

EXHIBIT A

**Declaration of Madison Kenyon
In Support of Intervention**

**UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO**

LINDSAY HECOX, and JANE DOE with her
next friends JEAN DOE and JOHN DOE,

Plaintiffs,

v.

BRADLEY LITTLE, in his official capacity
as Governor of the State of Idaho; SHERRI
YBARRA, in her official capacity as the
Superintendent of Public Instruction of the
State of Idaho and as a member of the Idaho
State Board of Education; THE
INDIVIDUAL MEMBERS OF THE STATE
BOARD OF EDUCATION, in their official
capacities; BOISE STATE UNIVERSITY;
MARLENE TROMP, in her official capacity
as President of Boise State University;
INDEPENDENT SCHOOL DISTRICT OF
BOISE CITY #1; COBY DENNIS, in his
official capacity as superintendent of the
Independent School District of Boise City #1;
THE INDIVIDUAL MEMBERS OF THE
BOARD OF TRUSTEES OF THE
INDEPENDENT SCHOOL DISTRICT OF
BOISE CITY #1, in their official capacities;
THE INDIVIDUAL MEMBERS OF THE
IDAHO CODE COMMISSION, in their
official capacities,

Defendants.

Case No. 1:20-cv-00184-DCN

**DECLARATION OF
MADISON KENYON
IN SUPPORT OF INTERVENTION**

I, Madison Kenyon, declare as follows:

1. I am a nineteen-year-old resident of Johnstown, Colorado.
2. I am a rising sophomore and female athlete at Idaho State University in Pocatello,

Idaho, where I compete in women’s cross-country and track competitions. Running is my
passion.

Athletics Background

3. Athletics has been my world from a very young age. Both of my parents were high school athletes and my mom even competed at the collegiate level, so my first encounter with sports was at a young age. At three years old I kicked my first soccer ball which lead to 15 years of competition on various school and club soccer teams.

4. Through soccer, I learned that I love to compete and play sports. In 6th grade, I introduced myself to cross-country where I fell in love with running, and I have not stopped competing since. That love of running caused me to join the track team my freshman year of high school.

5. Running is my happy place. I love being able to push my body to its limits, to explore the great outdoors on foot, and to do it all with a sense of camaraderie and fun with my teammates who are not only my closest friends but are my family.

Competing in Women's Collegiate Athletics

6. I decided to attend college at Idaho State University (ISU) because it is a big university nestled in a small town with lots of opportunity for both outdoor activity and track competition. The track scholarship I received has not only helped finance my athletic career, but to finance my dream of becoming a doctor someday. I am currently pursuing a degree in biomedicine.

7. As an ISU freshman in the 2019-2020 academic year, I made the cross-country team and competed in the 4k (2.49-mile), 3-mile, 5k (3.12-mile), and 6k (3.73-mile) events.

8. Going into the fall 2019 cross-country season, I was informed that I would be competing against a male who identifies as female on the University of Montana cross-country

team. At first, I was incredulous at the idea that any biological male would be permitted to compete in the women's category.

9. I did some research concerning this student—June Eastwood—a biological male who competed on the UM male cross-country team for three years before identifying as June and competing in the women's division. I learned that while competing in the men's division, Eastwood had recorded times in several events faster than the college women's national record.

10. These facts were discouraging, and my heart sank when I began attending cross-country meets and watched Eastwood placing and medaling in the women's cross-country races. I not only watched Eastwood beat other women, Eastwood bested me in competition, too.

11. In cross-country, I competed against Eastwood in these races:

- a. 2019 Montana State Cross-Country Classic in the 3-mile event.
- b. 2019 Big Sky Cross-Country Championships in the 5k event.
- c. 2019 NCAA Division I Mountain Region XC Championships in the 6k event.

12. In all three races, Eastwood beat me by a significant margin and bumped me down to a lower placement than I would have received had I only competed against other women. That may not seem like a big deal to some, but placements matter to athletes. I want to know that I earned my placement fair and square. A one place difference can be the deciding factor on if my team takes second or third, fourth or fifth place, etc. Fair competition pushes me to better myself and try harder; unfair competition leaves me feeling frustrated and defeated.

13. Cross-country athletes like me usually also compete in indoor and outdoor track. So, during the winter 2020 indoor track season, I competed in the 3k (1.86-mile), the mile, and the distance medley relay events.

14. In the indoor track season, again I raced Eastwood. At the 2020 Stacy Dragila Open Women's Indoor Mile, Eastwood took 2nd place and I took 8th. Eighth place is nothing to be ashamed of if won fairly, especially as a freshman competing in a race dominated by juniors and seniors, but the competition is not fair when one of the athletes in the women's category is a male with the strength and speed advantages that come from male physiology.

15. And at the 2020 Indoor Big Sky Championship, I along with three other ISU teammates competed in the distance medley relay against Eastwood's relay team. A distance medley relay is made up of a 1200-meter leg, a 400-meter leg, an 800-meter leg, and a 1600-meter leg. Montana State's relay team was in 6th place before Eastwood began the final 1600-meter leg of the race. During Eastwood's leg, Eastwood advanced the Montana team not one or two, but *four* positions to finish in 2nd place. My team took 5th, though we would have placed 4th if not for Eastwood's participation. We lost not only a placement, but team points as well.

16. Also, at the Big Sky Championship, I watched as one of my teammates lost her bronze medal and spot on the championship podium because Eastwood took first place in my teammate's event, bumping her to fourth place. It was heartbreaking and frustrating to witness.

17. Sadly, the spring 2020 outdoor track season was canceled due to the COVID-19 pandemic, but I was training to compete in the 1500m, steeplechase, 5k, and distance medley relay. I intend to compete in these events next outdoor season.

18. I have four years of NCAA eligibility left. In the near-term, I intend to compete in fall 2020 cross-country, winter 2021 indoor track, and spring 2021 outdoor track competitions.

Fairness in Women's Sports

19. When I first heard that the Idaho legislature was considering H.B. 500, the Fairness in Women's Sports Act, I read the bill for myself to better understand how it would

impact me and my athletic career. I knew from personal experience how it feels to compete against—and lose to—a male athlete in women’s sports. And I researched how female athletes in other states and other sports were losing out to males who identify as female. This, to me, looked like an increasing problem. I am convinced that H.B. 500 is necessary to keep fairness in female sports and protect the broader interests of girls and women.

20. I believe that allowing males to enter women’s sports defeats an entire aspect of sports: it eliminates the connection between an athlete’s effort and her success (which is often the reason athletes love to compete in the first place). Sex separation in sports helps ensure that males and females each enjoy opportunities for fair competition and victory. It helps ensure that if women like me work hard that hard work pays off and we have a shot at winning.

21. I am a biology major. Scientifically, the biological differences between male and female are not matters of personal opinion, or features that can be changed or chosen. I *am* female, not because I chose to be female, or identify as female, but because every nucleated cell in my body is genetically marked female and my entire body developed in alignment with those female markers.

22. But you do not need to be a biology major to understand this, or to understand that males and females are different in essential ways. I’m in this world because I have a mom and a dad. And with respect to sports, I know from everyday experience that males around me are generally bigger, faster, and stronger than the females. The rules of sport implicitly acknowledge this. For example, men’s cross-country races are often longer than women’s cross-country races.

23. I fear that if we are no longer allowed by law to recognize the objective existence of women, that it will be a huge loss to women’s rights. In researching the Fairness in Women’s

Sports Act, I also spent some time looking into how Title IX benefited women. From my perspective, it was a big turning point that helped women flourish. After Title IX passed in 1972, historic numbers of women began competing in the Olympics, in the World Cup, and receiving athletic scholarships. I benefit from Title IX's legacy. But putting men in women's sports dials back that progress and threatens to eliminate it.

24. Also, when sports authorities or the law permit males to compete under the name of female, it sends a disturbing message about who we are as women. I don't agree with what this says about myself and my fellow female competitors. Women are unique. But if men can be women, it doesn't really mean anything to be a woman.

25. When male athletes are classified as "women" and allowed to compete in women's sports, we real female athletes lose not only opportunities for success, we also lose the words we need to protest this change in our sports. Those of us who really are females lose our name along with our fair competitions.

26. I strongly support the Fairness in Women's Sport Act. I want my races to be fair and a test of skill and hard work. I do not want to wonder whether I am training countless hours for inevitable losses or a lower race placement, or whether I will miss out on even the opportunity to win because I face physically advantaged male athletes.

27. Sports was the air I breathed growing up, and the air I breath now. I want my future daughters and other young girls to be able to have the same experiences and opportunities that I had. I want my teammates' and my hard work to pay off. I work to be competitive, I do not want to see women's sports fade away as a separate category because males who identify as females are allowed to compete in women's divisions as if they were women. Under the

NCAA's current rules, I fear that we will soon effectively have men's sports and co-ed sports, but no dedicated category for females only.

28. I do not want to see women lose their legal protection and progress under the law because we can no longer identify what a woman is.

29. To my knowledge, Eastwood has graduated. But I have now learned through this lawsuit that another biological male, Lindsay Hecox, wants to compete on the women's team at Boise State University. Idaho State and Boise State occasionally compete at the same invitationals. For example, in the indoor 2020 track season, both universities competed at the UW Invitational in Seattle, Washington on January 31, 2020. Both universities were scheduled to compete at the Long beach Invitational in Long Beach, CA on April 18, 2020 (an event that was cancelled due to the COVID-19 pandemic). So, if the Fairness in Women's Sports Act is not upheld, it is possible that my teammates and I would compete against Hecox at future cross country or track events. And because NCAA rules do not promise female athletes any advance notice if a male is registered to compete on the women's team, it is entirely possible that I and other female runners could face competition from other male athletes in the upcoming season.

30. I believe everyone should be able to compete, but it must be done fairly. It is not fair for women's competitions to be open to biological male athletes. Women's sport itself will lose its meaning, and its specialness, if males can be redefined as females.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in blue ink, appearing to read "Madison Kenyon", is written over a horizontal line. The signature is enclosed in a light blue rounded rectangular box.

Madison Kenyon
Signed May 20, 2020