

No. 23-1078

**In the United States Court of Appeals
for the Fourth Circuit**

B.P.J., by her next friend and mother; HEATHER JACKSON,
Plaintiffs-Appellants,

v.

WEST VIRGINIA STATE BOARD OF EDUCATION; HARRISON COUNTY
BOARD OF EDUCATION; WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES
COMMISSION; W. CLAYTON BURCH, in his official capacity as
State Superintendent; DORA STUTLER, in her official capacity as
Harrison County Superintendent,

Defendants-Appellees,

and

THE STATE OF WEST VIRGINIA; LAINY ARMISTEAD,

Intervenors-Appellees.

On Appeal from the United States District Court for the
Southern District of West Virginia, No. 2:21-cv-00316
The Honorable Joseph R. Goodwin, Judge

**MOTION OF *AMICUS CURIAE* INDEPENDENT WOMEN'S LAW
CENTER FOR LEAVE TO FILE BRIEF SUPPORTING
APPELLEES AND AFFIRMANCE**

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May 3, 2023

The Independent Women's Law Center (IWLC) moves for leave to file the attached *amicus* brief in support of Defendants-Appellees and affirmance. Fed. R. App. P. 29(a).

This motion is unopposed. All parties except for Defendant-Appellee the West Virginia Secondary School Activities Commission (WVSSAC) consented to the filing of IWLC's *amicus* brief. WVSSAC took no position on the filing of the brief, and stated that it does not intend to file an opposition.

INTERESTS OF *AMICUS CURIAE*

IWLC is a project of Independent Women's Forum (IWF), a nonprofit, non-partisan 501(c)(3) organization founded by women to foster education and debate about legal, social, and economic policy issues. IWF promotes access to free markets and the marketplace of ideas and supports policies that expand liberty, encourage personal responsibility, and limit the reach of government, especially with respect to matters of particular concern to women. IWLC supports this mission by advocating for equal opportunity, individual liberty, and women's sex-based rights. Equal opportunity for girls and women to compete in sports

is an issue of great significance to IWLC, and *Amicus* writes to offer its expertise on that important issue.

REASONS FOR PERMITTING THE *AMICUS* BRIEF

The attached brief explains the harm reversal would pose to women and girls' athletics. Title IX was enacted to expand educational opportunities for women and girls, including in athletics—not to reduce them. Interpreting Title IX to require schools to open up girls' teams to biological males would defeat that purpose.

Amicus submits this brief to explain the public interest in single-sex sports, to detail the harms caused by this Court's injunction against West Virginia Code § 18-2-25d(c)(1) ("Sports Act"), and to explain how reversal would undermine the legal rationale for any single-sex athletic teams. Those issues are critical to the proper interpretation of Title IX and the Equal Protection Clause and the disposition of this case.

CONCLUSION

For the foregoing reasons, the Court should grant the motion for leave to file the *amicus curiae* brief of Independent Women's Law Center.

Dated: May 3, 2023

Respectfully submitted,

s/ Gene C. Schaerr

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CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-volume limits of Fed. R. App. P. 27(d)(2)(A) because it contains 332 words, excluding the portions exempted by the rules. The brief's typesize and typeface comply with Fed. R. App. P. 32(a)(5) and (6) because it was prepared in a proportionally spaced typeface using Microsoft Word in Century Schoolbook, 14-point font.

Dated: May 3, 2023

s/ Gene C. Schaerr
Gene C. Schaerr

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 23-1078Caption: B.P.J. v. West Virginia State Board of Education

Pursuant to FRAP 26.1 and Local Rule 26.1,

Independent Women's Law Center

(name of party/amicus)

who is _____ amicus _____, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
2. Does party/amicus have any parent corporations? YES NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? YES NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) YES NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? YES NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? YES NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: Date: May 3, 2023Counsel for: Independent Women's Law Center