

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
COVINGTON DIVISION**

State of Tennessee; Commonwealth of Kentucky; State of Ohio; State of Indiana; Commonwealth of Virginia; and State of West Virginia,

Plaintiffs,

and

Christian Educators Association International; A.C., by her next friend and mother, Abigail Cross,

Proposed Intervenor-Plaintiffs,

v.

Miguel Cardona, in his official capacity as Secretary of Education; and **United States Department of Education,**

Defendants.

Case No. 2:24-cv-00072-DLB-CJS

DECLARATION OF A.C.

I, A.C., under penalty of perjury, declare as follows:

1. I am a 15-year-old resident of Bridgeport, West Virginia, in Harrison County, and have personal knowledge of the information below.

2. I am a female ninth-grade student at Bridgeport High School (BHS) where I compete on the girls' track and field team. I currently compete in discus, shot put, and the 4 x 100 relay. I fully expect to continue attending BHS throughout high school, and right now I plan to compete on the track and field team throughout high school, as I have done for my ninth-grade year.

3. I started playing sports when I was two or three years old. I have competed in different club, youth, and school sports since that time, including soccer, gymnastics, swimming, and Brazilian jiu-jitsu.

4. I was good at Brazilian jiu-jitsu. I started training when I was eight years old and from early on was at the top of my class. Sometimes, I even threw boys around. But after three or four years of competing, the boys in my class started hitting puberty and became much stronger than me. I quickly learned that there is a stark difference in strength and stamina between boys and girls. I eventually quit jiu-jitsu because even though I was good with the technical elements, I was competing against boys who were bigger and stronger than me, and I could not win. It was no longer fun.

5. I started playing sports because sports and physical health are important to my family. I enjoy the camaraderie and competitiveness of it.

Competing against a male athlete in girls' sports

6. In sixth through eighth grade, I attended Bridgeport Middle School (BMS). In seventh grade (the 2021–22 school year), I joined the girls' track and field team. I competed in the 100-meter dash, pole vault, shot put, and discus. Sometimes

I filled in for my teammates in other events, too, like the 200-meter dash and relay events.

7. To my surprise, another BMS student named B.P.J. joined the girls' track and field team. B.P.J. is almost two years younger than me, and one year behind me in school. Because I know B.P.J.'s older brother from school, I knew at the beginning of the 2021–22 school year that B.P.J. is a male who identifies as a girl.

8. During those two years in middle school, I competed against B.P.J. in both shot put and discus, and I saw B.P.J. almost every weekday at practices and meets during the outdoor season.

9. When I first competed against B.P.J., I typically beat B.P.J. in shot put and discus. At the beginning of the season, B.P.J. was not throwing very well. It was B.P.J.'s first year trying these sports, and it can take a while to learn the skills needed to excel in throwing events. I had also just started throwing shotput and discus, and was learning the skills, but I was almost two years older. By the end of my seventh-grade season, B.P.J. threw about the same distance as I did in shot put—around 18–20 feet.

10. In discus, I typically beat B.P.J.: I threw around 40 feet while B.P.J. threw closer to 30 feet. But in the last meet of the 2021–22 season, B.P.J. suddenly threw almost 20 feet farther: 49' 7".

11. By the next school year (2022–23), I could tell that B.P.J. had grown a lot. B.P.J. got taller and threw farther. B.P.J. got a deeper and more masculine voice.

12. Before the 2022–23 school year, B.P.J. was never one of the top athletes at BMS. But during the 2022–23 school year, B.P.J. suddenly became one of the top three throwers in shot put and discus at BMS. On May 13, 2023, B.P.J. threw 16 feet farther in discus than B.P.J. had thrown at the beginning of the

season. It is incredibly rare to see that big of an increase in throwing distance in such a short time.

13. There are usually ten meets in discus and shot put each season. The meets earlier in the season allow more athletes: a school can send several athletes from their team to each event. But as the year goes on, the events become more restricted, and often only the top three or four ranked athletes from a school in each event compete.

14. Rankings depend on an athlete's personal record in each event. At the beginning of each school year, we have a scrimmage to establish baseline times and distances in each event, and the coach uses those times to establish each athlete's ranking. Rankings can change during the season if a student sets a new personal record better than someone else's. And sometimes, if a coach sees that an athlete is working really hard in practice and improving, then that athlete might move up in the rankings.

15. Until April 2023, I was in the top three on my team for discus in both 7th and 8th grade. I was usually in the top three or four for shot put as well.

16. But that changed as B.P.J. started beating me.

- a. In March 2023, B.P.J. beat me at the Connect Bridgeport Invitational in shot put and in discus.
- b. Then in April, B.P.J. beat me at the Pioneer MS Invitational in discus.
- c. Later in April, B.P.J. beat me at the Bobcat MS meet in shot put and discus.

17. When I lost to B.P.J., B.P.J. would sometimes say to me, "you just need to get stronger" A.C. Or B.P.J. would say, "you have more testosterone than I do, and I am still beating you." I find it offensive for a male to say that to a girl.

18. The one bright spot was the Harrison County Championships girls' discus event in April 2023, where I threw farther and earned a higher placement than B.P.J.

19. One of the biggest meets of the season is the Mid Mountain 10 MS Championships. It is a conference meet, and only the top three ranked athletes from our school in each event get to compete. In the past, I got to compete at this event.

20. But after practice the night before our conference championship meet, my coach pulled me aside and said that I had been "knocked out" of the conference meet. I was upset.

21. At that point, B.P.J.—a male almost two years younger than me—had passed my personal record in shot put (24' 1") by almost three feet (27"). And B.P.J. had passed my personal record in discus (55' 2") by more than 10 feet (66' 0").

22. Because B.P.J. now ranked in the top three in shot put and discus, I was pushed out of the top three to fourth place at BMS in those events. And it meant that I did not get to compete in shot put or discus in the Mid Mountain 10 MS Championships on April 29, 2023.

23. It felt strange to be kicked out of my events, because I had always gotten to compete before. I felt angry and discouraged that B.P.J. took my spot. But I also felt like I couldn't say anything about it. If I complained, I would be unfairly labeled as "transphobic," even though that is not true. It felt unfair. I felt like I had to suck it up and live with it. I felt unheard and unseen.

24. Other girls on my team were upset, too. They were shocked to hear that I didn't get to compete in shot put and discus.

25. At the conference championships on April 29, 2023, B.P.J. ultimately took 4th overall in girls' discus and 6th overall in girls' shot put. A lot of girls placed lower than they should have because B.P.J. participated in the girls' events.

26. After I missed out on competing in discus and shot put in the conference championship, one of my coaches pulled me aside and tried to encourage me. My coach agreed that what happened to me was unfair, and I felt a little better having my coach's support.

27. Because B.P.J. pushed me down in the rankings, I did not get to compete in discus or shot put for the rest of the season, except for an 8th grade-only invitational that B.P.J. (as a 7th grader) was not eligible to compete in.

28. It is not fair to force me and other girls to compete against males in sports. As I have experienced with B.P.J., it is extremely frustrating to know that no matter how hard I work, I will not be able to throw farther than B.P.J.

29. Being excluded from the competition before it even begins is discouraging because I am not as strong and athletic as boys my age. It makes me so angry that I do not have a chance to even win. It makes me want to scream, "Why am I even here?"

30. I want girls to have an opportunity to compete on a level and safe playing field, and I know that will never happen if boys are allowed to compete on girls' sports teams.

31. It seems that people have forgotten the whole point of making girls' sports separate. It was impossible for girls to compete in boys' sports safely and competitively. Letting biological males into women's sports defeats the whole purpose of even having them in the first place. We simply cannot compete with men.

32. B.P.J.'s athletic records show that B.P.J. beat over 50 different female athletes in the 2021–22 school year, displacing several of the female athletes more than once.

33. These records show that B.P.J. beat over 100 different female athletes in the 2022–23 school year, displacing them almost 300 times. I also lost to B.P.J. on four separate occasions that school year. For example, on April 20, 2023, I would

have been 3rd place at BMS in the 1 kg discus. Instead, I received 4th place, while B.P.J. took 2nd place.

34. The same thing happened in shot put on April 20, 2023. I took 5th place at BMS, while B.P.J. received 4th place.

35. I have not competed against B.P.J. this year as B.P.J. competes in middle school and I am in high school. But during the 2023–24 school year, B.P.J. has already beaten almost 100 female athletes, displacing them over 250 times.

36. Overall, during the last two years while B.P.J. competed in women’s sports, B.P.J. has displaced almost 300 different female athletes over 600 times.

37. These records about B.P.J.’s athletic competitions are available at <https://www.athletic.net/>.

38. A copy of these records is attached to the complaint as Exhibit B.

39. These records in part reflect B.P.J. displacing me from my shotput and discus events.

Privacy concerns when male athletes compete in girls’ sports and male students use girls’ facilities

40. B.P.J. was not just another girl on our team. B.P.J. was very open about being on puberty blockers. I and other girls on the BMS girls’ track and field team have always known that B.P.J. is male.

41. This whole experience of having B.P.J. on the girls’ team was very hard for me, and my teammates told me that they found it hard, too.

42. When B.P.J. was first put on the girls’ team, I decided to change clothes in the girls’ restroom instead of the locker room to have more privacy. But when my school closed the gym locker rooms, the entire girls’ team had to change in the girls’ bathrooms.

43. I have never minded changing clothes in front of other girls. We are the same. But when B.P.J. started changing clothes with us girls in the girls’

bathroom, I felt uncomfortable and decided that I should change in the bathroom stall whenever I could for more privacy.

44. In my high school, where B.P.J. will attend next year, we change in the locker room by the field for track and field practice. The locker room has three private stalls and some showers with curtains. Most of the locker room area is an open space with lockers where girls can change.

45. Before practice or a track and field meet, we only have so much time to change before we need to begin warming up. There is not enough time for all the girls to change in a private space, and many girls change in the open area of the locker room.

46. I also have to change in the girls' locker room for physical education class. As a Bridgeport High School freshman, I must participate in P.E. class every other day for the whole year. We change clothes before we begin every P.E. class. We use the locker room inside the gymnasium for P.E. and all of the indoor sports. Similarly to the outdoor locker room, the indoor locker room is mainly just a wide-open area in a room where we change in front of lockers. There are three bathroom stalls, and three showers with curtain areas.

47. There is not enough time for every girl to change in a private area for P.E. class. I would not want to change for P.E. class if there was a boy in our locker room even if that boy identified as a girl. When we are in P.E. class, we will play some sports with the boys. But girls and boys play separate games whenever we play any contact sports. We have played volleyball, basketball, and football in P.E., but each time, we only played with the girls.

48. I don't want to use a restroom or locker room to change, or use a restroom generally, with a boy in there. When I use a restroom or when I change my clothes in the locker room for a meet, I don't want to be seen by a person of the

opposite sex. I don't want to change in front of a boy or want a boy to change in front of me.

49. I also do not want to shower in a locker room with a male nearby. It would make me feel extremely unsafe, anxious, and embarrassed to shower in the girls' locker room if males are allowed in.

50. The same goes for when I go on overnight trips, whether with my sports teams or for a field trip. Normally the band goes on one overnight trip a year. This year the band went to Disney World with only a few parent chaperones. In track and field, the top three finishers in meets advance to the next level of competition, and those competitions are usually out of town. Those competitors will stay in hotel rooms with their teammates. I haven't placed in the top three as a freshman, but I hope to improve next year. I don't want to stay in a room or sleep in a room with a boy, especially when no adult is present. It doesn't matter to me if the boy considers himself to be a girl.

Enduring inappropriate sexual comments

51. B.P.J. made several offensive and inappropriate sexual comments to me. At first, it did not occur often, and I tried my best to ignore it.

52. But during my final year of middle school, B.P.J. made inappropriate sexual comments a lot more often; it increased throughout that year; and the comments became much more aggressive, vile, and disturbing.

53. Sometimes B.P.J.'s comments were just annoying, like commenting that I have a "nice butt."

54. But other times, I felt really embarrassed, and I didn't want to repeat the gross things B.P.J. said to me.

55. During the end of that year, about two to three times per week, B.P.J. would look at me and say “suck my d***.” There were usually other girls around who heard this. I heard B.P.J. say the same thing to my other teammates, too.

56. B.P.J. made other more explicit sexual statements that felt threatening to me. At times, B.P.J. told me quietly “I’m gonna stick my d*** into your pu***.” And B.P.J. sometimes added “and in your a***” as well. These comments were disturbing and caused me deep distress.

57. B.P.J. made these vulgar comments towards me in the locker room, on the track, and in the throwing pit for discus and shotput.

58. I felt confused and disgusted when I heard these vulgar and aggressive comments. It was especially confusing because I was told that B.P.J. was on the girls’ team because B.P.J. identifies as a girl, but the girls on the team never talked like that.

59. Most of the time, B.P.J. made these sexual comments at girls’ track practice. Our team walked from Bridgeport Middle School to the High School for track practice, where we would train on the high school track. B.P.J. often popped up beside me as we walked and said these things. Other times, B.P.J. made comments as our team was sitting in the endzone waiting for coaches to get practice going. At least one time, it happened in the girls’ locker room.

60. Middle school kids can have foul mouths. The kids at my middle school sometimes said raunchy things, but they were not as explicit or aggressive as the things B.P.J. said.

61. I reported B.P.J.’s sexual comments to my coach and middle school administrators. Initially, the administrators told me that they were investigating, but we never heard back, and nothing changed. From what I saw, B.P.J. got very little or no punishment for saying things that no other student would get away with.

62. I was glad to move into high school in the Fall of 2023 so that I would not have to deal with B.P.J.'s harassment since B.P.J. is still in middle school. But because the middle school and high school share the same track and have overlapping practice times, I still see B.P.J. up to three times per week at girls' discus and shot-put practice.

Future fears

63. Both B.P.J. and I play the trumpet in the marching band, and we will have a lot of practices together starting in late July 2024 and lasting until late December 2024. In marching band, we have many band trips that require overnight stays, where students share hotel rooms without an adult staying in the room with them.

64. I am hesitant to continue playing in the band because I am uncertain whether I will be forced to share a hotel room or be exposed to B.P.J. on these trips.

65. B.P.J. will start high school in the Fall of 2024, and I dread being on the same sports team again. I plan to continue competing in track and field in the 2024–25 school year. I fully expect B.P.J. to continue competing in track and field like B.P.J. has done in the past. When B.P.J. begins competing in track and field again, I will again be competing directly with B.P.J.

66. I am reluctant to keep competing on a team that exposes me to these inappropriate comments. I'm also reluctant to continue in track and field if I have to compete against boys. I'm unable to fully enjoy sports in this environment.

67. I also worry about the little 6th-grade girls who are on the same team as B.P.J. right now. If I were in 6th grade and had to deal with sexual comments from a biological male two years older than me who was changing in the same locker room as me, I wouldn't even play sports. It wouldn't be worth it.

68. My younger sister will be a freshman in high school when B.P.J is a senior. She is a good athlete, but she is very shy, and I can't imagine how she would feel if B.P.J. said those sexual comments to her while they were competing in sports or changing in the locker room. I do not want that to happen.

69. I believe that girls' sports should be for girls only. Males, even those who identify as girls, do not belong on girls' sports teams or in girls' locker rooms.

DECLARATION UNDER PENALTY OF PERJURY

I, A [REDACTED] C [REDACTED], a citizen of the United States and a resident of the State of West Virginia, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 1 day of May, 2024 at Bridgeport, W.V.

A [REDACTED] C [REDACTED]
A.C.