



## PRESS RELEASE

# Ninth Circuit Recognizes Class Action Status of High School Girls in Hawai'i Title IX Athletics Civil Rights Case

HONOLULU (April 5, 2022) — A three-judge panel of the Ninth Circuit Court of Appeals ruled yesterday in favor of a group of female student athletes at Hawaii's largest public high school, Campbell High School. The girls sought class action status in support of their Title IX civil rights lawsuit against the Hawai'i Department of Education and the O'ahu Interscholastic Association to eliminate blatant gender-based inequity faced by the female athletes. This year marks the 50th anniversary of Title IX, a landmark civil rights law requiring gender equity in education that applies to sports programs run by federally-funded high schools across the U.S.


The girls, on behalf of themselves and hundreds of girls at Campbell High School, are seeking gender equity in all aspects of the school's sports programs. The girls seek system-wide change and compliance with the school's obligations under Title IX to end sex discrimination in athletics. Specifically, in 2018, four girls—who played sports ranging from water polo to swimming and soccer—filed the lawsuit on behalf of all present and future female athletes at the school to address gender discrimination in athletics. The systemic discrimination has included the girls not having an athletic locker room while boys had a stand-alone, dedicated athletic locker room. Girls also have experienced a range of gender inequities throughout the program such as inferior practice and game facilities, the absence of coaches, unequal access to athletic trainers, and less publicity and promotion for girls' teams. The school also has provided girls with far fewer athletic offerings compared to boys.

In late 2019, the federal district court in Hawai'i denied the girls class action status. The 2019 ruling ignored long-standing precedent and created an unfounded barrier for the girls to overcome. Indeed, the district court ruling would have required hundreds of separate lawsuits, which would have grossly burdened the girls, the school, and the courts.

Immediately after the late-2019 class certification denial, the girls' attorneys from Legal Aid at Work, the ACLU of Hawai'i, and Simpson Thacher & Bartlett LLP appealed the decision to the Ninth Circuit Court of Appeals, the federal appellate court that covers Hawai'i.

On April 4, 2022, the three-judge panel resoundingly ruled in favor of the girls, recognizing that the district court erred in denying class action status. The Court acknowledged that, when girls seek equity under Title IX, allegations of systemic discrimination favor class actions. The Court also found that the girls' claim for class-wide retaliation could proceed because of the chilling effect retaliatory actions have throughout the high school. The retaliation claim stems from the school's threat to cancel the girls' water polo program after girls and parents raised concerns about gender-based athletic inequities.

"We expect our school will finally treat girls fairly based on the Court's ruling. We're relieved that the judges ruled in our favor and that girls who play sports are now one giant step closer to having equality in our school sports program when it comes to treatment, opportunities, and benefits," said A.M.B., one of the four female athletes representing the hundreds of girls at Campbell High School.



“Unfortunately Campbell is subjecting girls to blatant sex discrimination. When girls and parents tried to solve problems on their own, the school retaliated, leaving them with no other choice but to sue the school to achieve the gender equity Title IX promised 50 years ago,” stated Elizabeth Kristen, Senior Staff Attorney and Director of the Gender Equity & LGBTQ Rights Program and Fair Play for Girls in Sports Project at Legal Aid at Work.

“Hawai‘i has a special connection with Title IX—now named after its co-author, former Congresswoman Patsy T. Mink. Mink worked tirelessly for education reform during her political career and overcame gender and racial discrimination to become the first woman from Hawai‘i and first woman of color elected to Congress. But it shouldn’t take nearly half a century for schools like Campbell to address obvious inequities such as the absence of locker rooms for girls, and fewer athletic opportunities for girls. We look forward to this ruling spurring immediate action at Campbell High School and within the Hawai‘i Department of Education and the O‘ahu Interscholastic Association,” said Wookie Kim, Legal Director of the ACLU of Hawai‘i.

Jayma Meyer, Counsel at Simpson Thacher & Bartlett LLP stated: “We are thrilled that the Ninth Circuit recognized the importance of providing the girls at Campbell High School with the time-honored means to bring a class action to support their civil rights. Title IX, passed 50 years ago, can be most effectively enforced only if similarly situated girls can bring class actions. Change must occur on a broad scale and not be dependent on single individuals bringing lawsuits against their schools.”

The case was filed in the U.S. District Court for Hawai‘i in December 2018. A copy of the Complaint can be found [here](#) and a copy of the Ninth Circuit decision can be found [here](#).

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#### **ACLU of Hawai‘i**

The ACLU of Hawai‘i has worked since 1965 to ensure that the government does not violate fundamental constitutional rights including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy. If the rights of society’s most vulnerable members are denied, everyone’s rights are imperiled.

#### **Legal Aid at Work**

Legal Aid at Work is a nonprofit legal services organization that has been assisting low-income, working families for more than 100 years. Its programs conduct outreach, provide direct legal services to thousands of people each year, engage in



litigation, and advocate for policies that strengthen the rights of low-income people. More information about Legal Aid at Work can be found at [www.legalaidatwork.org](http://www.legalaidatwork.org).

LAAW's Fair Play for Girls in Sports project spurs schools and parks and recreation departments to treat girls equally on and off the field. Focusing particularly on girls of color and girls who live in low-income communities, this work promotes the health, educational achievement, and future employment opportunities of girls in grades K-12. More information about Fair Play for Girls in Sports can be found at [www.fairplayforgirlsinsports.org](http://www.fairplayforgirlsinsports.org)

### **Simpson Thacher & Bartlett LLP**

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