MEMORANDUM

National Organization for Women Foundation

To: NOW Foundation Board Members
From: Jan Erickson, Director of Foundation Programs*
Date: June 26, 2025

Supreme Court Ruling: State Can Cut Medicaid Funding to Planned Parenthood

In a 6-3 decision today, the U.S Supreme Court ruled that Medicaid patients do not have the right to sue states that block funding to Planned Parenthood for non-abortion-related healthcare. The Ruling, in *Medina v. Planned Parenthood South Atlantic*, upholds South Carolina's decision to cut off all Medicaid funding to Planned Parenthood, including for serviced like birth control, cancer screenings, and STI testing.

The case originated in 2018 when South Carolina Governor Henry McMaster ordered state agencies to terminate public funding to any medical providers affiliated with abortion services. Although federal law already prohibits the use of Medicaid funds for most abortion services, the dispute centered on whether state can block funding for other care simply because a provider also performs abortions.

The decision allows South Carolina to cut Medicaid funding for Planned Parenthood. According to Planned Parenthood, currently, 20% of South Carolinians — over 1 million — receive health care services through the Medicaid program, and approximately 5% of those recipients sought sexual and reproductive health care services at PPSAT so far this year. It also has implications for patients in other states at a time when Republicans in Congress and the Trump administration are separately trying to defund even non-abortion health care offered by the nation's largest abortion provider.

The Supreme Court's majority reversed a lower court ruling that had allowed a Planned Parenthood clinic and one of its patients to challenge the state's action. This decision effectively permits states to disqualify Planned Parenthood and similar providers from Medicaid reimbursement, even for unrelated services. The three liberal justices, Sotomayor, Kagan, and Jackson, dissented, warning that the ruling could further restrict access to care for low-income patients.

Alexis McGill Johnson, president of Planned Parenthood, said the Court "sided with politicians who believe they know better than you, who want to block you from seeing your

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trusted health care provider and making your own health care decisions."

This decision has national implications, potentially paving the way for other states to similarly bar Medicaid patients from using Planned Parenthood as a healthcare provider for non-abortion services. (Various news outlets.)

Case Description:

Lead Case: *BLAKE LIVELY, Plaintiff, v. WAYFARER STUDIOS LLC, et al., Defendants*.

Member Case: *WAYFARER STUDIOS LLC, et al., Plaintiffs, v. BLAKE LIVELY, et al., Defendants*

Plaintiff Blake Lively is a prominent actress who publicly disclosed experiencing sexual harassment while working on the set of *It Ends with Us*. Following her disclosures, made in legal filings, media interviews, and other public forums, Wayfarer Parties, Wayfarer Studios LLC and individuals associated with the production of the film *It Ends With Us*, including Justin Baldoni, Jamey Heath, and Steve Sarowitz, filed a defamation lawsuit against Lively, seeking to discredit her and shift public perception.

In response, Lively moved to dismiss the lawsuit under California's recently enacted Civil Code Section 47.1, a statute designed to protect individuals who speak out about sexual harassment. The law provided an express privilege shielding such communications from defamation suits, especially in contexts where survivors report misconduct or speak publicly. Lively's legal team argues that the claims against her fall squarely within the scope of Section 47.1 and are intended to silence her protected speech. Her council further argues that the lawsuit constitutes the use of DARVO tactics (Deny, Attack, Reserve Victim, and Offender).

U.S. District Judge Lewis J. Liman dismissed Baldoni's defamation and extortion countersuit against Lively, her husband Ryan Reynolds, their publicist, and The New York Times, determining that Lively's complaints and related disclosures were legally privileged and not defamatory. Judge Liman allowed Baldoni to amend and refile limited claims related to interference with contracts, but the core defamation and extortion claims were rejected.

Description of Brief:

This brief of amici curae is submitted on behalf of: Sanctuary for Families, National Organization for Women Foundation, National Organization for Women NYC, Women's Justice NOW, New York Cyber Abuse Task Force, HerUniverCity Inc., Women's Equal Justice, New York City Alliance Against Sexual Assault, Coalition Against Trafficking in Women, National Network to End Domestic Violence, Esperanza United, New York State Anti-Trafficking Coalition, Her Justice, and Urban Resource Institute.

The brief, first, provides context regarding the prevalence of sexual harassment in the workplace, highlighting that such misconduct remains severely underreported due in large part to fear of retaliation and reputational harm. It explains how retaliatory defamation lawsuits have become an increasingly common tool used by individuals accused of harassment to silence, punish, and deter those who come forward with allegations. Second, we address the critical role that anti-SLAPP statutes, or particularly California Civil Code Section 47.1, play in protecting survivors who make good-faith reports of harassment, whether through internal investigations, legal proceedings, or public discourse. We argue that communications made in the context of reporting workplace harassment must be safeguarded by statutory privileges in order to ensure survivors can come forward without fear of costly litigation. This case presents an opportunity for the Court to affirm those protections and prevent the chilling effect such lawsuits can have on the reporting of misconduct.

Case Description:

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

***Carmen Purl, et al., Plaintiffs v. United States Department of Health and Human Services, et al., Defendants*.**

Case No. 2:24-CV-228-Z

In *Purl v. U.S. Department of Health and Human Services*, a Texas physician, Dr. Carmen Purl, has brought a legal challenge against the Department's 2024 update to the HIPAA Privacy Rule, referred to as the "2024 Rule." This regulation prohibits health care providers from disclosing patients' reproductive health information to law enforcement for the purpose of investigating lawful reproductive health care, including abortion and gender-affirming care. The 2024 Rule builds upon the original 2000 HIPAA Privacy Rule and was introduced following the Dobbs decision, which intensified legal risks for patients and providers across many states.

Dr. Purl alleges that the 2024 Rule unlawfully interferes with Texas' mandatory child abuse reporting laws. Her lawsuit argues that the rule prevents physicians from reporting what she characterizes as abuse, specifically, young people seeking or receiving abortion or gender-affirming care. The case is currently pending before Judge Matthew Kacsmaryk in the Northern District of Texas, who has also invited briefing on the constitutionality of the original 2000 Rule.

If upheld, the 2024 Rule would affirm stronger federal protections for patient privacy in the context of reproductive health. Supporters of the rule, including legal advocates and public health organizations, argue that it is essential to prevent misuse of protected health information for politically motivated investigations and to ensure that patients feel safe seeking lawful medical care. They emphasize that the rule does not prevent providers from reporting actual child abuse but rather protects against disclosures based solely on lawful health care decisions.

Description of Brief:

This brief amicus curiae is submitted by If/When/How: Lawyering for Reproductive Justice in support of the federal government. The brief first explains the critical role that privacy protections play in promoting patient safety, especially in the context of stigmatized reproductive health care. Drawing on extensive legal, medical, and public health research, it details how patients, particularly young people, people of color, and those seeking gender-affirming care, face significant barriers to health care when they fear criminalization or reporting based on their health care decisions. The brief demonstrates that these fears are not hypothetical but are rooted in real cases of overreporting, stigma, and harm. Second, the brief argues that the 2024 Rule is a necessary clarification of existing HIPAA protections, ensuring that providers do not report lawful reproductive care as criminal conduct due to confusion or personal bias. It affirms that the rule does not prevent providers from reporting actual child abuse in accordance with Texas law but simply prevents reports that are based solely on a patient's reproductive health decisions. The brief urges the Court to uphold the 2024 Rule as a vital protection for patient confidentiality, consistent with HIPAA's statutory purpose and the public interest in ensuring safe, stigma-free access to lawful health care.

Case Description:

THE STATE OF ARKANSAS; THE STATE OF MISSOURI; THE STATE OF IOWA; THE STATE OF NEBRASKA; THE STATE OF NORTH DAKOTA; THE STATE OF SOUTH DAKOTA; A.F., A MINOR, BY SARA FORD, HER MOTHER,

Plaintiffs-Appellees,

v.

UNITED STATES DEPARTMENT OF EDUCATION; MIGUEL CARDONA, in his official capacity as Secretary of the United States Department of Education; CATHERINE E. LHAMON, in her official capacity as Assistant Secretary for Civil Rights at the United States Department of Education; RANDOLPH WILLS, in his official capacity as Deputy Assistant Secretary for Enforcement at the United States Department of Education,

Defendants-Appellants.

In *State of Arkansas et al. v. U.S. Department of Education*, a coalition of states, including Arkansas, Missouri, Iowa, Nebraska, North Dakota, South Dakota, and an individual minor student are challenging a new federal regulation under Title IX, finalized in April 2024. The regulation ("the Rule") clarifies that the prohibition on sex discrimination in education includes discrimination based on gender identity and sexual orientation. Among other provisions, the Rule requires schools receiving federal funding to allow transgender students to use restrooms and other sex-separated facilities that align with their gender identity.

The plaintiffs argue that the Rule exceeds the Department of Education's statutory authority under Title IX and infringes on the privacy rights of cisgender students. They assert that Title IX's use of the term "sex" refers solely to biological sex and that the Rule impermissibly expands the scope of the statute. The district court granted a preliminary injunction, finding that the plaintiffs had a fair chance of success in their argument that "sex" does not include gender identity.

The federal government has appealed this ruling to the Eighth Circuit Court of Appeals, arguing that the Rule is lawful, grounded in Supreme Court precedent (B*ostock v. Clayton County*), and necessary to protect transgender students from discrimination. The Department emphasizes that transgender students face disproportionate levels of bullying, harassment, and violence in schools, and that the Rule is essential to ensuring safe, inclusive, and equitable learning environments.

Description of Brief

This brief of amici curiae is submitted by the National Women's Law Center, Democracy Forward, and allied organizations committed to gender justice and the civil rights of

LGBTQI+ people. The brief first addresses the legislative and judicial history of Title IX, explaining that the statute's broad prohibition on sex discrimination includes protections for transgender students. Drawing on precedent from multiple federal circuits and the Supreme Court's decision in *Bostock v. Clayton County*, amici argue that the Rule lawfully interprets Title IX and responds to widespread evidence of harm and discrimination faced by transgender students.

Second, the brief presents social science research and first-hand experiences to demonstrate the serious physical, psychological, and educational harms that result when transgender students are barred from using facilities aligned with their gender identity. It explains that transgender-inclusive policies do not harm cisgender students and, in fact, support the overall safety and dignity of all students. The brief calls on the Court to reverse the district court's injunction and affirm the Department's authority to implement protections consistent with Title IX's purpose and evolving legal standards.

Case Description

Andres Mejia, Christina Kim Philibotte, National Education Association – New Hampshire, Local 8027, AFT-New Hampshire, AFL-CIO, Jocelyn Merrill, Kimberly Green Elliot, Ryan Richman, Meghan Evelyn Durden, and John Dube,

Plaintiffs-Appellees,

v.

Frank Edelblut, in his official capacity as Commissioner, New Hampshire Department of Education; John M. Formella, in his official capacity as New Hampshire Attorney General; Ahni Malachi, in her official capacity as Executive Director, New Hampshire Commission for Human Rights; Christian Kim, in his official capacity as Chairperson, New Hampshire Commission for Human Rights; and Ken Merrifield, in his official capacity as Commissioner, New Hampshire Department of Labor, Defendants-Appellants.

In Local 8027 v. Edelblut, a group of New Hampshire public school educators and educational organizations challenged state laws, commonly referred to as "divisive concepts" laws, that restrict how topics related to race, gender, and systemic discrimination can be discussed in public education. The laws prohibit teaching, instruction, or training that includes certain "divisive concepts," including the idea that people may be inherently oppressive based on their race, sex, or gender identity. These

provisions were enacted as part of a broader wave of state-level legislation following national debates over diversity, equity, and inclusion (DEI) in public institutions.

The plaintiffs allege that the laws violate the First and Fourteenth Amendments by being unconstitutionally vague and chilling protected speech. Teachers report uncertainty about how to comply with the statutes, leading many to censor classroom discussions, remove curriculum materials, and abandon lessons addressing racism, sexism, and other forms of bias, even when such instruction is required or approved by the school district. The plaintiffs further argue that the laws have a disproportionate effect on students of color and LGBTQ+ students, whose experiences are more likely to be erased or ignored under a chilling legal regime.

In May 2024, the U.S. District Court for the District of New Hampshire agreed with the plaintiffs, granting declaratory and injunctive relief. The court found that the laws failed to provide adequate notice of what conduct is prohibited and risked discriminatory enforcement by state officials. It concluded that the laws had already caused measurable harm to public school educators and students by narrowing classroom discussions and silencing constitutionally protected speech.

The state appealed to the First Circuit, arguing that the laws are a permissible effort to ensure educational neutrality and prevent discrimination. The appeal raises fundamental questions about the balance between state control of curricula and constitutional protections for free speech and due process in public education. The case is being closely watched nationwide, as similar laws have been passed or proposed in numerous other states.

Description of Brief:

This amicus curiae brief is submitted by Public Justice and the National Women's Law Center in support of affirmance. The brief argues that New Hampshire's "divisive concepts" laws violate constitutional protections by chilling educators' speech and depriving students, especially those from historically marginalized communities, of a meaningful and inclusive education.

First, the brief explains how the laws' vague and broad language forces teachers to self-censor or avoid essential topics related to race, gender, and discrimination. Educators have removed books, altered lesson plans, and abandoned classroom discussions out of fear they might violate the law. This chilling effect undermines academic freedom and restricts students' ability to learn about key aspects of American history and civic life.

Second, the brief details how these laws cause disproportionate harm to students of color, LGBTQIA+ students, and disabled students by suppressing culturally responsive instruction

and reinforcing educational environments where their identities are erased or stigmatized. The laws have also triggered increased bullying and harassment, while driving out diverse educators who fear discipline or surveillance for simply acknowledging race- or gender-based experiences in their teaching.

Amici urge the First Circuit to affirm the district court's ruling and hold that laws restricting classroom speech must be clear, constitutional, and protective of students' rights to an education grounded in truth, inclusion, and academic integrity.

Case Description

DONALD J. TRUMP, et al., Defendants – Appellants, v. NATIONAL ASSOCIATION OF DIVERSITY OFFICERS IN HIGHER EDUCATION, et al., Plaintiffs – Appellees.

This case arises from a legal challenge to Executive Order 14173, issued on January 21, 2025, titled "Ending Illegal Discrimination and Restoring Merit-Based Opportunity." The EO broadly declares undefined Diversity, Equity, and Inclusion (DEI) efforts as unlawful and threatens enforcement actions against organizations implementing such policies.

Plaintiffs, including the National Association of Diversity Officers in Higher Education and other related organizations, filed suit against former President Donald J. Trump and associated parties, arguing that the Executive Order violates constitutional rights and significantly interferes with lawful DEI efforts in higher education and related sectors. They assert that the EO is vague, unlawfully restricts speech, and places institutions in a double-bind, between compliance with anti-discrimination laws and the threat of federal punishment.

Defendants appeal a district court ruling that enjoined enforcement of parts of the Executive Order, arguing that the EO targets unlawful discrimination. The Plaintiffs contend the EO's sweeping language and lack of clarity chill protected speech and punish lawful DEI initiatives under the guise of enforcing merit-based practices.

Description of Brief:

This amicus curiae brief is submitted on behalf of private employers and supporting organizations that operate or advocate for DEI programs, including companies in hospitality, energy, finance, law, consumer products, and manufacturing, among others.

The brief begins by explaining that DEI initiatives are central to business objectives such as talent acquisition, innovation, employee engagement, and legal compliance. It highlights how employers have structured their DEI programs in ways that are lawful and focused on

eliminating, not creating, discrimination. The amici emphasize that DEI work promotes inclusivity and fairness and is consistent with federal law and constitutional values.

Second, the brief addresses how the Executive Order undermines lawful DEI practices, falsely characterizing them as discriminatory, and introduces substantial legal and reputational risk to employers. Amici argues that abandoning DEI exposes organizations to higher risk of discrimination lawsuits and notes that several Attorneys General have affirmed that DEI work is both legal and necessary.

Third, the brief contends that the EO violates the First Amendment by chilling protected speech and forcing organizations to self-censor. The EO's vagueness, amici argue, invites arbitrary enforcement and threatens constitutionally protected expression by leaving employers uncertain about which DEI-related activities might be penalized.

In conclusion, amici urge the Court to affirm the injunction against the Executive Order, emphasizing that DEI practices are essential, legal, and protected, and that the EO creates unconstitutional burdens on expression and compliance with civil rights law.

The amici include Adasina Social Capital, and Co Hospitality, Inc., Candide Group, Climate Positive Consulting, Color in Green, Current-C Energy Systems, Inc., ImpactGC LLP, Keker, Van Nest & Peters LLP, Main Street Journal, Marketing Partners Inc., New Energy Partners Inc., OBERLAND Inc., Pure Strategies, Inc., Seirus Innovative Accessories Inc., Sustainability Associates LLC, The Burton Corporation, The Verna Myers Company, Upstate Steel, and Working IDEAL. These organizations represent a wide range of sectors, including hospitality, legal services, consumer goods, consulting, manufacturing, and communications, and have implemented DEI practices as integral components of their business strategies.