

Memorandum

National Organization for Women Foundation

To: National Organization for Women Foundation Board Members

From: Jan Erickson, Director of Foundation Programs

Date: December 5, 2022

Litigation Report

LONNIE BILLARD v. CHARLOTTE CATHOLIC HIGH SCHOOL; MECKLENBURG AREA CATHOLIC SCHOOLS; ROMAN CATHOLIC DIOCESE OF CHARLOTTE

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA AT CHARLOTTE No. 3:17-cv-00011

On November 30, the National Organization for Women Foundation joined the National Women's Law Center, and 47 additional organizations, in an [amicus brief](#) to the U.S. Court of Appeals for the Fourth Circuit in *Billard v. Charlotte Catholic High School*. The case was brought by Lonnie Billard, a former drama, English, and substitute teacher at Charlotte Catholic High School who was fired after he posted about his wedding on Facebook. The amicus brief in support of Mr. Billard explained to the court that Title VII's limited exceptions for religious employers cannot be manipulated to allow employers to engage in wholesale discrimination based on sex, including sexual orientation or gender identity. We detailed the harms that would result if the school's arguments were accepted, thereby severely limiting the protection of workplace civil rights laws. For more background on the case, please read NWLC's [blog](#).

This case is one of many when conservative religiously affiliated organizations discriminate against persons from the LGBTQIA+ community. Preparation of the brief was by pro bono counsel Debevoise & Plimpton LLP.

A.M., by her mother and next friend, E.M. v. INDIANAPOLIS PUBLIC SCHOOLS, SUPERINTENDENT, INDIANA PUBLIC SCHOOLS, and STATE OF INDIANA

On Appeal from the United States District Court for the Southern District of Indiana Case No. 1:22-cv-1075-JMS-DLP

A.M. v. Indianapolis Public Schools in support of A.M., concerns a transgender girl who faces exclusion from her elementary school softball team by Indiana's recently enacted anti-trans

sports ban, H.E.A. 1041. The brief explains that if state governments are allowed to ban trans youth from [playing sports](#)—based on sex stereotypes—this will lead to greater policing of bodies, which will be particularly harmful for Black and brown women and girls. Laws like H.E.A. 1041 cause more severe harm to students who experience forms of systemic oppression, including queer and trans girls, Black and brown girls, and intersex students (who have natural variations in sex-linked characteristics). There is a long, atrocious [history](#) of sex testing in girls' and women's sports being weaponized against any athlete who doesn't conform to a narrow and white-centric definition of femininity, especially Black women athletes.

By encouraging state scrutiny of students' private medical records and reproductive anatomy, laws like H.E.A. 1041 may increase sexual abuse of young athletes by doctors or coaches—a [real problem](#) faced by far too many girls in sports.

There is no need to speculate about what happens when LGBTQI students are allowed to participate in sports—the brief highlights a decade of data showing how inclusive school sports policies don't harm cisgender girls. In fact, research shows a correlation between LGBTQI-inclusive sports policies and *increased* levels of sports participation by all girls. In other words, when we look at states where trans girls play sports, *more* cis girls are playing sports, too. As advocates for gender justice, we know that gender equity will never be attainable if states are allowed to exclude transgender students from education, community, and other core aspects of life. Our brief urges the Seventh Circuit to follow its own precedent and the recent precedent of the Supreme Court to protect A.M. and other students like her from discrimination.

More information about the case and the brief can be found in a [blog post](#). NOW, NWLC and 58 partner organizations urge the Seventh Circuit to rule in favor of A.M. and the rights of transgender students and all students to be free from discrimination. Hogan Lovells US LLP assisted in the preparation of this brief.