

Supreme Court Protects Female Athletes in 27 States, But Gender Ideology Plays On

On June 30, 2026, the Supreme Court [ruled](#) in *West Virginia v. B. P. J.* and *Little v. Hecox* that states may limit participation in female sports to female students. It's a step in the right direction, especially for Catholic families and educators, and Justice Brett Kavanaugh's majority opinion might prove valuable to future decisions.

But the return to sanity is still a few steps away.

To be precise: the Court agreed unanimously that the statutes of West Virginia and Idaho—and presumably the laws of 25 other states that prevent biologically male, “transgender” students from competing in female athletics—do not violate Title IX, the federal law banning sex discrimination in educational institutions that receive federal funding. The Court also voted 6-3 that such laws do not violate the Equal Protection Clause of the 14th Amendment.

The ruling is an important win for female athletes and helps protect Catholic education. In the sensible states that preserve female sports, Catholic schools and colleges can uphold Catholic teaching on gender and sexuality and compete against public schools and colleges without discrimination and pressure to conform to gender ideology.

Nevertheless, gender ideology remains a serious threat. Here's what the Supreme Court did not do:

- Although the ruling allows states to protect female sports, the Court explicitly warns, “nothing in this opinion should be interpreted to address or limit participation by biological females on male or co-ed sports teams.” Laws that limit male sports to biological males—which are extremely rare—could still be declared violations of Title IX and/or the 14th Amendment.
- The ruling also does not rein in the sabotage of both male and female sports by states that force schools and colleges to accommodate “transgender” students. This subverts the purpose of sex-segregated sports, threatens the safety of female athletes, and puts them at a significant disadvantage. But whether such laws violate Title IX or the 14th Amendment is “currently the subject of litigation in some lower courts” and will surely reach the high court within the next few years.

- This ruling is narrowly focused on competitive female sports, and so it does not confront the dangerous dictates of gender ideology regarding bathrooms, locker rooms, pronouns, dress codes, school admissions, etc. Accommodating students' gender illusions means compromising the physical safety, mental health, and moral purity of other students. These fights will continue.
- The ruling does not determine whether "sexual orientation" and "gender identity" are included within Title IX's scope of "sex discrimination." The Court avoids that looming question in these two cases.

The Court, therefore, has not addressed the Trump administration's claim that Title IX prohibits gender ideology in schools and colleges, nor the Biden administration's opposite claim that Title IX mandates gender ideology in education. The ruling does thwart part of the Biden administration's radical policy agenda, which tried to force states to accept "transgender" athletes in female sports, but the rest of that agenda could be resumed by a new administration.

Among the 73 Newman Guide Recommended elementary and secondary schools, only 31 are in states with laws protecting female sports, which leaves the others vulnerable to discrimination and coercion opposed to their Catholic beliefs. Of the 18 Newman Guide Recommended colleges in the U.S., 13 are in states with laws that protect female sports—and of the remaining five, only The Catholic University of America (D.C.) has an interscholastic sports program.

Nearly all Newman Guide Recommended schools and colleges are in states that allow females to compete in male sports, including "transgender" students. In Texas—the home of the University of Dallas, University of St. Thomas (Houston), and eight Newman Guide recommended schools—females cannot participate on male teams if there is a female team in the same sport. Likewise in South Carolina, where three recommended schools are located.

Limited scope

The Supreme Court ruled in *West Virginia v. B. P. J.* and *Little v. Hecox*: "[M]ay schools determine eligibility for women's and girls' sports based on biological sex? The answer is yes."

In Justice Kavanaugh's majority opinion, he frames the question before the Court as whether "schools may maintain women's and girls' sports teams for biological females." But this, of course, has long been a settled question. Single-sex sports have never been deemed discriminatory, because there is a rational and biological reason for separating male and female students in competitive athletics, which protects females rather than discriminate against them.

Kavanaugh's opinion relies on the plain fact that federal law explicitly permits segregation in sports by biological sex. Although Title IX, part of the Education Amendments of 1972, says nothing specifically about athletics, the Javits Amendment approved by Congress two years later directed the Department of Health, Education, and Welfare to issue regulations implementing Title IX, including "reasonable provisions considering the nature of particular sports." The resulting 1975 regulations authorize "separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport."

The Court finds, “By referring to contact sports and competitive skill, the regulations plainly recognized the inherent physical differences between biological men and biological women—as well as the safety and competitive fairness concerns that would arise if males were allowed to compete in female sports.”

Because the 1975 regulations interpreted Title IX “contemporaneously with the statute,” and because Title IX regulations have “remained consistent over time” on the matter of single-sex sports, Kavanaugh asserts that they are “especially useful in determining the statute’s meaning.” Bottom line: the law allows schools and colleges to limit sports teams according to biological sex.

What is unique in these two cases, however, is the context. The opinion says the male plaintiff B. P. J. “identifies as female” and hoped to join the girls’ track-and-field and cross-country teams at his school, in violation of West Virginia’s Save Women’s Sports Act. The other plaintiff Hecox, also a male who “identifies as female,” wanted to compete with girls in soccer, track, and cross-country, but he was prevented by Idaho’s Fairness in Women’s Sports Act.

B. P. J. relied partly on Title IX for his complaint, acknowledging that Title IX permits single-sex sports based on biological sex but also seeking an exception for males claiming a female gender. He asked the Court to find room for nuance in the Javits Amendment’s instruction to implement “*reasonable*” regulations for athletics programs. The Justices, however, found it reasonable to limit female sports to biological females.

“Whether biological males may participate on women’s and girls’ sports teams may be a debated *policy* question,” notes the majority opinion. “But the *legal* question for Title IX purposes is whether West Virginia may limit women’s and girls’ sports teams to biological females. As a matter of text and history, West Virginia may do so.”

The more important argument by B. P. J.—concerning the question that has been raised repeatedly since the Supreme Court’s 2020 [decision](#) in *Bostock v. Clayton County*—was that “gender identity” must be protected by Title IX within the broad scope of “sex.” In *Bostock*, the Court found that employment decisions based on “sexual orientation” or “gender identity” constitute “sex discrimination” under Title VII of the Civil Rights Act, because (it reasoned) any consideration of orientation or gender necessarily implies consideration of an employee’s sex, which is illegal.

In these cases, the Court chose not to apply or reject the same reasoning in the context of Title IX, finding it irrelevant to the cases at hand. Unlike Title VII, the majority opinion argues, Title IX explicitly invites segregation by biological sex in the context of athletics and requires no exceptions. “Stated simply, Title VII and *Bostock* are not relevant in this very different statutory and factual context,” it says.

Finally, the Court ruled that the 14th Amendment does not mandate the exception to Title IX sought by both B. P. J. and Hecox. Under the 14th Amendment, the Court says, “Sex-based classifications are permissible only when the classification is ‘substantially related’ to achieving an ‘important’ government objective.” The Justices found that general classifications according

to biological sex are appropriate in competitive sports, given all the reasons supporting Title IX's distinctions, and maintaining biological distinctions without exception serves important purposes, including girls' and women's safety and equal opportunities.

Hope for the future

Looking forward, what might we expect in response to those lingering questions listed above? If the Supreme Court's composition and reasoning are consistent, this ruling offers a few clues.

- The Court's interpretation of sex discrimination under Title IX seems to differ substantially from the *Bostock* ruling concerning Title VII.

With the *Bostock* ruling, many believed that gender ideology had won a major victory in federal law, effectively redefining "sex" to mean a person's chosen or natural gender. But in its ruling last month, the Court reminds Americans that *Bostock* did no such thing. It did not agree that "sex" in Title VII means anything other than biological sex, and it did not formally endorse the claim that a person can choose their gender.

What *Bostock* declared is that, when an employment decision is based simply on an employee's "sexual orientation" or "gender identity," it amounts to discrimination based on sex, because the employee's biological sex "plays a necessary and undisguisable role in the decision." This is a bad ruling that conflates discrimination against males or females, which Title VII was intended to address, with an employer's appropriate judgment about behavior, mental fitness, and moral turpitude. Still, the Court arrived at the *Bostock* decision without redefining "sex" in Title VII.

Regardless, the Court told B. P. J. and Hecox that "Title VII and *Bostock* are not relevant in this very different statutory and factual context." The factual difference between student athletics and employment is obvious, but the Court also says Title VII and Title IX are "vastly different" laws. Title VII, according to Kavanaugh, "requires that men and women be treated without regard to their sex." Title IX says a student, "on the basis of sex," cannot be "excluded" or "denied the benefits of" a federally funded education program or otherwise "discriminated against." Under Title VII, sex discrimination occurs whenever sex is a factor in an employment decision—it should be irrelevant. Under Title IX, sex discrimination occurs when someone is treated unfairly because of their biological sex, but the law and its regulations recognize that a student's sex is quite relevant to education and student formation.

The majority opinion says Title IX "cannot plausibly be interpreted to refer to anything other than biological sex," and the Court sees no reason why states must make exceptions for gender-confused males wanting to compete in female sports. Presumably the same reasoning can be applied to single-sex schools, classrooms, and other activities that are permitted by Title IX. But in limited matters like student admissions to coed institutions, a *Bostock*-like expansion of Title IX to protect "sexual orientation" and "gender ideology" could emerge.

- The Court could find it permissible to exclude “transgender” students from opposite-sex restrooms, locker rooms, and campus residences.

For reasons very similar to the Court’s decision last month, it seems likely that future rulings will find that Title IX and the 14th Amendment allow states to restrict restrooms, locker rooms, and campus residences to males or females—even without exceptions for “transgender” students. States should be able to show reasonable government objectives for such distinctions based on biological sex.

- The Court could uphold the use of pronouns consistent with biological sex.

Again, a general policy with reasonable objectives should be permissible under both Title IX and the 14th Amendment. While “transgender” students may want exceptions, the general policy would uphold fair treatment based on biological sex. A pronoun case is also likely to turn on the First Amendment right to free speech.

- The Court could allow states to protect male sports.

In its opinion last month, the Court noted that 27 states protect female sports, presumably supporting the argument that single-sex sports are reasonable. Very few states, however, forbid females (including “transgender” students) from participating in male sports. They include Alabama and Tennessee (the latter for primary and secondary schools only), while Georgia, Nebraska, South Carolina, and Texas permit females in male sports only when there is no female team available in a particular sport.

Nevertheless, the Court is likely to find all-male sports reasonable, even without exceptions for “transgender” students or especially strong female athletes. Last month’s ruling affirmed that separating athletes by biological sex is not only reasonable but also explicitly condoned by the Title IX regulations. If the Court could not find a mandate under Title IX or the 14th Amendment to make exceptions for “transgender” students seeking admission to female teams, it seems unlikely to force states to admit “transgender” students or other females to male teams. If it did, the Court would have to accept the exaggeration that refusing this exception to a small number of students hinders the general objective of ensuring equal opportunity for women.

Justice Kavanaugh’s majority opinion acknowledges that some “transgender” students could suffer under strict single-sex athletics policies, perhaps even excluded from a sport entirely, because they belong on neither a male team nor a female team: “We appreciate the desire of every student, including B. P. J., who wants to play school sports. And we recognize that student-athletes are understandably disappointed and upset when they do not make a team or otherwise cannot participate. But the Title IX regulations guarantee ‘equal athletic opportunity.’ The regulations cannot and do not guarantee every student a spot on a team’s roster.”

- The Court could strike down state laws that force schools and colleges to admit “transgender” students to opposite-sex sports, restrooms, locker rooms, and campus residences.

In the majority opinion, the Court is careful only to say that Title IX allows for single-sex sports and does not require states to admit “transgender” students to female sports. There is nothing in Title IX that explicitly mandates any policy distinguishing between the sexes—only that there is no exclusion or denial of benefits to either sex.

A Court ruling against state laws that forcibly compromise single-sex sports—or restrooms, locker rooms, or campus residences—by requiring exceptions for “transgender” students could not rely on any explicit requirement under Title IX. Plaintiffs would probably have to make the case that such laws prevent the fair treatment of female students or deny them the benefit of privacy and safety that is generally promised to all students.

The majority opinion cites the arguments of Iowa and West Virginia in support of female sports, and the Court seems persuaded that refusing exceptions for “transgender” students who are biologically male is a reasonable policy for ensuring “equal athletic opportunities for the female sex.” The states argue that allowing males to compete with female students would put female athletes “at significant risk of sometimes severe injuries” and prevent “competitive fairness” because:

- “Every biological male who makes the team takes a roster spot from a female athlete.”
- “Every biological male who earns playing time reduces the playing time of a female athlete.”
- “Every biological male who starts takes a starting position from a female athlete.”
- “Every biological male who wins a race takes the gold medal away from a female athlete.”

Still, these are impacts on individual females, and in reference to the “transgender” students who suffer from state laws enforcing female sports, the Court argues that Title IX cannot “guarantee every student a spot on a team’s roster.” A successful argument probably needs to show a substantial disadvantage to all or at least many females. In addition to the risk of physical harm, the Court cites another broad argument for the unfairness of male athletes competing with women:

What is more, forcing women and girls to play against biological males can deter some women and girls who would otherwise participate in sports from doing so—out of understandable concern about suffering serious injury or participating in what they view as an unfair competition. That second-order effect of allowing biological males to play women’s and girls’ sports cannot be papered over, so the States say.

Having already accepted these arguments as reasonable, and having declared that Title IX is concerned with the fair treatment of students based only on biological sex, it is possible that the Supreme Court could strike down laws that compromise single-sex sports by forcing teams to accept athletes of the opposite sex.

Speculation about how the Court will rule on such matters is, of course, never certain. Catholic families and educators will need to stand firm in the Catholic faith, refusing to compromise the truth of sexuality and gender even when states and activists demand compliance with gender ideology. Title IX has a strong exemption for religious schools and colleges. With prayer and witness to faithful formation, we can hope that America's courts will soon acknowledge the serious harm and injustice to girls and women that are caused by gender ideology.

Patrick Reilly
July 13, 2026