



June 17, 2019

U.S. Department of Education  
Office for Civil Rights  
8th Floor  
5 Post Office Square  
Boston, MA 02109-3921  
OCR.Boston@ed.gov

Sent via U.S. Mail and Email

**Re: Title IX Discrimination Complaint on Behalf of Minor Children  
Selina Soule, [Second Complainant], and Alanna Smith**

To whom it may concern,

We submit this Complaint on behalf of minor Selina Soule, on behalf of minor [Second Complainant], and on behalf of minor Alanna Smith. Because the Complainants are minors, and because they fear retaliation, we respectfully request that the OCR treat their identities as confidential to the extent consistent with conducting a thorough investigation of the allegations contained in this Complaint and in the attached Exhibit A, “Discrimination Complaint Form.”

### Overview

1. The Complainants are three high school girls who compete at elite levels of girls’ track in Connecticut. Like large numbers of girls around the nation, each Complainant has trained much of her life—striving to shave mere fractions of seconds off her race times—in order to experience the personal satisfaction of victory, gain opportunities to participate in state and regional meets, gain access to opportunities to be recruited and offered athletic scholarships by colleges, and more.

2. Unfortunately for Complainants and other girls in Connecticut, those dreams and goals—those opportunities for participation, recruitment, and scholarships—are now being directly and negatively impacted by a new policy that is permitting boys<sup>1</sup> who are male in every biological and physiological respect—

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<sup>1</sup> Because Title IX focuses on equal opportunities between the sexes, because this Complaint is precisely concerned with effects of *biological* differences between males and females, because the term “boys” is commonly understood to refer to young males, and to avoid otherwise inevitable confusion, we refer in this complaint

including unaltered male hormone levels and musculature—to compete in girls’ athletic competitions if they claim a female gender identity.

3. This discriminatory policy is now regularly resulting in boys *displacing* girls in competitive track events in Connecticut—excluding specific and identifiable girls including Complainants from honors, opportunities to compete at higher levels, and public recognition critical to college recruiting and scholarship opportunities that should go to those girls.

4. As a result, in scholastic track competition in Connecticut, more boys than girls are experiencing victory and gaining the advantages that follow even though postseason competition is nominally designed to ensure that equal numbers of boys and girls advance to higher levels of competition. This discrimination must end: “Treating girls differently regarding a matter so fundamental to the experience of sports—the chance to be champions—is inconsistent with Title IX’s mandate of equal opportunity for both sexes.” *McCormick ex rel. McCormick v. Sch. Dist. of Mamaroneck*, 370 F.3d 275, 295 (2d Cir. 2004).

5. The Department of Education should make clear that this result, and thus this policy, is neither required nor allowed by Title IX, and should impose a remedy that protects the rights of Complainants and all similarly situated girls.

## **I. Title IX and Its Application to Athletics**

### **A. The Goals and Success of Title IX**

6. In 1972, Congress enacted Title IX, 20 U.S.C. § 1681, which forbids education programs or activities receiving federal financial assistance from discriminating against persons based on their sex. It provides:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.... 20 U.S.C. § 1681(a).

7. Title IX was designed to eliminate significant “discrimination against women in education.” *Neal v. Bd. of Trs. of Cal. State Univs.*, 198 F.3d 763, 766 (9th Cir. 1999). According to its primary sponsor, Title IX promises women “an equal

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to athletes who are biologically male as “boys,” and to athletes who are biologically female as “girls.” We do not question any gender identity claimed by any students, and use the names preferred by each student rather than legal names.

chance to attend the schools of their choice, to develop the skills they want, and to apply those skills with the knowledge that they will have a fair chance to secure the jobs of their choice with equal pay for work.” 118 Cong. Rec. 5808 (1972).<sup>2</sup>

8. Many have argued that the competitive drive and spirit taught by athletics is one of those “skills” that carry over and contribute to lifetime success in the workplace.<sup>3</sup> Certainly, the Department has made clear that Title IX applies in full force to athletic programs sponsored by recipients of federal financial assistance:

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis. 34 C.F.R. § 106.41(a).

9. Before the enactment of Title IX in 1972, schools often emphasized boys’ athletic programs “to the exclusion of girls’ athletic programs,” *Williams v. Sch. Dist. of Bethlehem*, 998 F.2d 168, 175 (3rd Cir. 1993), and vastly fewer girls participated in competitive interscholastic athletics than did boys. The Department (and Congress) “well understood” that “[m]ale athletes had been given an enormous head start in the race against their female counterparts for athletic resources.” *Neal*, 198 F.3d at 767. So they enacted Title IX and its regulations to “prompt [high schools and] universities to level the proverbial playing field.” *Id.*

10. The law has achieved striking success. “For example, between 1972 and 2011, girls’ participation in high school athletics increased from approximately 250,000 to 3.25 million students.” U.S. Dept. of Educ., OCR, *Protecting Civil Rights, Advancing Equity* 33 (2015), <https://bit.ly/2VF516Q>. Courts have equally recognized the impact of Title IX. Following the United States’ famed 1999 Women’s World Cup win, the Ninth Circuit wrote that:

“The victory sparked a national celebration and a realization by many that women’s sports could be just as

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<sup>2</sup> See *North Haven Bd. of Educ. v. Bell*, 456 U.S. 512, 526-27 (1982) (stating that these “remarks ... are an authoritative guide to the statute’s construction....”).

<sup>3</sup> See, e.g., *Sport is a Critical Lever in Advancing Women at All Levels, According to New EY/ESPNW Report*, Ernst & Young (Oct. 14, 2015), <https://go.ey.com/2xpLSrk> (discussing report that shows “how sport primes women for leadership while boosting career opportunities and earning power”).

exciting, competitive, and lucrative as men's sports. And the victorious athletes understood as well as anyone the connection between a 27-year-old statute [Title IX] and tangible progress in women's athletics." *Neal*, 198 F.3d at 773.<sup>4</sup>

#### B. Title IX and Sex-Based Physical Differences in Athletics

11. Title IX does not require that recipients blind themselves to students' sex when developing their athletic programs. To the contrary, the Department has recognized that separate sex-specific teams may in fact further, not hinder, efforts to promote sex equality:

[A] recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill.... 34 C.F.R. § 106.41(b).<sup>5</sup>

12. That regulation makes sense. As courts have recognized, boys and girls have different athletic capabilities due to physiological distinctions. *See, e.g., Kleczek v. Rhode Island Interscholastic League, Inc.*, 612 A.2d 734, 738 (R.I. 1992) ("Because of innate physiological differences, boys and girls are not similarly situated as they enter athletic competition."); *Petrie v. Ill. High Sch. Ass'n*, 394 N.E.2d 855, 861 (Ill. App. Ct. 1979) (noting that "high school boys [generally possess physiological advantages over] their girl counterparts" and that those advantages give them an unfair lead over girls in some sports like "high school track").<sup>6</sup>

13. The basic physiological differences between males and females after puberty are recognized and respected by the different standards set for boys and girls in track and field events that use equipment. For example, the standard weight used in high school shot put is 4 kilograms for girls, and 5.44 kilograms (36%

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<sup>4</sup> *See* Scott M. Reid, *Title IX Scores Big for U.S. Soccer, Orange County Reg.*, July 6, 1999, at D1 (quoting U.S. World Cup team member Brandi Chastain's statement that "all of this is because of Title IX"); Patrick Hruby, *On Top of the World Scurry Saves Day, Chastain Wins It for U.S.*, *Wash. Times*, July 11, 1999, at A1 (quoting defender Kate Sobrero's statement that "we're all Title IX babies, and this shows it's working").

<sup>5</sup> "Recipients" include direct and indirect beneficiaries of federal funding. 34 C.F.R. § 106.2(i).

<sup>6</sup> *See also* Jared A. Fiore, *Playing Between the Lines: The Legality of Male Athletes in Interscholastic Field Hockey*, 10 Willamette Sports L. J. 1 (2013); Raymond Grant, *ERA v. Title IX: Should Male-Student Athletes be Allowed to Compete on Female Athletic Teams?*, 47 Suffolk U. L. Rev. 845 (2014).

heavier) for boys. The hurdle height used for the high school girls' 100 meter hurdle event is 33 cm, whereas the standard height used for boys' high school 110 meter hurdle is 39 cm (9% higher).

14. In track and field events that do not use equipment, the basic physiological differences between males and females after puberty are readily apparent from the record books. No one doubts that top male and female high school athletes are equally committed to excelling in their sport, and train equally hard. Yet boys consistently run faster times than girls in the same events.

15. As Duke Law professor and All-American track athlete Doriane Coleman, tennis champion Martina Navratilova, and Olympic track gold medalist Sanya Richards-Ross recently wrote:

“The evidence is unequivocal that starting in puberty, in every sport except sailing, shooting and riding, there will always be significant numbers of boys and men who would beat the best girls and women in head-to-head competition. Claims to the contrary are simply a denial of science.”

“Team USA sprinter Allyson Felix has the most World Championship medals in history, male or female, and is tied with Usain Bolt for the most World Championship golds. Her lifetime best in the 400 meters is 49.26 seconds. In 2018 alone, 275 high school boys ran faster on 783 occasions. The sex differential is even more pronounced in sports and events involving jumping. Team USA's Vashti Cunningham has the American record for high school girls in the high jump at 6 feet, 4½ inches. Last year just in California, 50 high school boys jumped higher. The sex differential isn't the result of boys and men having a male gender identity, more resources, better training or superior discipline. It's because they have androgenized bodies.”<sup>7</sup>

16. As Professor Coleman further explained in testimony before the House Judiciary Committee on April 2, 2019, in track events even the world's best women's Olympic athletes “would lose to literally thousands of boys and men, including to thousands who would be considered second tier in the men's category.

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<sup>7</sup> Doriane Coleman, Martina Navratilova, et al., *Pass the Equality Act, But Don't Abandon Title IX*, Washington Post (Apr. 29, 2019), <https://wapo.st/2VKINN1>.

And because it only takes three male-bodied athletes to preclude the best females from the medal stand, and eight to exclude them from the track, it doesn't matter if only a handful turn out to be gender nonconforming.”<sup>8</sup>

17. This stark competitive advantage is equally clear at the high school level. To illustrate, the charts below show the best boys' and girls' times in the nation across five different high school track events during the 2019 season:

**Table 1: Best High School Outdoor 100m Times in 2019<sup>9</sup>**

<i>Boy</i>	<i>Time</i>	<i>Girl</i>	<i>Time</i>
Matthew Boling	9.98s	Briana Williams	11.02s
Micah Williams	10.21s	Tamari Davis	11.27s
Langston Jackson	10.23s	Arria Minor	11.31s
Joseph Fahnbulleh	10.23s	Taylor Gilling	11.32s
Kenan Christon	10.26s	Tianna Randle	11.32s
Ryan Martin	10.26s	De'anna Nowling	11.40s
Lance Broome	10.27s	Jasmine Riley	11.42s
Tyler Owens	10.29s	Kenondra Davis	11.45s
Marquez Beason	10.30s	Jazmine Hobson	11.48s
Jose Garcia	10.30s	Semira Killebrew	11.50s

**Table 2: Best High School Outdoor 200m Times in 2019<sup>10</sup>**

<i>Boy</i>	<i>Time</i>	<i>Girl</i>	<i>Time</i>
Kennedy Lightner	20.48s	Briana Williams	22.88s
Cameron Miller	20.52s	Tamari Davis	23.06s
Kenan Christon	20.55s	Kayla Davis	23.08s
Matthew Boling	20.58s	Taylor Gilling	23.10s
Kennedy Harrison	20.60s	Arria Minor	23.10s
Devon Achane	20.69s	Aaliyah Pyatt	23.11s
Lance Broome	20.69s	Rosaline Effiong	23.16s
Daniel Garland	20.73s	Dynasty McClennon	23.28s
Langston Jackson	20.73s	Jayla Hollis	23.36s
Garrett Shedrick	20.74s	Kenondra Davis	23.38s

<sup>8</sup> <https://bit.ly/2YIXGQD>.

<sup>9</sup> Results listed in this table are publicly available online at AthleticNET, <https://bit.ly/30uZwXl> (boys), and at AthleticNET, <https://bit.ly/30udh8k> (girls). These results were last updated June 17, 2019.

<sup>10</sup> *Id.* These results were last updated June 17, 2019.

**Table 3: Best High School Outdoor 400m Times in 2019<sup>11</sup>**

<i>Boy</i>	<i>Time</i>	<i>Girl</i>	<i>Time</i>
Justin Robinson	44.84s	Jan'Taijah Ford	51.57s
Jayon Woodard	46.26s	Britton Wilson	52.06s
Alex Collier	46.33s	Aaliyah Butler	52.25s
Jonah Vigil	46.43s	Talitha Diggs	52.82s
Zachary Larrier	46.49s	Alysia Johnson	53.18s
Omajuwa Etiwe	46.51s	Dynasty McClennon	53.25s
Sean Burrell	46.52s	Kimberly Harris	53.28s
Edward Richardson	46.55s	Ramiah Elliott	53.30s
Chris Dupree	46.57s	Meghan Hunter	53.35s
Emmanuel Bynum	46.60s	Bria Barnes	53.39s

**Table 4: Best High School Indoor 60m Times in 2019<sup>12</sup>**

<i>Boy</i>	<i>Time</i>	<i>Girl</i>	<i>Time</i>
Micah Williams	6.60s	Tamari Davis	7.27s
Lance Lang	6.62s	Briana Williams	7.28s
Marcellus Moore	6.65s	Thelma Davies	7.30s
Mario Heslop	6.70s	Moforehan Abinusawa	7.32s
Langston Jackson	6.74s	Semira Killebrew	7.34s
Javonte Harding	6.74s	Alexa Rossum	7.40s
LaCarr Trent	6.79s	Aliya Wilson	7.42s
Justin Robinson	6.79s	Kaila Jackson	7.44s
Bryan Santos	6.79s	Aja Davis	7.44s
Tre Tucker	6.80s	Arria Minor	7.44s

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<sup>11</sup> *Id.* These results were last updated June 17, 2019.

<sup>12</sup> Results listed in this table are publicly available online at AthleticNET, <https://bit.ly/2WLBR1K> (boys), and at AthleticNET, <https://bit.ly/2Ifj5eV> (girls). These results were last updated June 17, 2019.

**Table 5: Best High School Indoor 800m Times in 2019<sup>13</sup>**

<i>Boy</i>	<i>Time</i>	<i>Girl</i>	<i>Time</i>
Alfred Chawonza	110.57s	Athing Mu	123.98s
Malcolm Going	110.85s	Roisin Willis	125.70s
Miller Anderson	111.54s	Michaela Rose	126.93s
Luis Peralta	112.21s	Victoria Vanriele	127.24s
Jake Renfree	112.33s	Maggie Hock	127.68s
Liam Rivard	112.42s	Lily Flynn	128.15s
Conor Murphy	113.25s	Victoria Starcher	128.32s
Miguel Parrilla	113.41s	Aleeya Hutchins	128.52s
Darius Kipyego	113.43s	Sarah Trainor	128.60s
Theo Woods	113.53s	Makayla Paige	128.97s

18. Because of the basic physiological differences and resulting strongly statistically significant differences in athletic capability and performance between boys and girls after puberty, no one could credibly claim that a school satisfies its obligation to provide equal opportunities for girls for participation in athletics by providing, e.g., only co-ed track or wrestling teams and competitions, with sex-blind try-outs and qualification based strictly upon performance.<sup>14</sup>

19. Yet to an extent that has now proven material to Complainants and numerous other girls, and as detailed below, that is what a new policy recently adopted by the Connecticut Interscholastic Athletic Conference (“CIAC”) effectively does. This policy, and others like it, discriminate against girls and threaten to reverse the gains for girls and women that Title IX has achieved since 1972.

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<sup>13</sup> Results listed in this table are publicly available online at AthleticNET, <https://bit.ly/2IJ0nLT> (boys), and at AthleticNET, <https://bit.ly/2WDNY0J> (girls). These results were last updated June 17, 2019.

<sup>14</sup> See *Williams*, 988 F.2d at 175 (criticizing a scheme that in effect only afforded girls the opportunity to compete against boys); 44 Fed. Reg. at 71,415 (stating that the Department compares the “kinds of benefits, opportunities, and treatment afforded” boys and girls when it investigates Title IX violations).



## II. The Connecticut Interscholastic Athletic Conference And Its Discriminatory Policy

### A. The Connecticut Interscholastic Athletic Conference

20. The CIAC belongs to the Connecticut Association of Schools, a private, non-profit corporation.<sup>15</sup> As the state's only interscholastic athletic organization, CIAC "directs and controls" all high school athletics for boys and girls in Connecticut.<sup>16</sup>

21. CIAC membership is open to any public or private school in Connecticut.<sup>17</sup> Because it is the state's only interscholastic athletic association, "[v]irtually all public and parochial high schools in Connecticut are dues-paying members."<sup>18</sup> CIAC now boasts over 180 member-schools.<sup>19</sup> Each of those member-schools pays annual dues and helps govern the organization.<sup>20</sup> Glastonbury High School, which Selina attends, as well as the high schools attended by [Second Complainant] and Alanna,<sup>21</sup> receive federal funds covered by Title IX and are dues-paying members of CIAC.

22. CIAC falls under Title IX's requirements because it indirectly receives federal funding from its public member-schools, *see* 34 C.F.R. § 106.2(i),<sup>22</sup> and is considered a state actor, *see Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 303-305 (2001).

23. CIAC rightly deems athletics an "integral" part of the state's "total educational program."<sup>23</sup> CIAC declares that it seeks to offer athletic experiences that satisfy the highest "expectations for fairness, equity, and sportsmanship for all

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<sup>15</sup> CIAC Handbook 2018 - 2019, 31, <https://bit.ly/30icAiC>.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 32.

<sup>18</sup> About CIAC, <https://bit.ly/2VrJTTRA> (click "About" tab).

<sup>19</sup> CIAC Handbook, at 32.

<sup>20</sup> *Id.* at 32, 44.

<sup>21</sup> The high schools attended by [Second Complainant] and Alanna Smith are not named separately as defendants in this complaint.

<sup>22</sup> *Cf.* In re: Kentucky High School Athletic Association, Voluntary Resolution Agreement, OCR Docket Number 03121217 (Dec. 20, 2013), <https://bit.ly/2LwgLDR> (resolving OCR complaint against an interscholastic athletic association).

<sup>23</sup> CIAC Handbook, at 33.

student-athletes and coaches”<sup>24</sup> in order to maximize high school students’ “academic, social, emotional, and physical development.”<sup>25</sup>

24. CIAC coordinates and governs competition in 27 sports across three seasons each year.<sup>26</sup> CIAC designates some sports only for boys (e.g. football and baseball), different sports only for girls (e.g. volleyball and softball), and other sports for both boys and girls (e.g. swimming and track). For the latter sports, though, CIAC has historically separated teams and competitions at the high school level by sex, or at least prohibited boys from competing in the girls’ events.<sup>27</sup> The high school athletic events recognized by CIAC are as follows:

**Table 6**

<b>Boys’ Sports</b>		
<i>Fall</i>	<i>Winter</i>	<i>Spring</i>
Cross Country Football Soccer	Basketball Ice Hockey Indoor Track Swimming Wrestling	Baseball Golf Lacrosse Outdoor Track Tennis Volleyball

**Table 7**

<b>Girls’ Sports</b>		
<i>Fall</i>	<i>Winter</i>	<i>Spring</i>
Cross Country Field Hockey Soccer Swimming Volleyball	Basketball Gymnastics Indoor Track	Golf Lacrosse Softball Outdoor Track Tennis

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

B. CIAC Adopts a New Policy Allowing Boys to Compete in Girls' Events.

25. At some time before 2017, CIAC adopted a policy (“the CIAC Policy” or “the Policy”) pursuant to which CIAC and member-schools began allowing boys who claim a transgender identity to compete in girls’ athletic events. The CIAC Policy determines—and requires member-schools to determine—eligibility to compete in sex-specific athletic competitions solely based on “the gender identification of that student in current school records and daily life activities in the school.”<sup>28</sup>

26. In stark contrast to, e.g., the NCAA rules (which require that males seeking to compete in female athletic competitions be on testosterone-suppressing hormones for at least a full year prior to the competition),<sup>29</sup> the CIAC Policy does not require that males take testosterone-suppressing hormones *at all* in order to compete in girls’ athletic events.<sup>30</sup> To be clear, the CIAC permits males with all the hormonal and physiological advantages that come with male puberty and male levels of testosterone to enter and win in girls’ athletic competitions of all sorts, without any exceptions.

27. The Policy states that “the CIAC shall expect that, as a general matter, after the issue of gender identity has been addressed by the student and the school district, the determination shall remain consistent for the remainder of the student’s high school sports eligibility.”<sup>31</sup> In other words, a male who has competed in boys’ high school athletic events shall not thereafter compete in girls’ high school athletic events. However, as detailed later in this Complaint, CIAC and its member-schools have not abided by this provision, but have instead permitted male students to switch, from one season to the next, from competing in boys’ events to competing (and winning) in girls’ events.

28. The CIAC Handbook asserts that any other policy would be “contrary to applicable state and federal law.” This is not correct. As noted above, Title IX aims to counteract historic inequality of opportunity suffered by women based on their sex, and requires “equal opportunities based on *sex*”—not on subjective psychological states of mind. *See* Dear Colleague letter from Dept. of Educ., dated Jan. 16, 1996 (emphasis added).<sup>32</sup> And even if state law demanded that CIAC adopt

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<sup>28</sup> *Id.* at 54.

<sup>29</sup> NCAA Inclusion of Transgender Student-Athletes 13, <https://bit.ly/2JmbtJp>.

<sup>30</sup> CIAC Handbook, at 54.

<sup>31</sup> *Id.*

<sup>32</sup> <https://bit.ly/2WRMW22>.

this policy (it does not), a recipient’s “obligation to comply with [Title IX regulations] is not obviated by any State or local law....” 34 C.F.R. § 106.6(b).

### **III. CIAC’s Policy Has Resulted in Unequal Opportunities for Girls in Track and Field Competitions in Connecticut.**

29. As a result of CIAC’s policy, two biological males, Terry Miller and Andraya Yearwood, were permitted to compete in girls’ athletic competitions beginning in the 2017 track season. Between them, they have taken 15 women’s state championship titles (titles held in 2016 by ten different Connecticut girls) and have taken more than 40 opportunities to participate in higher level competitions from female track athletes in the 2017, 2018, and 2019 seasons alone. In this section, we detail this adverse impact on girls and young women.

30. To understand how opportunities to participate in higher levels of athletic competition are determined for student athletes, it is necessary to understand how CIAC has organized interscholastic track and field competition in Connecticut. First, all member schools are organized into 11 conferences. Based on performance within those conferences, students may qualify to advance to and participate in state “Class” championships, with schools grouped by size (S, M, L, and LL). Thus, for example, a student might win the “Class M Women’s Outdoor Track 100m” State championship. Next, the top-performing students within each State Class championship qualify to participate in the State Open championships, in which the top athletes in the state compete against each other regardless of the size of the school that they attend. And finally, the top performers in the State Open championships qualify to participate in the New England Championship.

31. All names, times, and other information provided in this section are taken from public sources, including Connecticut high school track records available on AthleticNET, at the web addresses indicated. The records of male athletes competing in women’s events are indicated with gray shading.

32. In 2017, Andraya’s *freshman* season, Andraya won CIAC’s Class M state championship in both the women’s outdoor 100m and 200m events:

**Table 8: 2017 CIAC Class M Women’s Outdoor Track 100m Results (May 30, 2017)<sup>33</sup>**

<i>Place</i>	<i>Grade</i>	<i>Sex</i>	<i>Name</i>	<i>Time</i>	<i>High School</i>
1*	9	M	Andraya Yearwood	12.66s	Cromwell
2*	11	F	Kate Hall	12.83s	Stonington
3*	11	F	Erika Michie	12.93s	Woodland
4*	10	F	Raianna Grant	13.17s	Waterbury Career Academy
5*	9	F	Se-raya Steward	13.18s	Kaynor Tech
6	12	F	Jon-yea McCooty	13.30s	Northwest Catholic
7	12	F	Libby Spitzchuh	13.35s	Valley Regional

\* Qualified for the State Open

**Table 9: 2017 CIAC Class M Women’s Outdoor Track 200m Results (May 30, 2017)<sup>34</sup>**

<i>Place</i>	<i>Grade</i>	<i>Sex</i>	<i>Name</i>	<i>Time</i>	<i>High School</i>
1*	9	M	Andraya Yearwood	26.08s	Cromwell
2*	11	F	Erika Michie	26.38s	Woodland
3*	11	F	Kate Hall	26.65s	Stonington
4*	11	F	Zora LaBonte	26.80s	Waterford
5*	11	F	Victoria Bower	27.05s	Rocky Hill
6	10	F	Raianna Grant	27.26s	Waterbury Career Academy
7	10	F	Sheena Wolliston	27.30s	Northwest Catholic

\* Qualified for the State Open.

33. But for CIAC’s policy that allows biological males to compete in girls-only events, Kate Hall and Erika Michie would each have won first place in the Class M championship in one of these events in 2017. In 2016, two different girls did win these titles.

34. Because only the top five finishers in each event qualified to participate in the State Open championship, CIAC’s decision to permit Andraya Yearwood to compete in these girls’ events deprived Jon-yea McCooty and Raianna Grant of the opportunities that they had rightfully earned to compete in the State Open championship.

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<sup>33</sup> AthleticNET, <https://bit.ly/2Edvb5R>.

<sup>34</sup> *Id.*



35. When one girl was asked about her loss, she said, “I can’t really say what I want to say, but there’s not much I can do about it.”<sup>35</sup> Complainants believe that it is starkly contrary to the terms, spirit, and goals of Title IX to tolerate a policy which first deprives a girl of an opportunity to participate in elite competition which she has rightfully earned, and then additionally intimidates her into silence about the injustice she has suffered. Nevertheless, Complainants, too, have felt both the injustice and the sense of intimidation and silencing that this girl expressed.

36. Under CIAC’s Policy, Andraya advanced to the 2017 State Open Women’s Outdoor Track competition, where—still a freshman—Andraya again deprived a girl of a statewide title and opportunity to advance to still higher levels of competition that she had rightfully earned. But for CIAC’s policy, Chelsea Mitchell would have qualified to participate in the New England Championship:

**Table 10: 2017 CIAC State Open Women’s Outdoor Track 100m Results (June 5, 2017)<sup>36</sup>**

<i>Place</i>	<i>Grade</i>	<i>Sex</i>	<i>Name</i>	<i>Time</i>	<i>High School</i>
1*	12	F	Caroline O’Neil	12.14s	Daniel Hand
2*	12	F	Kathryn Kelly	12.36s	Lauralton Hall
3*	9	M	Andraya Yearwood	12.41s	Cromwell
4*	11	F	Tia Marie Brown	12.44s	Windsor
5*	12	F	Kiara Smith	12.59s	Jonathan Law
6*	11	F	Kate Hall	12.62s	Stonington
7	9	F	Chelsea Mitchell	12.69s	Canton
8	12	F	Tiandra Robinson	FS	Weaver

\* Qualified for the New England Championship.

37. In the Winter 2017, Spring 2017, and Winter 2018 seasons, a male freshman named Terry Miller competed in *boys’* indoor or outdoor track events, and did not advance to any state class or open championships. In the Spring 2018 outdoor track season, however, Terry abruptly appeared competing in the *girls’* events. Terry’s switch to competing in the girls’ events immediately and systematically deprived girls of opportunities to advance and participate in state-level competition. According to AthleticNET records, Terry has never lost a women’s indoor 55m or 300m final.<sup>37</sup> Nor has Terry lost a women’s outdoor 100m final in

<sup>35</sup> Jeff Jacobs, *As We Rightfully Applaud Yearwood, We Must Acknowledge Many Questions Remain*, Hartford Courant (Jun. 1, 2017), <https://bit.ly/2qEfps0>.

<sup>36</sup> AthleticNET, <https://bit.ly/2EbAXoO>.

<sup>37</sup> Terry Miller, Track & Field Bio, AthleticNET, <https://bit.ly/2Q4VbFv>.

which Terry completed.<sup>38</sup> Terry has displaced a girl in every elimination track event that Terry completed.

38. At last year's State Outdoor Open, for example, Terry won the women's 100m event by a wide margin, while Andraya finished second. But for CIAC's policy, Bridget Lalonde would have won first place statewide, Chelsea Mitchell would have won second place statewide, and Tia Marie Brown and Ayesha Nelson would have gained the opportunity to compete in the New England Championship:

**Table 11: 2018 CIAC State Open Championship Women's Outdoor Track 100m Results (June 4, 2018)<sup>39</sup>**

<i>Place</i>	<i>Grade</i>	<i>Sex</i>	<i>Name</i>	<i>Time</i>	<i>High School</i>
1*	10	M	Terry Miller	11.72s	Bulkeley
2*	10	M	Andraya Yearwood	12.29s	Cromwell
3*	11	F	Bridget Lalonde	12.36s	RHAM
4*	10	F	Chelsea Mitchell	12.39s	Canton
5*	11	F	Maya Mocarski	12.47s	Fairfield Ludlowe
6*	10	F	Selina Soule	12.67s	Glastonbury
7	12	F	Tia Marie Brown	12.71s	Windsor
8	11	F	Ayesha Nelson	12.80s	Hillhouse

\* Qualified for the New England Championship.

39. The 2019 State Indoor Open saw similar results and a similar impact. Terry and Andraya finished first and second respectively in both the preliminary and final Women's 55m races, each time defeating the fastest girl by a wide margin. But for CIAC's policy, Selina Soule and Kisha Francois would have advanced to the final with an opportunity to compete for both a state title and a spot in the New England Championship; Chelsea Mitchell would have won the 2019 state championship and Kate Shaffer would have won second place; and seventh-place senior Cori Richardson would have qualified for the New England Championship:

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<sup>38</sup> *Id.*

<sup>39</sup> AthleticNET, <https://bit.ly/2VonRdz>. A video of this race can be found on GameTimeCT's Twitter page at the following link: <https://bit.ly/2VGkbZn>.



**Table 12: 2019 CIAC State Open Championship Women's Indoor Track 55m Preliminary Results (February 16, 2019)<sup>40</sup>**

<i>Place</i>	<i>Grade</i>	<i>Sex</i>	<i>Name</i>	<i>Time</i>	<i>High School</i>
1*	11	M	Terry Miller	7.00s	Bloomfield
2*	11	M	Andraya Yearwood	7.07s	Cromwell
3*	12	F	Cori Richardson	7.24s	Windsor
4*	11	F	Chelsea Mitchell	7.27s	Canton
5*	12	F	Kate Shaffer	7.27s	Conard
6*	12	F	Ayesha Nelson	7.29s	Hillhouse
7*	12	F	Maya Mocarski	7.34s	Fairfield Ludlowe
8	11	F	Selina Soule	7.37s	Glastonbury
9	10	F	Kisha Francois	7.41s	East Haven

\* Qualified for the women's 55m final.

**Table 13: 2019 CIAC State Open Championship Women's Indoor Track 55m Final Results (February 16, 2019)<sup>41</sup>**

<i>Place</i>	<i>Grade</i>	<i>Sex</i>	<i>Name</i>	<i>Time</i>	<i>High School</i>
1*	11	M	Terry Miller	6.95s	Bloomfield
2*	11	M	Andraya Yearwood	7.01s	Cromwell
3*	11	F	Chelsea Mitchell	7.23s	Canton
4*	12	F	Kate Shaffer	7.24s	Conard
5*	12	F	Ayesha Nelson	7.26s	Hillhouse
6*	12	F	Maya Mocarski	7.33s	Fairfield Ludlowe
7	12	F	Cori Richardson	7.39s	Windsor

\* Qualified for the New England Championship.

40. The trend continued at the 2019 State Outdoor Open as Terry easily won the Women's 200m race. But for CIAC's policy, Cori Richardson would have won the state championship, Alanna Smith would have finished runner-up, and Olivia D'Haiti would have advanced to the New England Championship:

<sup>40</sup> AthleticNET, <https://bit.ly/2JmZyLh>.

<sup>41</sup> *Id.*



**Table 14: 2019 CIAC State Open Championship Women's Outdoor Track 200m Final Results (June 3, 2019)<sup>42</sup>**

<i>Place</i>	<i>Grade</i>	<i>Sex</i>	<i>Name</i>	<i>Time</i>	<i>High School</i>
1*	11	M	Terry Miller	24.33s	Bloomfield
2*	12	F	Cori Richardson	24.75s	Windsor
3*	9	F	Alanna Smith	25.01s	Danbury
4*	11	F	Chelsea Mitchell	25.24s	Canton
5*	12	F	Nichele Smith	25.38s	East Hartford
6*	12	F	Bridget Lalonde	25.55s	RHAM
7	12	F	Olivia D'Haiti	25.63s	Kolbe-Cathedral

\* Qualified for the New England Championship.

41. Considering the seven important state-level competitive events summarized in the tables above together with the parallel boys' competitions in these same seven events at these same meets, we find that the result of the CIAC Policy was that males took first place in 13 out of 14 events, while girls received only one first place recognition (Caroline O'Neil in the 200 meter State Open Women's race on June 5, 2017). Males took 23 out of 28 first and second place awards in those seven state-level competitive events. And from these competitions, boys were awarded 51 opportunities to participate in a higher-level state competition, while girls were awarded only 31 such opportunities—little more than half as many as went to boys.

42. Nor are these isolated examples. The presence of boys competing in CIAC girls' track and field events in Connecticut has now deprived many girls of opportunities to achieve public recognition, a sense of reward for hard work, opportunities to participate in higher level competition, and the visibility necessary to attract the attention of college recruiters and resulting scholarships. The impact summary below identifies over 50 separate times in competitions since 2017 that specific, identifiable girls have been denied the recognition of being named state-level first-place champions, and/or have been denied the opportunity to advance and participate in higher-level competition, in CIAC-sponsored events as a result of the unfair participation of Terry Miller and Andraya Yearwood in girls' track competitions pursuant to the CIAC Policy.

43. In sum, the real-world result of the CIAC Policy is that in Connecticut interscholastic track competitions, while highly competitive girls are experiencing

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<sup>42</sup> AthleticNET, <https://bit.ly/31vnCRY>.

the no doubt character-building “agony of defeat,” they are systematically being deprived of a fair and equal opportunity to experience the “thrill of victory.”

**Table 15**

CIAC's Policy Impact Summary					
2019 Outdoor Track Season					
<i>Athlete</i>	<i>School</i>	<i>Meet</i>	<i>Event</i>	<i>Denied State Championship</i>	<i>Denied Participation</i>
Chelsea Mitchell	Canton	Class S	100m	X	
Ashley Nicoletti	Immaculate	Class S	100m		X
Annabelle Shanks	Litchfield	Class S	100m		X
Olivia D'Haiti	Kolbe-Cathedral	Class S	100m		X
Sheena Wolliston	Northwest Catholic	Class S	100m		X
Chelsea Mitchell	Canton	Class S	200m	X	
Brianna Westberry	Capital Prep	Class S	200m		X
Shelby Dejana	Wilton	Open	100m		X
Alisia Munoz	Kolbe-Cathedral	Open	100m		X
Carly Swierbut	Newtown	Open	100m		X
Cori Richardson	Windsor	Open	200m	X	
Olivia D'Haiti	Kolbe-Cathedral	Open	200m		X
2019 Indoor Track Season					
Chelsea Mitchell	Canton	Class S	55m	X	
Sheena Wolliston	Northwest Catholic	Class S	55m		X
Audrey Strmiska	Griswold	Class S	55m		X
Jillian Mars	Bloomfield	Class S	300m	X	
Chelsea Mitchell	Canton	Open	55m	X	
Cori Richardson	Windsor	Open	55m		X
Selina Soule	Glastonbury	Open	55m		X
Jillian Mars	Bloomfield	Open	300m	X	
Shante Brown	Bloomfield	Open	300m		X
2018 Outdoor Track Season					
Nikki Xiarhos	Berlin	Class M	100m	X	
Kate Hall	Stonington	Class M	100m		X
Magnalen Camara	Amisted	Class M	100m		X
Noelle Konior	Berlin	Class M	100m		X
Nikki Xiarhos	Berlin	Class M	200m	X	
Kate Hall	Stonington	Class M	200m		X
Nyia White	Hillhouse	Class M	200m		X
Addie Hester	Northwestern	Class M	400m		X
Jada Boyd	Hillhouse	Class M	400m	X	



Zora LaBonte	Waterford	Class M	400m		X
Bridget Lalonde	RHAM	Open	100m	X	
Tia Marie Brown	Windsor	Open	100m		X
Ayesha Nelson	Hillhouse	Open	100m		X
KC Grady	Darien	Open	100m		X
Nikki Xiarhos	Berlin	Open	100m		X
Bridget Lalonde	RHAM	Open	200m	X	
Jillian Mars	Bloomfield	Open	200m		X
Dominique Valentine	Immaculate	Open	400m		X
2018 Indoor Track Season					
Patricia Jurkowski	Seymour	Class S	55m	X	
Ahyvon Evans	Grasso Tech	Class S	55m		X
Chelsea Mitchell	Canton	Class S	300m		X
Haley Bothwell	Sacred Heart	Class M	55m		X
Patricia Jurkowski	Seymour	Open	55m		X
Bridget Lalonde	RHAM	Open	55m		X
Camille McHenry	Windsor	Open	300m		X
2017 Outdoor Track Season					
Kate Hall	Stonington	Class M	100m	X	
Jon'yea McCooty	Northwest Catholic	Class M	100m		X
Carly Gable	Northwestern	Class M	100m		X
Erika Michie	Woodland	Class M	200m	X	
Raianne Grant	WCA	Class M	200m		X
Erica Marriott	North Haven	Open	100m		X

44. These charts are examples, and do not include over 40 more missed championships, recognitions, and participation opportunities for girls in Connecticut who did not advance to or receive runner-up recognition in statewide competitions as well as girls who did not win or receive runner-up recognition in conference championships.

#### **IV. CIAC Has Exhibited Willful Indifference to the Discriminatory Effect of its Policy, and Has Engaged in Intimidation and Retaliation.**

45. Title IX prohibits “[r]etaliation against a person because that person has complained of sex discrimination”—regardless of whether that individual was herself the victim of the original discrimination. *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167, 173 (2005).

46. CIAC has consistently shown indifference to even specific complaints about the discriminatory impact of its Policy on girls in Connecticut athletics. For example, [Second Complainant's Mother], mother of [Second Complainant], has contacted CIAC multiple times explaining and complaining about the discriminatory impact of the Policy, but CIAC has consistently failed to provide any substantive response, and Connecticut school officials discouraged [Second Complainant's Mother] from filing a Title IX complaint.

47. [Second Complainant's Mother] first wrote a letter to CIAC after the 2018 women's indoor track State Open, complaining about CIAC's policy. (Attached as Exhibit B.) On March 10, 2018, CIAC officials informed her in a conclusory email that they would not change their policy. On January 24, 2019, [Second Complainant's Mother] sent a second letter to CIAC requesting that it change its Policy so as to avoid denying girls fair opportunities for competition and advancement to elite competition. (Attached as Exhibit C.) In response, CIAC's executive director, Glenn Lungarini, indicated that only school or organization officials may request a rule change.

48. In February, [Second Complainant's Mother] met with Mr. Lungarini. He informed her that CIAC had no plans to change its policy that allows biological males to compete in girls-only athletic events. In early March, [Second Complainant's Mother] met with the Title IX coordinator of her daughter's school, who in turn contacted Dr. Adrian Wood, the state Title IX coordinator at the Connecticut Department of Education. Dr. Wood asserted that CIAC was just following state law and told [Second Complainant's Mother] that filing a Title IX complaint would not change anything.

49. In late March, following more races in which the participation of boys in the girls' track events deprived girls of opportunities for victories and advancement to participate in higher level competitions, [Second Complainant's Mother] again contacted Mr. Lungarini of the CIAC to complain of this discrimination against girls, and to request that CIAC find some solution. Far from responding and taking [Second Complainant's Mother]'s complaint of discrimination based on sex seriously, Mr. Lungarini told [Second Complainant's Mother] that he would no longer accept any communications from her, effectively imposing a gag order and denying her right to complain of sex-based discrimination.

50. Selina Soule's mother, Bianca Stanescu, has likewise complained multiple times to officials of CIAC and of the Glastonbury School District in which her daughter is a student that CIAC's policy is discriminatory and deprives girls of equal opportunities to participate in elite competition. Both CIAC and Glastonbury School District officials have refused to acknowledge that the Policy results in any discrimination against girls, and have refused to discuss any change or correction to that Policy.

51. On an ongoing basis, Selina fears retaliation. As she has explained, “Everyone is afraid of retaliation from the media, from the kids around their school, from other athletes, coaches, schools, administrators . . . They don’t want to drag attention to themselves, and they don’t want to be seen as a target for potential bullying and threats.”<sup>43</sup>

52. Another female Connecticut high school athlete who was too afraid of retaliation to let her name be used expressed the same fear:

“There’s really nothing else you can do except get super frustrated and roll your eyes, because it’s really hard to even come out and talk in public just because . . . just immediately you’ll just be shut down.”<sup>44</sup>

53. Unfortunately, Selina perceives that since her parents complained of sex discrimination to school officials, Selina has experienced actual retaliation, as her track coach has forced her to perform workouts that are not generally applied for short-distance sprinters, and has forbidden her from competing in *any* high school track and field event unless she completes them. The coach has never imposed that kind of condition on Selina before. Worse, a coach told Selina and her father that if a college recruiter asked him about Selina, “he would not be able to give a good report about her.”

## V. Relevant Title IX Legal Standards

54. Title IX requires equal athletic opportunities for male and female athletes. To determine whether those equal opportunities exist, the Department considers multiple listed factors including “[w]hether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes” and whether equality in “Publicity” is accorded to female athletes and athletics, but the enumerated factors are not exclusive. 34 C.F.R. § 106.41(c).

55. Courts and the Department summarize 34 C.F.R. § 106.41(c) as requiring both “effective accommodation” and “equal treatment.” *Biedinger v. Quinnipiac Univ.*, 691 F.3d 85, 92 (2d Cir. 2012).

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<sup>43</sup> See, e.g., Kelsey Bolar, *8th Place: A High School Girl’s Life After Transgender Students Join Her Sport*, The Daily Signal (May 6, 2019), <https://dailysign.al/2Yauemi>.

<sup>44</sup> *Id.*

56. The effective accommodation mandate requires that recipients offer boys and girls equal “opportunit[ies] to participate in athletics.” *Mansourian v. Regents of Univ. of Cal.*, 602 F.3d 957, 965 (9th Cir. 2010); see *Boucher v. Syracuse Univ.*, 164 F.3d 113, 115 n. 1–2 (2d Cir. 1999). A recipient may demonstrate compliance with the effective accommodation mandate by demonstrating that participation opportunities for male and female athletes are provided in numbers substantially proportionate to their respective enrollments.<sup>45</sup>

57. The equal treatment mandate requires that recipients give boys and girls equal “athletic benefits and opportunities.” *Mansourian*, 602 F.3d at 964–65.<sup>46</sup> This requirement forbids “sex-based differences in the schedules, equipment, coaching, and other factors.” *Id.* at 965; see *Boucher*, 164 F.3d at 115 nn.1–2.

## **VI. The CIAC Policy Violates Title IX in Numerous Distinct Ways.**

1. CIAC’s policy violates Title IX’s mandate that recipients offer boys and girls equal athletic participation opportunities when it allows biological males to displace girls from advancement in post-season competition, resulting in larger numbers of boys than girls having the opportunity to qualify for and participate in those competitions.<sup>47</sup> The Policy does not result in girls similarly displacing boys from post-season advancement opportunities in boys’ track events. So while CIAC structures post-season competition so that boys and girls nominally have equivalent post-season advancement opportunities, in fact, the opposite is true.

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<sup>45</sup> See *Neal*, 198 F.3d at 767; 44 Fed. Reg. at 71,418 (1979). *Neal* addressed collegiate athletics. However, the Department has stated that the test set out in *Neal* also applies to high schools. Letter from Sec. of Educ. to Mr. Steven Gieseler, dated March 27, 2008, at p. 2, <https://bit.ly/31GQmYm>.

<sup>46</sup> A recipient may violate Title IX “solely by failing to accommodate effectively the interests and abilities of student athletes of both sexes, even if athletic benefits are provided on an equal basis, and vice versa.” *Id.* at 965 (quoting *Kelley v. Bd. of Trs.*, 35 F.3d 265, 268 (7th Cir. 1994)).

<sup>47</sup> 44 Fed. Reg. at 71,416 (stating that Title IX ensures equal opportunities for boys and girls “to engage in available ... post-season competition”); See *McCormick*, 370 F.3d at 294 (explaining that a policy that gives boys more post-season opportunities than girls in the same sport “[w]ithout a doubt ... has a negative impact on girls” and that this disparity alone is “substantial enough” to violate 34 C.F.R. § 106.41(c)’s equal-treatment mandate when boys do not suffer a similar disadvantage).

2. The CIAC Policy violates Title IX's mandate that recipients offer boys and girls equal athletic participation opportunities when it allows biological males to displace girls from championship positions in girls' track events, depriving girls of equal opportunities to be champions.<sup>48</sup> The Policy does not result in girls similarly displacing boys from championship positions in boys' track events. So while CIAC structures post-season competition so that boys and girls nominally have equivalent championship opportunities, in fact, the opposite is true.
3. The CIAC Policy violates Title IX's mandate that recipients effectively accommodate high school girls' athletic abilities when it forces girls to compete against biological males in a sport in which boys broadly outperform girls due to well-established physiological differences and performance advantages.<sup>49</sup>
4. The CIAC Policy violates Title IX's mandate that recipients offer boys and girls equal-in-kind athletic opportunities when it effectively creates boys-only events for boys but only co-ed events for girls.<sup>50</sup>
5. The CIAC Policy violates Title IX's mandate that recipients offer boys and girls equal-in-kind athletic opportunities when it allows boys to experience fair competition but denies the same experience to girls.<sup>51</sup>
6. The CIAC Policy violates Title IX's mandate that recipients offer boys and girls equal-in-kind athletic opportunities when it allows boys to experience public recognition of victory and achievement but disproportionately denies the same experience to girls.<sup>52</sup>

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<sup>48</sup> See *McCormick*, 370 F.3d at 295 (“Treating girls differently regarding a matter so fundamental to the experience of sports—the chance to be champions—is inconsistent with Title IX’s mandate of equal opportunity for both sexes.”).

<sup>49</sup> See 44 Fed. Reg. at 71,414 (recognizing that recipients must “accommodate effectively the athletic ... abilities of women as well as men”).

<sup>50</sup> See *Mansourian*, 602 F.3d at 964-65 (stating that Title IX promises boys and girls equal “kinds” of “athletic benefits and opportunities”); *Williams*, 988 F.2d at 175 (criticizing a scheme that in effect only afforded girls the opportunity to compete against boys); 44 Fed. Reg. at 71,415 (stating that the Department compares the “kinds of benefits, opportunities, and treatment afforded” boys and girls when it investigates Title IX violations).

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

7. The CIAC Policy violates Title IX's mandate that recipients offer boys and girls equal opportunities to receive "publicity" when it deprives them of equal opportunities to win championships and to advance to the higher post-season competitions that provide precisely the publicity which gives girls opportunities to attract the attention of college recruiters and thus opportunities for both college admission and scholarships. In effect, CIAC's policy makes girls invisible to media, college recruiters, and other interested audiences.<sup>53</sup>
8. CIAC violated Title IX when it banned communications with [Second Complainant's Mother] after she complained about CIAC's sex discrimination. That act constituted retaliation. *See Jackson*, 544 U.S. at 173 *supra*.
9. Glastonbury High School violated Title IX when it imposed unusual conditions on Selina Soule's eligibility to compete in high school women's track events after she publicly criticized CIAC's sex discrimination. That act constituted retaliation. *See id.*
10. Glastonbury High School violates Title IX when it refuses to demand that CIAC change its discriminatory policy and thus fails to seek correction and equal treatment for its female athletes.<sup>54</sup>

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<sup>53</sup> *See* 34 C.F.R. § 106.41(c)(10) (requiring equal "publicity" opportunities for male and female athletes); 44 Fed. Reg. at 71,414 (same). *See also* 44 Fed. Reg. at 71,417 (forbidding recipients from offering unequal athletic "benefits" or "opportunities that "have a disproportionately limiting effect upon the recruitment of students of either sex"). *Cf. Pederson v. La. State Univ.*, 213 F.3d 858, 865 n.4 (5th Cir. 2000) (recognizing that Title IX requires "equal provision of athletic scholarships ... among the sexes"); *Beasley v. Ala. State Univ.*, 966 F. Supp. 1117, 1122 (M.D. Ala. 1997) (same). The rule in *Pederson* and *Beasley* implicitly means that Title IX forbids interscholastic athletic associations from adopting a policy that denies girls equal access to college recruitment and scholarship opportunities.

<sup>54</sup> *See* 34 C.F.R. § 106.6(c) (stating that recipients' "obligation to comply with [Title IX regulations] is not obviated or alleviated by any rule or regulation of any ... athletic ... association"); 44 Fed. Reg. at 71,422 (placing affirmative duty on athletic association member-schools to "resolve collectively any ... Title IX ... problems [that come] from association rules").



## **VII. Request for Intervention and Relief**

1. Complainants respectfully request that the Office of Civil Rights investigate the violations of Title IX described in this Complaint. For all the reasons detailed above, Complainants believe that the OCR should find that the CIAC and its member schools are denying girls equal opportunities for participation and success in athletic activities, in violation of Title IX, as a result of the CIAC Policy and its member schools' enforcement or toleration of that Policy.

2. Prompt investigation and remedy is critical. While CIAC's 2019 outdoor track season just wrapped up, a new track and field season starts this winter; Complainants still must compete against biological males; and Connecticut girls stand to lose even more possible opportunities, recognitions, scholarships, and other benefits because of CIAC's discriminatory Policy.

3. Complainants respectfully suggest that an effective remedy must include at least:

- a. An order requiring CIAC to revise its rules to exclude individuals who are in all physiological and hormonal respects males from participating in girls' or women's athletic competitions;
- b. An order requiring CIAC to issue revised records of all girls' athletic competitions from 2017 to the present in which any biological male participated who would have been disqualified by application of (a) above, removing such individuals from any list of winners or qualifiers for participation in any further competition;
- c. An order requiring CIAC to issue a press release naming and giving proper credit—including championship credit as appropriate—to every girl who would have been identified as a champion or as qualifying for participation in a higher-level competition but for the participation in any meet of any biological male who would have been disqualified by application of (a) above; and
- d. A declaration that Title IX neither permits nor requires CIAC's Policy that allows biological males to compete in high school women's athletic events.

4. These remedies would obviously remain incomplete, as those girls who were deprived of opportunities to qualify for and participate in state and New England meets cannot have those opportunities restored to them.

5. In the end, Complainants and countless other girls in Connecticut want a fair shot to compete and participate in the sports they love, with just as many opportunities as the boys to win, to participate in elite-level competitions, and to achieve their dreams. Title IX promises them exactly that.

Respectfully,

A handwritten signature in black ink, appearing to read "Roger Brooks".

Roger G. Brooks  
Jacob P. Warner  
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cholcomb@adflegal.org

**Exhibit A**  
**Discrimination Complaint Form**

1. Name of persons filing this complaint:

Roger G. Brooks, Counsel for Complainants  
ALLIANCE DEFENDING FREEDOM  
15100 N. 90th St.  
Scottsdale, AZ 85260  
(480) 444-0020  
rbrooks@adflegal.org

Bianca Stanescu, on behalf of her minor daughter Selina Soule

[REDACTED]

[Second Complainant]

Cheryl Radachowsky, on behalf of her minor daughter Alanna Smith

[REDACTED]

2. Name of persons discriminated against:

Selina Soule

[Second Complainant]

[REDACTED]

[Second Complainant's  
Mother]

Alanna Smith

[REDACTED]

3. Institutions or agencies that engaged in discrimination:

Connecticut Interscholastic Athletic Conference

30 Realty Drive  
Cheshire, CT 06410

Glastonbury Public Schools  
628 Hebron Avenue  
P.O. Box 191  
Glastonbury, CT 06033-2361

4. Basis for complaint:

Discrimination based on sex and retaliation.

5. Discriminatory acts:

Please see the summary of known discriminatory acts in the accompanying complaint letter.

6. Most recent date of discrimination:

Up to the present. The Complainants allege that CIAC and Glastonbury Public Schools are engaged in a pattern and practice of sex discrimination and retaliation and are committing a continuing violation of Title IX.

7. Waiver for violations more than 180 days ago: Not applicable.

8. While Complainants have attempted to resolve these allegations with the institution through the discussions and correspondence detailed in the accompanying letter complaint, Complainants have not attempted to resolve these allegations through a formal internal grievance procedure, appeal, or due process hearing.

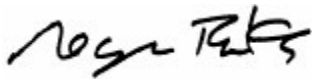
9. Complainants have not filed the allegations contained in this complaint with any other federal, state, or local civil rights agency, or any federal or state court.

10. Alternative contact information is not required.

11. Requested relief:

Complainants ask that the Office of Civil Rights investigate CIAC and its member schools, including Glastonbury Public Schools, and any other entity that has denied Complainants athletic opportunities on a discriminatory basis or retaliated against them for engaging in protected activity. Complainants ask that the Office of Civil Rights take all authorized actions, including those detailed in Section VII of the accompanying letter complaint, to correct the discrimination in athletic opportunities based on sex that Selina Soule, [Second Complainant], and Alanna Smith continue to experience.

12. Signatures:



06/17/2019

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Roger G. Brooks  
Alliance Defending Freedom

---

Date



06/17/2019

---

Bianca Stanescu, on behalf of her  
minor child, Selina Soule

---

Date

[Second Complainant's Mother]

06/17/2019



06/17/2019

---

Cheryl Radachowsky, on behalf of her  
minor child, Alanna Smith

---

Date