers. *Id.* at 18.

At the college level, women athletes thrive academically. In National Collegiate Athletic Association (“NCAA”) Division I schools, 95% of women athletes graduate within six years. *Trends in NCAA Division I, supra*, at 6.² Women athletes consistently have the highest graduation rates at each NCAA Division level, outperforming women non-athletes and the general student body. *Id.*; NCAA Rsch., *Trends in NCAA Division II Graduation Rates* 6 (Nov. 2024), <https://tinyurl.com/3hka2b4w>; NCAA Rsch., *Trends in NCAA Division III Graduation Rates* 5 (Nov. 2024), <https://tinyurl.com/2kvdc8yf>. For example, in

² This percent reflects the NCAA’s “graduation success rate,” which accounts for school transfers and thus “approximate[s] a true student-centered measure of graduation,” whereas the “federal graduation rate” does not account for transfers. *Trends in NCAA Division I, supra*, at 3-4.

NCAA Division II schools, the federal graduation rate for women athletes is eleven percentage points higher than women non-athletes (68% versus 57%). *Trends in NCAA Division II, supra*, at 6. When looking at graduation rates by race, the largest increase for athletes is between the rates of black women student-athletes in Division I sports (66%) and black women non-athletes (55%). *Trends in NCAA Division I, supra*, at 28.

B. Sports lead to business success for women

The educational benefits of sports extend well beyond the classroom. Sports provide girls and women with leadership skills that set them up for success in life. Sports teach critical life lessons, including how to work as a team, to perform under pressure, to learn from mistakes, and to persist and build confidence. Elizabeth Sharrow et al., Women's Sports Found., *Play to Lead: The Generational Impact of Sports on Women's Leadership* 9, 35-36 (Sept. 2024), <https://tinyurl.com/32et2nxh>.

It is no surprise, then, that girls and women who play sports are more likely to have career success and be leaders. Ninety-four percent of women C-suite executives played sports, with more than half having

played in college. EY & espnW, *Where Will You Find Your Next Leader?* 9 (2015), <https://tinyurl.com/y95um4cz>. Most of these women believe that sports contributed to their success and that the skills gained by participating in sports can help accelerate a woman's career. *Id.* at 6, 9.

Increasing sports opportunities for women, especially at the college level, increases women's leadership roles in society. A study examining women in their twenties through their eighties reaffirms that women gain leadership skills through sports. Sharrow et al., *supra*, at 9. The longer a girl participates in sports, the more likely she is to hold a leadership role as an adult. *Id.*

Also, women who played school sports receive higher wages. Justin Wolfers & Betsey Stevenson, *Equal Opportunity in Sports Makes Both Sexes Richer*, Bloomberg Gov't (June 18, 2012, at 18:30 ET), <https://tinyurl.com/2tw7zz5n> ("In those states where Title IX led to the greatest expansion in female sports, the post-Title IX generation of women enjoyed more education, employment and higher wages than their pre-Title IX forebears."); Betsey Stevenson, *Beyond the Classroom: Using Title IX to Measure the Return to High School Sports* 24 (Nat'l Bureau of Econ. Rsch., Working Paper No. 15728, 2010),

<https://tinyurl.com/yckd36bn> (explaining that women who played high school sports received “8 percent higher wages even after controlling as thoroughly as possible for student’s underlying ability and resources”).

C. Sports bolster girls’ and women’s health

Some of the most obvious benefits of playing sports are the physical health benefits. There are, of course, short-term benefits like increased fitness levels. Andrea Straccioli et al., *Female Sport Participation Effect on Long-Term Health-Related Quality of Life*, 30 Clinical J. Sport Med. 526, 526 (Nov. 2020), <https://tinyurl.com/yrs9brzw>. But there are also health benefits that last a lifetime. Sports and physical activity are associated with a reduced risk of many serious diseases and health risks for women. See, e.g., Ellen J. Staurowsky et al., Women’s Sports Found., *Her Life Depends on It III: Sport, Physical Activity, and the Health and Well-Being of American Girls and Women* 4 (May 2015), <https://tinyurl.com/fyzevbf>.

One study showed that, for women under forty-five years old, the rate of breast cancer for former college athletes was nearly five times lower than for non-athletes. G. Wyshak & R.E. Frisch, *Breast Cancer Among Former College Athletes Compared to Non-Athletes: A 15-year*

Follow-up, 82 British J. Cancer 726, 728 (2000), <https://tinyurl.com/27m5867e>. Higher levels of physical activity are also associated with a reduced risk of cardiac problems, dementia, and obesity. Staurowsky et al., *Her Life Depends on It III*, *supra*, at 4; Stracciolini et al., *supra*, at 526; Kjersti Karoline Danielsen et al., *Changes in Body Composition, Cardiovascular Disease Risk Factors, and Eating Behavior After an Intensive Lifestyle Intervention with High Volume of Physical Activity in Severely Obese Subjects: A Prospective Clinical Controlled Trial*, J. Obesity, 2013, at 7, <https://tinyurl.com/3mmzds8y>; Helena Hörder et al., *Midlife Cardiovascular Fitness and Dementia: A 44-year Longitudinal Population Study in Women*, 90 Neurology e1298, e1302 (2018), <https://tinyurl.com/vpkbsbapc>; Gustavo Silva et al., *Associations Between Sports Participation, Levels of Moderate to Vigorous Physical Activity and Cardiorespiratory Fitness in Children and Adolescents*, 31 J. Sports Scis. 1359, 1359 (2013), <https://tinyurl.com/y3rueden>.

Osteoporosis afflicts nearly 20% of women aged fifty and older (a much higher rate than men), and sports and physical activity increase bone density. Neda Sarafrazi et al., Nat'l Ctr. for Health Stat., *Osteoporosis or Low Bone Mass in Older Adults: United States, 2017–*

2018 (Mar. 2021), <https://tinyurl.com/ywn8bk6f>; Jincheng Xu et al., *Effects of Exercise on Bone Status in Female Subjects, from Young Girls to Postmenopausal Women: An Overview of Systematic Reviews and Meta-Analyses*, 46 Sports Med. 1165, 1180 (2016), <https://tinyurl.com/w94kbsbs>.

Also, girls who play sports are less likely to smoke or use illegal drugs. Staurowsky et al., *Her Life Depends on It III*, *supra*, at 64, 70; Zarrett & Veliz, *supra*, at 16. Teenage athletes are less likely to engage in risky sexual behaviors, and less likely to become pregnant than non-athletes. Stracciolini et al., *supra*, at 526; Donald F. Sabo et al., *High School Athletic Participation, Sexual Behavior and Adolescent Pregnancy: A Regional Study*, 25 J. Adolescent Health 207, 211 (1999), <https://tinyurl.com/3pdhtp63>.

Sports participation is associated not only with physical health benefits but mental health ones too. Girls and women who play sports have improved self-esteem and greater mental health and well-being. Staurowsky et al., *Her Life Depends on It III*, *supra*, at 82-83; Zarrett & Veliz, *supra*, at 21. Girls who play sports have significantly lower depression and anxiety than girls who do not. Zarrett & Veliz, *supra*, at

21; William Massey et al., Women's Sports Found., *Thriving Through Sport: The Transformative Impact on Girls' Mental Health* 24-25 (Apr. 2024), <https://tinyurl.com/2nh2mwrX>. The same is true in college: women student-athletes have lower rates of depression and anxiety than non-athletes. NCAA Rsch., *Comparing the Mental Well-Being of Student-Athletes and Other Students at NCAA Colleges* 5 (Sept. 2022), <https://tinyurl.com/mpwndprf>.

II. Despite progress under Title IX, substantial discrimination persists and will increase under the current damages formula and colleges' use of that formula for future revenue sharing

Since Title IX was enacted in 1972, girls' and women's participation in school sports has grown exponentially, which means that more girls and women are enjoying the educational, career, and health benefits discussed above. Girls' participation rates in high school sports have increased from approximately 300,000 in 1972 to approximately 3.5 million today. Nat'l Fed'n of State High School Ass'ns, *High School Athletics Participation Survey* 57, <https://tinyurl.com/3w7vzue9> (last visited Nov. 4, 2025). In NCAA college sports, women's participation rates have increased from

approximately 30,000 in 1972³ to approximately 240,000 today. Ellen J. Staurowsky et al., Women's Sports Found., *50 Years of Title IX: We're Not Done Yet* 33 (May 2022), <https://tinyurl.com/53bw5m4s>; NCAA Rsch., NCAA Demographics Database, Executive Summary (2024-25), <https://tinyurl.com/yc77dyc5> (last visited Nov. 4, 2025).

Women's sports have also risen in popularity as spectator sports. The 2025 NCAA women's basketball championship brought fans from every state and 23 countries, with an average of 8.5 million television viewers, and hundreds of thousands of attendees at the tournament. Corbin McGuire, *Record Crowds, Rising Ratings and Resurgent Champions Highlight 2025 NCAA Basketball Championships*, NCAA (Apr. 11, 2025, at 13:00 ET), <https://tinyurl.com/49hp2r9r>. This popularity brings newfound opportunities for growth of the women's sports market and monetization. Ben Vonwiller et al., *Closing the*

³ The NCAA did not sponsor women's sports until the 1981-82 academic year. Prior to the NCAA, the Association for Intercollegiate Athletics for Women organized women's college sports championships. Charlotte Carroll & Rhiannon Walker, *Fifty Women's Sports Facts for the 50th Anniversary of Title IX*, N.Y. Times (June 23, 2022), <https://tinyurl.com/59vjb3nu>.

Monetization Gap in Women's Sports: A \$2.5 Billion Opportunity, McKinsey & Co. (Aug. 20, 2025), <https://tinyurl.com/y23hk86j>.

Despite this progress and potential for women's sports, significant imbalances persist. Girls and women still lag behind their male counterparts in terms of participation. In 2024-25, approximately 1.2 million more boys than girls participated in high school sports (approximately 4.7 million boys and 3.5 million girls). *High School Athletics Participation Survey, supra*, at 57. In fact, high school girls today have yet to reach the participation levels of high school boys more than fifty years ago when Title IX was enacted. *Id.* In 2024-25, nearly 84,000 more men participated in NCAA championship sports than women (approximately 319,000 men, compared to approximately 235,000 women). NCAA, *NCAA Sports Sponsorship and Participation Rates Report (1956-57 through 2024-25)* 94 (Sept. 4, 2025), <https://tinyurl.com/yc5y267r>.

Collegiate women student-athletes continue to receive significantly fewer participation opportunities and recruitment dollars, and they are short-changed on athletic scholarships and compensation for their coaches. Staurowsky et al., *50 Years of Title IX, supra*, at 9. In

the 2023-24 academic year, college women athletes received approximately \$500 million less in athletic scholarships than men, and approximately \$190 million less in recruitment dollars. Accelerate Equity, Gender Equity Dashboard, <https://tinyurl.com/bdd8xh3k> (last visited Nov. 4, 2025). In fiscal year 2022, there were more than 4,000 Title IX complaints about discrimination in athletics. Off. for C.R., U.S. Dep't of Educ., *Report to the President and Secretary of Education Under Section 203(b)(1) of the Department of Education Organization Act, FY 2022*, at 20 (2023), <https://tinyurl.com/5bcu8unk>.

A few years ago, viral social media posts revealed glaring imbalances between the men's and women's NCAA basketball tournaments, particularly in the weight rooms and training facilities. Emine Yücel, *Men's and Women's NCAA March Madness Facilities, Separate and Unequal, Spark Uproar*, NPR (Mar. 19, 2021, at 21:15 ET), <https://tinyurl.com/2bvb87by>. The men had top-tier weight racks and lifting set-ups, whereas the women received yoga mats and a single tower of dumbbells. *Id.*; Gabriella Levine, *NCAA March Madness Drops the Ball for Women's Basketball with Sexism Outrage*, NBC News (Mar. 23, 2021, at 04:34 ET), <https://tinyurl.com/t42t95kc>. While not as

visible, there were other disparities, including the food, recreational opportunities, and gifts. Kaplan Hecker & Fink LLP, *NCAA External Gender Equity Review, Phase I: Basketball Championships* 7 (Aug. 2, 2021), <https://tinyurl.com/yuuc3ybv>.

These overt differences became emblematic of the unfair treatment women athletes face on college campuses, including the unequal participation opportunities, disparate recruitment dollars, and restricted scholarships mentioned above. Despite the growth in women's sports, increased media attention, and elite athleticism women athletes present, they do not receive the comparable support to their male counterparts. A report commissioned by the NCAA following the viral social media posts showed, among other things, that women's sports media contracts are grossly undervalued and that the media rights structure "contributes to the narrative that women's basketball is a supposed money loser," when it would earn revenue if valued properly.

Alan Blinder, *Report: N.C.A.A. Prioritized Men's Basketball 'Over Everything Else'*, N.Y. Times (Aug. 3, 2021), <https://tinyurl.com/3jcyhss3>; *NCAA External Gender Equity Review, Phase I, supra*, at 2.

While the most egregious differences concerned the NCAA basketball

championships, the unfairness extended beyond that sport. Kaplan Hecker & Fink LLP, *NCAA External Gender Equity Review, Phase II*, at 8 (Oct. 25, 2021), <https://tinyurl.com/mrxmbxjw>.

These imbalances will increase under the current damages formula and schools' rote reliance on that formula to justify discriminatory future revenue sharing. As explained in the National Women's Law Center's amicus brief, schools have announced that they will distribute revenue similar to the *House* damages formula, which significantly advantages and prioritizes male athletes. As that amicus brief shows, colleges will cut women's teams—and some have already begun to do so—and there will be a ripple effect at the high school level. With fewer opportunities, girls and women will lose the critical academic, health, and leadership benefits of participating in sports.

CONCLUSION

Sports provide significant education, business, leadership, and health benefits to all who participate. The impact of sports participation is especially pronounced for girls and women, and funding-related support for female sports programs is an essential aspect of their success. It is imperative that the progress gained since the passage of Title IX not be lost due to gender-discriminatory formulas for payments to athletes.

Respectfully submitted,

Date: November 5, 2025

By: s/ Ben Feuer

Ben Feuer
Jocelyn Sperling
Complex Appellate Litigation Group LLP

*Attorneys for Amicus Curiae
Women's Sports Foundation*

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