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Attorneys for Plaintiffs

**IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

<p>JENNY ROE, a minor, by and through parent DEBBIE ROE; and JANE NOE, a minor, by and through parents JEAN NOE and JOHN NOE,</p> <p>Plaintiffs,</p> <p>v.</p> <p>UTAH HIGH SCHOOL ACTIVITIES ASSOCIATION; GRANITE SCHOOL DISTRICT; and SUPERINTENDENT RICH K. NYE, in his official capacity,</p> <p>Defendants.</p>	<p>AMENDED COMPLAINT SEEKING DECLARATORY & INJUNCTIVE RELIEF</p> <p>Case No: 220903262 The Honorable Keith Kelly</p> <p>Tier 2 (caption amended)</p>
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INTRODUCTION

1. This lawsuit challenges Part 9 of House Bill 11. A true and correct copy of H.B. 11 is attached hereto as **Exhibit A**. Part 9 (“the Ban”) prohibits girls who are transgender from

competing on a girls' team in interscholastic school sports. It does so by providing that "sex" is "determined by an individual's genetics and anatomy at birth" and then banning all "student[s] of the male sex" from any "team designated for students of the female sex in an interscholastic athletic activity." H.B. 11 at Part 9. Based on this statutory language, a transgender girl, regardless of her individual circumstances, will be treated as "male" and barred from competing on a girls' team in any sport. By singling out transgender girls for disfavored treatment, the Ban violates multiple provisions of the Utah Constitution. The law erroneously uses a student's transgender status as a proxy for athletic ability and thus is overbroad, unjustifiably banning all transgender girls from competing on girls' teams regardless of their individual circumstances or the sport in which they want to compete.

2. Plaintiffs are transgender girls who are public school students, love sports, and intend to compete on the girls' volleyball and swimming teams. If the Ban goes into effect, Plaintiffs will be denied an equal opportunity to play school sports on the same terms as other girls. The Ban stigmatizes and discriminates against Plaintiffs because they are transgender girls, singles them out for less favorable treatment than other girls, denies them equal educational opportunities, and subjects them to serious adverse effects on their physical and mental health.

3. The Ban is based on unfounded stereotypes, fears, and misconceptions about girls who are transgender. It is not supported by medical or scientific evidence.

4. The Ban's exclusion of transgender girls from competing on girls' teams, regardless of their individual circumstances, is so broad and unqualified, and the harms it causes are so severe, that it is not credibly or rationally connected to any legitimate interest in promoting fairness in girls' sports. Excluding Plaintiffs from equal participation on girls' teams

undermines rather than advances fairness. Plaintiffs seek declaratory and injunctive relief from this Court.

PARTIES

5. Plaintiff Jenny Roe¹ is a 16-year-old girl who will be a senior in high school this fall in the Granite School District. She appears in this case through her mother and next friend, Debbie Roe. Jenny is a transgender girl who plans to join and compete on the girls' varsity volleyball team in August 2022.

6. Plaintiff Jane Noe is a 13-year-old girl who will be an eighth grader this fall and will attend high school in the Granite School District. She appears in this case through her mother and next friend, Jean Noe, and her father and next friend, John Noe. Jane is a transgender girl who plans to join and compete on her high school girls' swim team in August 2023.

7. Defendant Utah High School Activities Association (UHSAA) is a Utah nonprofit corporation registered and doing business in the State of Utah. UHSAA's membership is comprised of private, public, and charter schools in Utah that serve high school students. Each of Utah's public school districts has at least one high school that is a member of UHSAA. UHSAA regulates interscholastic sports and activities throughout the state.

¹ Jenny Roe, and the other Plaintiffs' names, are pseudonyms meant to protect their identity. Minor's names are nonpublic under Utah law. *See, e.g.*, Utah Code Jud. Admin. 4-202.09(1)(C)(vi); Utah R. App. P. 24(d). And because using their parents' names or initials could easily disclose the minor Plaintiffs' identities (particularly where Plaintiffs' school district and superintendent are named defendants), the parents' names are also pseudonymous.

8. Defendant Granite School District is a local education agency² in Salt Lake County, Utah operating eight high schools that offer interscholastic athletic programs to their students.

9. Defendant Rich K. Nye is the superintendent of the Granite School District, and, on information and belief, resides in Weber County.

VENUE AND JURISDICTION

10. Venue in the Third District is proper under Utah Code § 78B-3-307.

11. This Court has subject-matter jurisdiction over this action under Utah Code §§ 78A-5-102 and 78B-6-401 and Rules 57 and 65A of the Utah Rules of Civil Procedure.

12. This Court has personal jurisdiction over the Defendants.

FACTUAL ALLEGATIONS

I. Utah's Existing Policy for Transgender Athletes and the Passage of H.B. 11

13. UHSAA is the governing body for high school athletic and fine arts activities in Utah. UHSAA recognizes that these “activities are an essential part of the high school experience and go a long way to improving academic performance and producing better citizens.”³

14. In its 2021-22 Handbook, UHSAA set out guidelines (“UHSAA Guidelines”) governing the participation of transgender athletes in high school sports throughout the state.⁴

² Utah State Board of Education Rule R277-100-1(18)(a) defines a “local education agency” as “a school district or charter school.”

³ *About the UHSAA*, UHSAA, <https://www.uhsaa.org/about/> (last visited May 24, 2022).

⁴ UHSAA, 2021–22 UHSAA HANDBOOK, at 26–27 (2022), <https://uhsaa.org/Publications/Handbook/Handbook.pdf>.

Under UHSAA Guidelines, a transgender girl who has satisfied certain requirements is eligible to participate on a girls' team with the consent of a parent(s) or legal guardian(s).

15. H.B. 11 was introduced on the House floor on January 18, 2022, at the 2022 General Session.

16. The first version of H.B. 11 would have continued to allow transgender girls to play on girls' teams so long as they met certain requirements.

17. On February 14, 2022, a House committee adopted a substitute version of H.B. 11 that would have established a "School Activity Eligibility Commission" to assess each transgender girl's eligibility to compete on a girls' team in interscholastic athletic activities on an individualized basis.

18. On February 16, 2022, the House passed H.B. 11. On February 23, 2022, H.B. 11 received a favorable recommendation from the Senate Business and Labor Committee.

19. At all times throughout the 45-day legislative session, and up until the final hours of the 45th day, all versions of H.B. 11 would have given transgender girls an opportunity to compete on girls' teams.

20. Late in the afternoon on March 4, 2022, the final day of the Utah Legislature's 2022 General Session, a fourth substitute of H.B. 11 was introduced on the Senate floor. Part 9 of this version of H.B. 11 included, for the first time, a complete ban on transgender girls competing on girls' teams in interscholastic athletic activities, for all grades and all sports. The Ban applies to transgender girls competing for any public school in Utah as well as to transgender girls attending Utah private schools that compete against Utah public schools.

21. Part 10 of the fourth substitute established a commission that would conduct an individualized evaluation to determine when a transgender girl can compete on a girls' team. Part 10 would become effective if the Ban is "held invalid by a final decision" of a court.

22. Late in the evening on March 4, 2022, the Senate approved this version of the bill and the Utah House concurred, sending H.B. 11 to the Governor.

23. The proponents of H.B. 11 made clear that the bill is intended to prevent transgender girls from playing on any and all girls' teams.

24. On March 22, 2022, Governor Spencer J. Cox vetoed H.B. 11. The Governor stated that he did so because of "fundamental flaws" in the legislation, including the fact that "a complete ban was never discussed, never contemplated, never debated and never received any public input prior to the Legislature passing the bill on the 45th and final night of the session."⁵ The Governor also explained that he vetoed the bill due to its "broad misunderstanding around the current rules regarding transgender participation in sports" and because it was premised on concerns about college sports that are not addressed by H.B. 11. He cited a statement from a UHSAA representative explaining that only one transgender girl in the entire state had used the existing process to get approval to play on school sports teams and that UHSAA has "not had any complaints from other students or families or school administrators." The Governor pointed out that of the 75,000 students who play high school sports in Utah, only four are transgender and only one is playing on a girls' only team. "Four kids and only one of them playing girls sports. That's what all of this is about. Four kids who aren't dominating or winning trophies or

⁵ H.B. 11 Veto Letter, March 22, 2022 available at <https://governor.utah.gov/2022/03/24/gov-cox-why-im-vetoing-hb11/>.

taking scholarships. Four kids who are just trying to find some friends and feel like they are a part of something. Four kids trying to get through each day. Rarely has so much fear and anger been directed at so few.”

25. Referencing the high rates of suicidality and attempted suicide rates for transgender youth, the Governor stated: “[R]esearch shows that even a little acceptance and connection can reduce suicidality significantly. For that reason, as much as any other, I have taken this action in the hope that we can continue to work together and find a better way.”

26. Three days later, on March 25, 2022, the Utah Legislature convened a special session to override the Governor’s veto. Sufficient legislators in each chamber voted in favor of H.B. 11 to override the Governor’s veto.

27. During the special session, the Utah Legislature also passed H.B. 3001. This bill tasked local education agencies and schools with enforcing H.B. 11 but provided no guidance or detail as to how that enforcement would occur. H.B. 3001 also set aside money to defend and indemnify any school district sued for enforcing H.B. 11.

II. Transgender People and Sports

28. “Gender identity” is the medical term for a person’s internal, immutable, deeply held sense of their own gender. Everyone has a gender identity. There is a medical consensus that a person’s gender identity is innate, is not subject to voluntary change, and has a significant biological foundation.

29. From a medical perspective, a person’s sex encompasses several different biological attributes, including sex chromosomes, certain genes, gonads, the body’s production

of and response to sex hormones, internal and external genitalia, secondary sex characteristics, and gender identity. Those attributes are not always aligned in typical ways.

30. When a child is born, a health care provider designates the child's sex to be marked on the child's birth certificate based on the child's observable anatomy. In the great majority of cases, that initial designation turns out to be consistent with the individual's gender identity. For a transgender person, however, that initial designation turns out to be inaccurate because it does not reflect the person's gender identity. For that reason, Utah and most other states permit a transgender person to correct the sex designation on their original birth certificate.

31. Gender dysphoria is a clinically diagnosed incongruence between a person's gender identity and their designated sex at birth. If untreated, gender dysphoria may cause anxiety, depression, eating disorders, substance abuse, self-harm, and suicide.

32. Under the medical standards of care for the treatment of gender dysphoria in adolescents, the only safe and effective treatment for gender dysphoria is to permit transgender adolescents to live consistent with their gender identity in all aspects of their lives. In addition, when a child begins puberty, puberty blocking medication and, for older adolescents, hormone therapy may be prescribed. Forcing a transgender girl to be treated as male contradicts the medical standards of care and can result in serious negative health consequences such as severe anxiety, depression, substance abuse, self-harm, and suicidality.

33. There is a scientific consensus that any differences between girls and boys with respect to athletic performance are due primarily to differences in circulating testosterone levels, which begin to diverge only after the onset of puberty.

34. Transgender girls who receive puberty blocking medication do not go through male puberty. As a result, they do not experience the physiological changes caused by testosterone. If those girls subsequently receive hormone therapy, their bodies develop the skeletal structure, fat distribution, and muscle and breast development typical of other girls.

35. Transgender girls who receive puberty blocking medication and those who receive hormone therapy typically have circulating testosterone levels comparable to other girls and significantly lower than boys who have begun pubertal development.

III. Plaintiffs' Medical Treatment and Participation in Sports

A. Jenny Roe

36. Plaintiff Jenny Roe is a sixteen-year-old girl who attends a public high school in the Granite School District. Jenny is transgender.

37. Jenny was diagnosed with gender dysphoria when she was 12 years old and has lived her life as a girl since that time. She is accepted as a girl by her family, volleyball teammates, classmates, coaches, and teachers.

38. As part of her medically prescribed treatment for gender dysphoria, Jenny has received puberty blocking medication since she was 13 years old, which has prevented her from going through male puberty. She plans to start receiving hormone therapy next year.

39. Jenny loves to play volleyball. It helps her stay fit and motivates her to do well in school. Jenny also enjoys being part of a team and working with other girls to be the best volleyball players and teammates they can be.

40. In the fall of 2021, Jenny played on her high school junior varsity volleyball team. She also played a couple of games with the varsity team. That was the first time Jenny ever played volleyball as a team sport and she really enjoyed it.

41. Jenny qualified to play on the girls' team under the UHSAA Guidelines. UHSAA approved her to play after asking her parents to provide information including a letter from her medical provider.

42. During the 2021 volleyball season, Jenny socialized more with friends, got much better grades in her classes, and was generally much happier and better adjusted than when she was not participating on a team. Jenny loved competing and exercising, and she especially loved the social aspect of the team. She spent time with her friends both on and off the court and felt that they were a part of each other's lives.

43. Jenny's health and well-being depends on being able to follow her medically prescribed treatment, including living as a girl in all aspects of her life.

44. Under state rules governing inclusion of transgender athletes that exist until H.B. 11 goes into effect, Jenny is eligible to play on the girls' volleyball team this year, as she did last year. In April and May of this year, Jenny attended practices with her teammates. According to UHSAA's schedule, practice and team selection begins on August 1, 2022, and the first scheduled game could be as early as August 11, 2022.

45. Jenny will not participate on a girls' team if she cannot be a regular member of the team who is eligible to compete in matches, just as other girls are able to do.

46. Playing on a boys' team is not an option for Jenny. Her high school does not have a boys' volleyball team. Even if it did, it would be painful and humiliating for Jenny to be forced

to play as the only girl on a boys' team. It would also contradict her medical treatment for her gender dysphoria.

47. The Ban thus effectively denies Jenny the opportunity to participate in school sports at all. If it takes effect, Jenny will be prohibited from participating in school sports and will be denied the numerous social, educational, and physical and emotional health benefits that school sports provide.

48. Jenny is also concerned that the Ban puts a target on her back by sending a message that it is okay to discriminate against transgender people. Jenny reasonably believes she will face more harassment, discrimination, or even violence because of this law in her daily life. When Jenny was in junior high school, another student threatened her with violence because she is transgender. Jenny believes that if the Ban is allowed to go into effect, it will encourage people to harass and threaten her even more. She also worries that if she cannot play volleyball with her teammates, she will feel isolated and depressed and perform poorly at school. Jenny has felt the most healthy and happy and achieved her best grades while playing volleyball.

49. If the Ban goes into effect, it will cause Jenny to suffer irreparable emotional, psychological, and developmental harm and will irreparably and negatively affect her educational and social experience.

B. Jane Noe

50. Jane Noe is a 13-year-old girl who will be an eighth grader this fall.

51. Jane has identified as a girl since she was a very young child. She was diagnosed with gender dysphoria when she was about eight years old.

52. Before entering the third grade, Jane's parents let administrators and teachers at school know that she is a transgender girl.

53. As part of her medically prescribed treatment for gender dysphoria, Jane has been on puberty blocking medication since she was 12 years old, which has prevented her from undergoing male puberty. Jane plans to begin hormone therapy when it is recommended by her physicians.

54. Jane's health and well-being depends on being able to follow her medically prescribed treatment, including living as a girl in all aspects of her life.

55. Jane has been swimming since she was a baby. When she was five years old, she participated on a private swim team for the first time and soon after began competing in swim meets. In 2020, her swimming season was canceled because of COVID-19, but she was able to participate in some meets in 2021.

56. Jane loves swimming. She has bonded with girls on her swim team, loves competing, and loves being part of the team. She also loves and admires her coaches who have encouraged her and helped her to be the best swimmer and person she can be.

57. Jane has been permitted to participate on girls' teams for USA Swimming events. USA Swimming allows transgender girls to compete on equal terms with other girls.

58. In the fall of 2023, Jane plans to attend a high school in the Granite School District and compete on the girls' swim team.

59. Jane does not wish to participate on a girls' team if she cannot be a regular member of the team who is eligible to represent her school in meets against other teams, as other girls are able to do.

60. Competing on a boys' swim team is not an option for Jane. It would be painful and humiliating for Jane to be forced to be the only girl on a boys' team and would also contradict her medical care. The Ban thus effectively denies Jane the opportunity to participate in school sports at all. She will be prohibited from participating in school sports and will be denied the numerous social, educational, and physical and emotional health benefits that school sports provide.

61. Sports have been a constant and important part of Jane's life and she would not be the person she is today without them. She has worked hard as a swimmer, pushed herself, and learned to compete with skill and grace. When Jane is on a team, she can be with her friends, have fun, and take a break from schoolwork. She is afraid the Ban will deny her these opportunities.

62. Until now, Jane has received support from her family, her coaches, her teammates, and teachers and staff at her school. Jane and her family are concerned that if H.B. 11 goes into effect, she will lose the support that she has received. Jane wants to go to school, play sports, and give back to her community like other girls. She plays an instrument, teaches at her Sunday school, mentors other students, and has worked as a summer camp counselor. Jane was a well-adjusted and happy kid a year ago, but H.B. 11 has undermined her confidence and made her fear for her future. H.B. 11 encourages other people to single her out, to keep her away from the sport that she loves, and to view her as inferior to other people simply because she is transgender. In fact, if the Ban goes into effect and Jane knows she is banned from competing on the girls' swim team when she starts high school, she may not attend school in person at all because the stigma and inequality will be too painful.

63. If the Ban goes into effect, it will cause Jane to suffer irreparable emotional, psychological, and developmental harm and will irreparably and negatively affect her educational and social experience.

IV. H.B. 11 Bans Plaintiffs from Girls' Teams Because They Are Transgender and Causes Them Irreparable Harm

64. The Ban becomes effective on July 1, 2022.

65. The Ban denies transgender girls the equal opportunity to participate and compete on girls' teams in interscholastic athletic activities because they are transgender.

66. The Ban arbitrarily excludes girls who are transgender from interscholastic athletic competitions based solely on their presumed genetics and reproductive anatomy at birth, not on considerations reasonably related to interscholastic sports. Under the Ban, transgender girls are barred from competing on any girls' team, in any sport, regardless of any individual circumstance. For example, girls like Plaintiffs, who have been on puberty blocking medication and will not undergo male puberty, are barred from girls' sports teams.

67. The Ban includes no mechanism for how the discriminatory policy will be monitored or enforced and no mechanism that would protect athletes from unwarranted intrusion into their bodies or disclosure of private medical information. Nor does the Ban protect against school officials disclosing students' private medical information to others.

V. The Ban Denies Transgender Girls the Well-Known Benefits of Sports

68. For children and young adults, school-sponsored athletics offer benefits they will experience throughout life. For example, students who participate in high school sports are more likely to finish college and more likely to be actively engaged in planning for their future.

Participation in sports has a documented positive effect on academic achievement, with student athletes generally experiencing better academic achievement than students who are not athletes.

69. Athletics provide an opportunity to gain confidence, to build social connections, and to develop important social, emotional, and coping skills. Participation in sports provides students the opportunity to make friends and become part of a supportive community of teammates and peers. It also reduces the effects of risk factors, such as stressful life events, that lead to increased risks of anxiety, depression, poor academic performance, school dropout, and risky behaviors. Learning how to manage stressful events at a young age provides benefits to student athletes throughout their lives, even after the competitions have ended. By contrast, when young people are excluded from participating in youth sports, or do not feel accepted or respected, they do not have the opportunity to experience these benefits.

70. Participation in athletics also allows students to build teamwork and discipline skills. Students learn the importance of working as part of a group to achieve a common goal and the necessity of each individual member's role in bringing about success. Students also experience the success and personal fulfillment achieved from discipline, hard work, and perseverance through countless hours of practice and competition.

71. Through sports, students develop social skills and emotional maturity that allow them to create and sustain lifelong friendships. Athletes spend considerable time with their teammates, often experiencing high-pressure situations together that lead to deeper and more meaningful social bonds and friendships. These sports experiences in turn result in reduced anxiety and higher self-esteem. These benefits positively affect students throughout their entire lives.

72. Coaches and other staff members provide students who participate in sports access to meaningful mentorship and guidance. This mentorship extends beyond school athletics, guiding students through academics and life.

73. Students who participate in athletics also derive physical and mental health benefits from sports. In general, students who play sports in school have fewer physical and mental health problems than those who do not. Students who participate in sports further learn how to regulate their emotions, and they experience significantly lower levels of emotional problems and distress as a result. Participation in sports at a young age also encourages continued participation as an adult, in turn reducing the morbidity and mortality of many diseases that arise later in life.

74. The Ban's exclusion of girls from competing in school sports because they are transgender causes them to experience shame and stigma, denies them well-known physical and mental health benefits, and contributes to negative physical and emotional health outcomes. The Ban's exclusion also directly conflicts with and interferes with their medical treatment for gender dysphoria, thereby increasing their risk of suicide and contributing to negative health outcomes.

75. The Ban permits transgender girls to participate in practices and other non-competition aspects of girls' teams; however, this aspect of the Ban does not mitigate its discriminatory and harmful impact. Plaintiffs have both expressed that being barred from competitions has such a negative impact on them that they would rather not participate at all. In effect, the Ban relegates transgender girls to an officially imposed second-tier status even if they are technically "on" or "with" the team. In this way, the Ban's "concession" of permitting

transgender girls to participate but not compete on girls' teams ultimately subjects them to further stigma and humiliation and invites further discrimination and harassment against them.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Art. I, § 24 of the Utah Constitution, Uniform Operation of Laws Clause (Declaratory and Injunctive Relief)

76. Plaintiffs incorporate all preceding paragraphs of the Complaint as if set forth fully herein.

77. Plaintiffs bring this claim against all Defendants for purposes of seeking declaratory and injunctive relief, and they challenge the Ban as applied to them.

78. Article I, Section 24 of the Utah Constitution provides: "All laws of a general nature shall have uniform operation." Utah Const. art I, § 24.

79. The Ban singles out and categorically bars Plaintiffs from competing on girls' teams because they are transgender girls. In so doing, the Ban impermissibly discriminates based on Plaintiffs' transgender status and, because being transgender is sex-based, it also discriminates against Plaintiffs based on sex.

80. Under the uniform operation of laws clause, discriminatory government classifications based on sex are subject to heightened scrutiny and are not afforded a presumption of constitutionality.

81. The Ban fails heightened scrutiny because it is not reasonable, does not actually and substantially further a valid legislative objective, and is not reasonably necessary to further a legitimate legislative goal. It is easy to conceive of a less restrictive, burdensome, and nondiscriminatory method for promoting fairness in girls' sports. For example, the UHSAA's

existing policies regarding the participation of transgender girls in school athletics are less burdensome. Moreover, H.B. 11 itself establishes an alternative less restrictive approach based on an individualized assessment, which would apply if the Ban is struck down by a court. *See* Part 10, H.B. 11.

82. The Ban cannot survive even rational basis review because it lacks any rational basis, rests on stereotypes and misconceptions, and undermines rather than advances its stated purpose of promoting fairness in girls' sports.

83. The Ban fails any level of review because it classifies girls based on a single trait—being transgender—and then categorically excludes them from competing in every sport, at every grade level.

SECOND CLAIM FOR RELIEF
Art. IV, § 1 of the Utah Constitution, Equal Rights Clause
(Declaratory and Injunctive Relief)

84. Plaintiffs incorporate all preceding paragraphs of the Complaint as if set forth fully herein.

85. Plaintiffs bring this claim against all Defendants for purposes of seeking declaratory and injunctive relief, and they challenge the Ban as applied to them.

86. Article IV, Section 1 of the Utah Constitution provides: “The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall enjoy equally all civil, political and religious rights and privileges.”

87. The Ban singles out and categorically bars Plaintiffs from competing on girls' teams because they are transgender girls. In so doing, the Ban impermissibly discriminates based

on Plaintiffs' transgender status and, because being transgender is sex-based, it also discriminates on account of sex.

88. Under Utah's equal rights clause, government classifications based on sex are subject to heightened scrutiny and are presumptively unconstitutional.

89. Moreover, for the same reasons stated in the first claim for relief, the Ban fails heightened scrutiny and cannot survive even rational basis review because it is not reasonable, does not actually and substantially further a valid legislative objective, is not reasonably necessary to further a legitimate legislative goal, and undermines rather than advances its stated goal of promoting fairness.

THIRD CLAIM FOR RELIEF
Art. I, § 7 of the Utah Constitution, Due Process
(Declaratory and Injunctive Relief)

90. Plaintiffs incorporate all preceding paragraphs of the Complaint as if set forth fully herein.

91. Plaintiffs bring this claim against all Defendants for purposes of seeking declaratory and injunctive relief, and they challenge the Ban as applied to them.

92. Article I, Section 7 of the Utah Constitution provides: "No person shall be deprived of life, liberty or property, without due process of law." Additionally, as stated above, Article IV, Section I of the Utah Constitution provides: "Both male and female citizens of this State shall enjoy equally all civil, political and religious rights and privileges."

93. The Ban deprives Plaintiffs of their procedural and substantive due process rights to be free from discrimination based on sex by categorically barring them from competing on girls' teams because they are transgender girls. The procedural and substantive due process rights

to be free from discrimination based on sex are enshrined in the Utah Constitution under the equal rights clause, which ensures equal enjoyment of rights by “[b]oth male and female citizens.” Rights enshrined in the Constitution are considered fundamental rights under the Utah Constitution.

94. Under Article I, Section 7 of the Utah Constitution, state action that infringes or forecloses on a fundamental right is subject to strict scrutiny and is presumptively unconstitutional.

95. Moreover, for the same reasons stated in the first and second claims for relief, the Ban fails heightened scrutiny and cannot survive even rational basis review because it is not reasonable, does not actually and substantially further a valid legislative objective, is not reasonably necessary to further a legitimate legislative goal, and undermines rather than advances its stated goal of promoting fairness.

RELIEF SOUGHT

For the foregoing reasons, Plaintiffs request that this Court:

96. Declare that the Ban is unconstitutional and invalid because it violates Plaintiffs’ rights under the Utah Constitution;

97. Temporarily, preliminarily, and permanently enjoin Defendants and their officers, employees, servants, agents, appointees, or successors from administering, preparing for, and enforcing the Ban;

98. Waive any bond requirement for any injunction issued under Utah Rule of Civil Procedure 65(A)(c)(1);

99. Retain jurisdiction of this action to render any further orders that this Court may deem appropriate;

100. Award Plaintiffs' costs and expenses; and

101. Grant such other and further relief as the Court deems just and appropriate.

Dated: May 31, 2022

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI, P.C.

/s/ Christine Durham

Christine Durham

WILSON SONSINI GOODRICH & ROSATI, P.C.

/s/ Deno Himonas

Deno Himonas