State of Columbiana,

Petitioner,

v.

Parents Against School Separation (PASS),

Respondent.

In 2012, women reached a milestone. That year, for the first time, females made up half of the United States workforce. In addition, after years of surpassing men in obtaining college bachelor's degrees, for the first time women received a majority of advanced degrees.

Notwithstanding their gains in employment, however, a survey of top corporations, *Examining the Cracks in the Ceiling: A Survey of Corporate Diversity Practices of the S&P 100,* showed that the highest paid executive positions were held almost exclusively by men. Only 8.4 percent of such positions were filled by women. The report also showed that certain industries were even more skewed. In tech companies for example, women made up only 10% of the workforce and only one major company was headed by a woman. Only 5% of senior management positions were held by women. Across all industries, there were significant salary gaps with women earning on average only 74% of the wage earned by men. (This statistic is highly contested. Critics contend that it does not compare women and men in similar jobs but is skewed because more women than men enter lower paying professions. Critics point out that in companies requiring technical skills, women are paid on par with men.)

In 2017, there was a significant advancement of women within the state of Columbiana. Following the fall elections, for the first time in the history of Columbiana, a majority of legislators in both the House and the Senate were women. For the first time, a woman was also elected Governor of Columbiana.

As one of the legislature's first acts, women from both parties banded together to unanimously pass legislation—the Gender Equality Education Act (GEE)—calling for all high schools in the state to be single-sex. Noting evidence that the practice of educating males and females separately has "a long history and world-wide acceptance", the legislators emphasized that many experts regard education in a single-sex school as a "natural and reasonable educational approach." They pointed out that while girls in elementary and middle schools often excel in math and science, by high school, female students trail their male counterparts.

The legislation mandating single-sex schools specifically requires that the new gender-segregated high schools are to be "substantially similar" facilities. All academic courses are to be offered at all schools and a list of approved sports must be offered at all schools unless a majority of the parents of students at the school vote not to offer the sport. In that case, the school can reallocate funds that would have been spent on that sports program to other programs. The legislation also states that the legislative intent is not to "exclude" anyone from a meaningful academic experience, but simply to ensure the best educational outcomes for both sexes. The legislation also calls for the single-sex schools to be implemented "with all deliberate speed."

Outrage over the legislation was immediate and vehement. Various school administrators denounced the legislation and many high school students – along with their parents – were equally incensed. A group of parents of male children mocked the law's "substantially similar" language, arguing that the female-dominated legislature could be expected to provide the all-female schools with more or better resources. A group of parents of male students—Parents Against School Separation (PASS)—claimed that it was further ammunition in the current "War against Men." The group pointed out that fewer college degrees were being awarded to males and that a greater percentage of men than women were unemployed.

Before implementation of the legislation, PASS filed a class action lawsuit in the United States District Court for the District of Columbiana on behalf of a group of concerned male high school students. The complaint alleged that the legislation violated the Equal Protection Clause of the Fourteenth Amendment. Plaintiffs sought a declaratory judgment that the legislation is unconstitutional and injunctive relief prohibiting implementation of the legislation.

The district court denied relief. It concluded that GEE did not offend the Fourteenth Amendment, however, it granted a temporary injunction prohibiting implementation of the legislation pending appeal. The court noted that the intent of the law was to provide the best educational opportunity for both sexes, and thus no discrimination was intended by the legislation.

The Court of Appeals for the Thirteenth Circuit reversed, concluding that "separate but equal schools for males and females would be "inherently unequal" and thus violative of the Equal Protection Clause.

The State of Columbiana has timely filed a petition for *writ of certiorari* to the Supreme Court of the United States. The petition has been granted with direction to address the following question:

Do gender-specific, single-sex schools as provided for under the Columbiana statute violate the Equal Protection Clause of the Fourteenth Amendment?