COLLISION OF RIGHTS

DO TRANSGENDER ATHLETE CASES EXPAND OR CHALLENGE THE PURPOSE OF TITLE IX?

BY KATHRYN HANCOCK

*From **Title IX** to **West Virginia v. B.P.J.** and **Little v. Hecox**, the Supreme Court faces a new chapter in the ongoing struggle over equality, fairness, and access in athletics for women.*

The summer of 2026 may mark a significant constitutional moment in women's athletics as the Supreme Court of the United States (SCOTUS) considers West Virginia v. B.P.J.[1] and Little v. Hecox.[2] Both cases address whether state laws such as West Virginia's "Save Women's Sports Act," which bars transgender girls from competing on female athletic teams, violate Title IX or the Equal Protection Clause of the Fourteenth Amendment.

For more than five decades, Title IX has shaped women's access to athletics, but today's cases ask how far its protections extend when claims of gender identity, sex-based classifications, and competitive fairness collide.

Title IX prohibits sex discrimination in federally funded education programs, but the statute does not define "female" or "male." That silence has produced significant legal disputes involving transgender girls in athletics, bathrooms, scholarships, and other sex-separated spaces. One side argues that "female" under Title IX was historically understood to mean biological sex, not gender identity, and that women's athletic opportunities depend on preserving the biological definition. The other side argues that discrimination against transgender individuals is a form of sex discrimination and that transgender girls should be protected under Title IX. Because Congress did not clearly define these issues in the original statute, the courts must interpret the meaning of "sex" and "female" while balancing civil rights protections, fairness in athletics, privacy concerns, and equal access. As a result, the courts, states, and sporting committees continue to reach varying conclusions, leaving the legal definition and application of "female" under Title IX to remain contested and unresolved.

A recent example from earlier this year is when the International Olympic Committee revised its eligibility standards for women's events, limiting participation in female

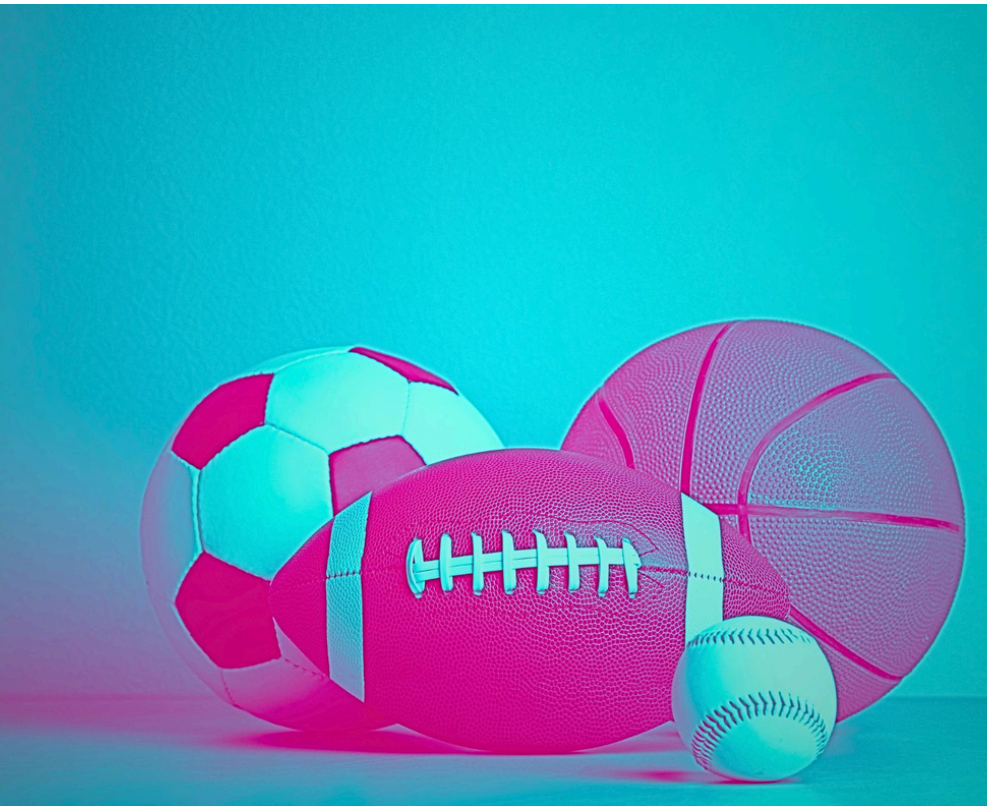
categories at the Olympic Games and other IOC competitions to biological females, as determined through a one-time SRY gene screening. The change followed a 2025 policy announcement by the Trump Administration directing the United States to support female sports participation based on biological sex rather than gender identity or testosterone standards. The policy also called for withdrawing federal funding from educational programs viewed as limiting fair athletic opportunities for women and girls, while encouraging the International Olympic Committee to adopt eligibility standards consistent with that position.

Opponents of the Trump administration's position argue that gender identity should determine participation and aligns with modern understandings of equality and anti-discrimination law. Supporters of the Trump administration's position argue "that biological differences may create competitive imbalances," potentially undermining the very protections Title IX was designed to ensure. This conflict illustrates a core tension in civil rights law, where expanding rights for one group may be perceived as limiting rights for another. It is the fundamental question SCOTUS is now tasked with answering this summer: Is the inclusion of transgender athletes an extension of past civil rights victories that women fought so hard for, or does it introduce a competing set of civil rights that infringes on sex-based protections for female athletes?

This is not the first time women's athletics have been the source of a gender-based civil rights conflict. Long before Title IX, women faced significant barriers simply to participate in sports. An early example occurred at the Boston Marathon in 1966, when Bobbi Gibb became the first woman to unofficially complete the race after being denied entry because females were thought to be physically incapable of running long distances. Gibb not only challenged this assumption but finished

ahead of two-thirds of the male runners, with an impressive time of 3:21:40. The following year, Kathrine Switzer entered the Boston Marathon unofficially as a woman but with an official bib number and was confronted mid-race by officials who attempted to physically remove her from the course. Despite this, Switzer completed the race in 4 hours and 20 minutes, challenging race officials' entrenched beliefs about women's physical limitations. Gibbs and Switzer's resistance to institutional rules and societal assumptions about women's physical abilities ultimately led to structural change, and by 1972, women were officially allowed to compete in the Boston Marathon.

That same year, Congress enacted Title IX and, while transformative, the law's implementation soon generated new disputes over its scope and application. In *Grove City College v. Bell* (1984)[3], the Supreme Court narrowed Title IX's reach, ruling that it applied only to specific programs receiving federal funding rather than entire institutions. This decision significantly limited protections for female athletics. In response, Congress passed the Civil Rights Restoration Act of 1987, restoring broader coverage and reaffirming a more expansive vision of equality for women and girls.



The 1990s brought about important legal and cultural shifts in women's athletics as women increasingly sought access to traditionally male-dominated sports. Advocates argued that where girls' teams did not exist, exclusion from boys' teams violated Title IX. Courts were forced to confront whether equal opportunity required integration or the creation of separate programs. Cases such as *Cohen v. Brown University* (1996)[4] strengthened Title IX by requiring that athletic opportunities be proportionate to student enrollment. Similarly, *Mercer v. Duke University* (1999)[5] reinforced that women could not be excluded from participation based solely on gender.

At the high school level, girls began entering sports such as wrestling and football, often as the only female participants on all-male teams. Such instances were rare, but they were not without social consequences. Female athletes who entered male-dominated sports often faced stigma and resistance from coaches, teammates, and opponents. While male athletes encountered a "no-win" scenario, where losing to a girl invited ridicule and winning was dismissed as expected. Over time, many states responded by creating separate girls' teams, such as girls' wrestling championships in Hawai'i (1998) and Texas (1999).

Since then, women have increasingly broken barriers in traditionally male professional sports, including baseball, hockey, and football. Some women have

been drafted by or played in men's professional leagues, while others have held significant roles as goalkeepers, contact-position players, and coaches. However, most athletics remain divided by sex, even though Title IX itself does not specifically define "female" or "male." This creates a difficult legal question for today's debate over whether allowing transgender girls to compete in female sports advances equality and inclusion, or whether it undermines the sex-based protections designed to preserve fair opportunities for female athletes.

Ultimately, the Supreme Court's decisions in *West Virginia v. B.P.J.* and *Little v. Hecox* will shape the next chapter in the history of female sports. Like earlier disputes, these cases will not eliminate conflict but will redefine its boundaries. Civil rights progress often involves competing claims to equality, and this issue is no exception. Whether the Court prioritizes inclusion, competitive fairness, or a balance of both, its rulings will have lasting implications for how society defines gender, equality, and access to women's athletics.

What You Can Do

As the Supreme Court considers West Virginia v. B.P.J. and Little v. Hecox, debates surrounding female sports, gender identity, and equal protection will likely continue far beyond the courtroom. Readers can:

1. Follow the progression of these cases (West Virginia v. B.P.J. and Little v. Hecox) through Supreme Court filings, legal analysis, and public commentary while also examining how schools, athletic associations, and lawmakers respond to future rulings.
2. Become educated on the history of Title IX and the broader evolution of women's athletics to understand the present controversy. Whether one views transgender participation in female sports as an extension of past civil rights victories or as a challenge to sex-based protections, these cases demonstrate how constitutional interpretation and social change continue to evolve together.
3. Consider the broader constitutional question at the center of these disputes: should participation in women's athletics be determined primarily by biological sex (based on physical and biological characteristics assigned at birth, according to the American Society of Reproductive Medicine) or by gender identity (psychological sense), according to the American Psychological Association)?

The Court's eventual answer may shape not only the future of female sports, but also how American law defines equality, sex-based protections, and identity under the Constitution.

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ENDNOTES

1. *B.P.J. v. W. Va. State Bd. of Educ.*, 98 F.4th 542 (4th Cir. 2024).
2. *Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024).
3. *Grove City College v. Bell*, 465 U.S. 555 (1984).
4. *Cohen v. Brown Univ.*, 101 F.3d 155 (1st Cir. 1996).
5. *Mercer v. Duke Univ.*, 190 F.3d 643 (4th Cir. 1999).

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