UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

PRIVACY MATTERS, a voluntary unincorporated association, and **PARENT A**, president of Privacy Matters,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF EDUCATION; JOHN B. KING, JR., in his official capacity as United States Secretary of Education; **UNITED STATES DEPARTMENT OF JUSTICE; LORETTA E. LYNCH,** in her official capacity as United States Attorney General; and **INDEPENDENT SCHOOL DISTRICT NUMBER 706, STATE OF MINNESOTA**,

Defendants,

and

JANE DOE, by and through her mother, **SARAH DOE**,

Intervenor-Defendant.

Case No. 0:16-cv-03015-WMW-LIB

Judge Wilhelmina M. Wright
Magistrate Judge Leo I. Brisbois

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION TO PROCEED PSEUDONYMOUSLY

RENEE K. CARLSON, MN 0389675
CARLSON LAW, PLLC
855 Village Center Drive, #259
St. Paul, MN 55127
(612) 455-8950
rcarlson@rkclawmn.com

JORDAN LORENCE, MN 0125210
ALLIANCE DEFENDING FREEDOM
440 First St. NW, Suite 600
Washington, DC 20001
(202) 393-8690
jlorence@ADFlegal.org

GARY S. MCCALEB, AZ 018848*
DOUGLAS G. WARDLOW, MN 0339544

KATHERINE L. ANDERSON, AZ 033104*
ALLIANCE DEFENDING FREEDOM
15100 N. 90th St.
Scottsdale, Arizona 85260
(480) 444-0020
gmccaleb@ADFlegal.org
dwardlow@ADFlegal.org
kanderson@ADFlegal.org

**Admitted Pro Hac Vice*

Counsel for Plaintiffs

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

Introduction

Plaintiffs Privacy Matters and Parent A seek leave for all members and fact witnesses identified in Privacy Matters' Complaint—including Parents A, B, D, E, and F, and student witnesses referred to in Plaintiffs' Complaint as Girl Plaintiffs A, B, D, E, and F (hereafter collectively "Plaintiffs' witnesses")—to proceed in this case using the letter pseudonyms ascribed to them in Plaintiffs' Complaint. Decl. of Jordan Lorence ¶ 3. All of those who would be covered by this motion are either a minor child, or a parent of a minor child. *Id.* at ¶ 4.

The Federal Defendants and Intervenor-Defendant Doe do not object to this motion as long as it protects only minor children and their parents. *Id.* at ¶ 5-6. The District Defendant would not object "in theory," but "would like to reserve [its] right to challenge and object to the motion depending on the individuals who are involved and the arguments contained in the motion." *Id*. at ¶ 7.

Argument

Courts consistently permit litigants to proceed pseudonymously when the litigants' privacy interests outweigh the public's interest in disclosure of the litigants' identities and any prejudice to the defendants. *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 189 (2d Cir. 2008); *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000).[1] District courts are given discretion to perform this analysis by looking at "the

[1] S*ee also Lindsey v. Dayton-Hudson Corp.*, 592 F.2d 1118, 1125 (10th Cir. 1979) (discussing interests of defendants and holding that "identifying a plaintiff only by a pseudonym is . . . to be allowed only where there is an important privacy interest to be recognized"); *c.f. Doe v. Frank*, 951 F.2d 320, 323 (11th Cir. 1992) (explaining "[t]he

circumstances of [a] particular case[],” and considering several guiding factors. *James*, 6 F.3d at 238; *see also Frank*, 951 F.2d at 323. Here, the circumstances strongly favor permitting Plaintiffs’ witnesses to proceed anonymously because balancing the factors demonstrates that Plaintiffs’ privacy interests outweigh the public benefit in disclosure and there is no risk of prejudice to the defendants.

I. Plaintiffs’ witnesses have strong privacy interests that warrant this Court’s protection.

Courts routinely recognize that litigants may have important privacy interests that justify allowing the use of pseudonyms. Factors that are relevant to Plaintiffs’ witnesses’ privacy interests here include the following: (1) Plaintiffs’ claims are asserted against government entities not private individuals; (2) prosecuting those claims requires Plaintiffs and their witnesses to disclose information of the utmost intimacy; (3) the litigation involves a hotly contested, politically charged subject matter; (4) Plaintiffs’ witnesses are particularly vulnerable because they include child-litigants and their parents; and (5) Plaintiffs’ witnesses fear retaliation for exercising their First Amendment rights. Given the

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ultimate test” balances a plaintiff’s “substantial privacy right” against the “presumption of openness in judicial proceedings.”); *Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981) (same); *James v. Jacobson*, 6 F.3d 233, 238 (4th Cir. 1993) (recognizing “that privacy or confidentiality concerns are sometimes sufficiently critical that parties or witnesses should be allowed” anonymity); *see also Roe v. Wade*, 410 U.S. 113 (1973) (permitting suit to be prosecuted under pseudonym); *R.K.N. v. Holder*, 701 F.3d 535, 537 n.2 (8th Cir. 2012) (granting motion to proceed pseudonymously without analysis where government did not oppose motion and appellant was seeking asylum based on his membership in a political group and being HIV positive); *Doe v. Blue Cross & Blue Shield United of Wisconsin*, 112 F.3d 869, 872 (7th Cir. 1997) (recognizing “exceptions” to “the principle that” “[i]dentifying the parties . . . is an important dimension” of public proceedings, including “protect[ing] the privacy of children.”).

considerable privacy interests Plaintiffs' witnesses allege and the substantial weight courts afford many of these factors, Plaintiffs' witnesses' privacy interests demonstrably outweigh the public's interests in disclosure and any risk of prejudice to defendants.

a. Plaintiffs' claims are asserted against governmental entities not private individuals.

Courts give "considerable weight," *Stegall*, 653 F.2d at 186, to whether the litigants are "challeng[ing] governmental activity." *Milavetz, Gallop & Milavetz P.A. v. United States*, 355 B.R. 758, 762–63 (D. Minn. 2006); *Luckett v. Beaudet*, 21 F. Supp. 2d 1029, 1029 (D. Minn. 1998). This is because challenges to the "constitutional, statutory or regulatory validity of government activity . . . involve no injury to the Government's 'reputation,'" whereas suits against private parties may create reputational injury or economic hardship, such that "[b]asic fairness" will often require "the defendants' accusers" to use their real names. *S. Methodist Univ. Ass'n of Women Law Students v. Wynne & Jaffe*, 599 F.2d 707, 713 (5th Cir. 1979). Here, Plaintiffs and Plaintiffs' witnesses are challenging the propriety of government activity as they seek to vindicate constitutional and statutory rights. And no claims have been brought against individuals. Thus this factor weighs substantially in favor of permitting anonymity.

b. Prosecution of the suit requires Plaintiffs' witnesses to divulge information of the "utmost intimacy."

Courts similarly give substantial weight to suits that require litigants to "divulge[] personal information of the utmost intimacy." *S. Methodist Univ. Ass'n of Women Law Students*, 599 F.2d at 713; *Milavetz, Gallop & Milavetz P.A.*, 355 B.R. at 762–63 (D. Minn. 2006); *Luckett*, 21 F. Supp. 2d at 1029. Involvement in this litigation forces Plaintiffs and

their witnesses, many of whom are adolescent minors, to convey information about their personal hygiene practices (changing, showering, and personal restroom needs), their bodily and emotional development, their religious and moral beliefs concerning bodily privacy and sexual modesty, and information about how they are impacted by a policy that allows an opposite-sex student to see them or their children in a state of undress or that places them or their children at risk of seeing an opposite-sex student in a state of undress. Clearly this information is of a highly personal nature and deserving of privacy protection.

c. The intersection of female students' privacy rights and unhindered access to female students' locker rooms and private facilities by biological male students is a hotly debated and politically charged issue.

This Court is not alone in having previously recognized that litigating a "highly-charged subject[]" often provides a justification for permitting litigants to use pseudonyms. *Luckett*, 21 F. Supp. 2d at 1030 (noting that courts have allowed pseudonyms in matters involving abortion or artificial insemination); *Doe v. Poelker*, 515 F.2d 541, 542 n.1 (8th Cir. 1975), *rev'd on other grounds*, 432 U.S. 519 (1977) ("'Jane Doe' is a pseudonym . . . utilized throughout this litigation . . . due to the controversial nature of . . . this action[,]" which involved abortion); *Stegall*, 653 F.2d at 186 (permitting pseudonyms in "suit to vindicate establishment clause rights" in part because of the risk of "serious social ostracization based upon militant religious attitudes."). That justification is present here. Order Granting Mot. to Intervene, Mot. to Seal. and Request for Leave to Exceed Word-Count Limitations, Oct. 27, 2016, Doc. No. 50 (hereafter "Order Granting Mot. to Seal") at 10 (noting, in granting motion to seal, that "[t]his case involves . . . topics that have stirred controversy both locally and nationally."). The contentious and politically charged

nature of this case intensifies the need to protect Plaintiffs' witnesses' privacy interests through disguising their identities.

d. Plaintiffs' witnesses are particularly vulnerable as child-litigants.

Courts heavily weight the privacy interests of children when assessing whether to provide anonymity. *Stegall*, 653 F.2d at 186 (emphasis added) (finding "*especially persuasive* . . . the fact that plaintiffs are children" and noting "the special status and vulnerability of the child-litigants."). This is appropriate because the Federal Rules of Civil Procedure themselves expressly recognize that unique privacy interests are at stake in cases involving child-litigants. *See* Fed. R. Civ. P. 5.2(a) (requiring as a "privacy protection" that "a party or nonparty making [an electronic or paper filing with the court] may include only: . . . the minor's initials."). The Second Circuit has held that "this rule [requiring only the use of initials] extends to the child's parents." *S.F. v. Archer Daniels Midland Co.*, 594 F. App'x 11, 12 n.1 (2d Cir. 2014) (citing with approval *P.M. v. Evans–Brant Cent. Sch. Dist.*, No. 08–CV–168A, 2008 WL 4379490, at *3 (W.D.N.Y. Sept. 22, 2008)); *see also Boyce v. Moberly Pub. Sch. Dist.*, No. 2:06CV00044ERW, 2007 WL 1378427, at *1–2 (E.D. Mo. May 7, 2007) (sealing record where "counsel claims that even if the childrens' names are substituted with initials, the names would still remain easily identifiable"); Order Granting Mot. to Seal at 10 ("The Court concludes that the limited information that Doe has redacted [the non-pseudonymous names and signatures of Doe and [Doe's] mother and two recent photographs of Doe] . . . would, if filed publicly, result in Doe being easily identified . . . and would adversely affect [Doe's] privacy[.]"). Plaintiffs' witnesses are minor children and their parents who fear use of their initials will identify them because Virginia High

School is a small school in a small town. V. Compl. ¶ 16. The student witnesses fear "retaliation from their peers, faculty and administrators within their school, and the greater community, if their identities are known." *Id.* One of Plaintiffs' intended witnesses decided to terminate her association with Privacy Matters before Plaintiffs' complaint was filed "due to perceived risks" of being involved in this lawsuit. *Id.* at ¶ 13 n.1. Given the vulnerability of these child-litigants and that identification of their parents would likely lead to the disclosure of the children's identities, this Court should find anonymity appropriate.

e. Plaintiffs' witnesses have cause to fear retaliation.

Courts have recognized that "whether identification poses a risk of retaliat[ion]" is a factor that should be considered. *James*, 6 F.3d at 238–39; *Sealed Plaintiff*, 537 F.3d at 190. In the employee-employer context, courts have been quick to recognize that an employee's involvement in an action seeking to vindicate statutory rights comes with a significant risk of retaliation because of the economic relationship of the parties. *Advanced Textile Corp.*, 214 F.3d at 1073 (collecting cases). Students and parents of those students enrolled in and challenging the policies of public schools face a similar fear that chills their willingness to defend themselves because student achievements, opportunities, and advancements, which may have tangible future economic implications as they factor into scholarships, college admissions, and athletic opportunities, are similarly in the hands of those they are accusing. *C.f. id.* Plaintiffs' witnesses here fear retaliation from their peers, faculty and administrators within their school and the greater community. V. Compl. ¶ 16; *see also* Decl. of Parent A at ¶ 11 (testifying that she avoids disclosing that her daughter is

enrolled in private school for fear of being identified in the community). And their fears are not unfounded. Student witnesses have testified that the District has held public presentations that communicated that people who disagreed with the District's policy choices were bullies and intolerant. V. Compl. ¶¶ 244-247.

II. The public interest in disclosure in this case is weak and would be better served by anonymity.

In this case, the public interest in disclosure of the identities of Plaintiffs' witnesses is—at best—weak and the public interest is better served by this Court granting anonymity. The "procedural custom," *Stegall*, 653 F.2d at 185, of requiring litigants to "name all the parties," Fed. R. Civ. P. 10(a), is admittedly "fraught with constitutional overtones." *Stegall*, 653 F.2d at 185.[2] Courts recognize "a First Amendment interest in public proceedings" that "is furthered by identifying the parties to an action." *W.G.A. v. Priority Pharmacy, Inc.*, 184 F.R.D. 616, 617 (E.D. Mo. 1999) (citing *Luckett*, 21 F. Supp. 2d at 1029). In general, "[t]he people have a right to know who is using their courts." *Blue Cross*

[2] Although this custom is instantiated in the Federal Rules of Civil Procedure, *Blue Cross & Blue Shield United of Wisconsin*, 112 F.3d at 872, the rules also empower, and in some instances require, courts and litigants to recognize privacy interests. *See* Fed. R. Civ. P. 5.2 (providing privacy protections, including for example, a requirement that litigants "making [an electronic or paper filing with the court] may include only . . . [a] minor's initials," and allowing courts to order that filings be "made under seal" or to enter "[p]rotective [o]rders" "[f]or good cause."); Fed. R. Civ. P. 16(b)(3)(iv)-(vi) (allowing courts to "include any agreements the parties reach for asserting claims of privilege or of protection as trial preparation material after information is produced" and "other appropriate matters" in pretrial scheduling orders); Fed. R. Civ. P. 26(c) (permitting "any person from whom discovery is sought" to "move for a protective order" and allowing courts to issue such orders "to protect a party or person from annoyance, embarrassment, [or] oppression," amongst other things).

& Blue Shield United of Wis., 112 F.3d at 872. But this interest in open trials, *see Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 580 and n. 17 (1980), gives way where "there is an atypically weak public interest in knowing the litigants' identities," *Sealed Plaintiff*, 537 F.3d at 190, or when the public's interest in the case is better served by anonymity, s*ee Advanced Textile Corp.*, 214 F.3d at 1068. Here, Plaintiffs' witnesses should be given anonymity because the public interest in disclosure is particularly weak given that the overriding issues are purely legal, *Sealed Plaintiff*, 537 F.3d at 189–90, and "the public[] interest" is best served by "enabling [the lawsuit] to go forward" through the use of pseudonyms, *Advanced Textile Corp.*, 214 F.3d at 1073.

The public interest in knowing litigants' identities is not served where legal issues predominate because "disguising plaintiffs' identities" does not "obstruct public scrutiny of the important issues in this case." *Advanced Textile Corp.*, 214 F.3d at 1072. Courts have noted that using the "judicial powers of the United States" is an invitation for "public scrutiny" of the parties' allegations and claims. *Luckett*, 21 F. Supp. 2d at 1029. But where the issues do not require scrutinizing facts and credibility and instead involve the types of matters presented here—constitutional and statutory rights, *see e.g.*, V. Compl. ¶¶ 308-386 (alleging violations of Title IX, RFRA, and state and federal constitutional rights); statutory interpretation, *see* Mem in Supp. of Pls.' MPI at 10-17; agency authority, *see* V. Compl. ¶¶ 251 – 307 (alleging violations of the Administrative Procedure Act); purported state law obligations, *see* District Opp. to MPI at 11-14; and jurisdictional questions, *see* Fed. Defs.' Opp. to MPI at 8-11—the public interest is not advanced through knowledge of the litigants' identities.

In analyzing whether the public interest in a given case was better served by anonymity or by disclosure, the Ninth Circuit considered the public interest in "seeing . . . [the] case decided on the merits" by assessing the import of the issues to the public and the risk that requiring disclosure might prevent the litigants from continuing in the case. *Advanced Textile Corp.*, 214 F.3d at 1073. This case raises important statutory and constitutional rights that affect nearly every public school student in the country. The public thus has a profound interest in seeing these issues resolved. In *Advanced Textile Corp.*, the Ninth Circuit also noted that "fear of . . . reprisals will frequently chill . . . willingness to challenge . . . violations of . . . rights" and commented on "[t]he danger of witness intimidation" in the employee-employer context in which the case arose. *Advanced Textile Corp.*, 214 F.3d at 1073.

Here, the concern about reprisals and intimidation is similarly, if not more, acute because Plaintiffs' witnesses are minor students and parents of minor students who have sued the governmental schools in which those minors are enrolled, or were enrolled and where they would like to return, and where they are almost daily mandatorily subject to tutelage and evaluation. V. Compl. ¶¶ 13-15, 188 (indicating that Parents B, D, and E, are the respective parents of female minor children B, D, and E who are currently enrolled in VHS; Parent A is the parent of a female minor child A, who was previously enrolled and who would likely return if the policy were set aside, as well as the parent of a male student who is currently enrolled at VHS; and that Parent F is the parent of a female minor child F, who was previously enrolled); *see also* Decl. of Parent F at ¶ 2 (testifying that Parent F has another minor child who is also a member of Privacy Matters and who is currently

enrolled in VHS); *see also* Decl. of Parent A at ¶ 9 (testifying to her concerns of retaliation against her son because of her and her daughter's testimony if their identity is disclosed).

III. Defendants will not be prejudiced by this Court granting relief.

In this case, there is no risk of prejudice to the defendants by allowing Plaintiffs' witnesses to proceed anonymously. First, as discussed above, the issues in the case are predominately issues of law that do not require testing the veracity of factual assertions or the credibility of witnesses; thus, there is little likelihood of prejudice to defendants by allowing Plaintiffs' witnesses to proceed pseudonymously with regard to those issues. To the extent that any factual issues remain, Plaintiffs are agreeable to limited revelation of the identities for discovery purposes.

Plaintiffs are agreeable to and have sought agreement from the District to an attorneys' only protective order that would limit disclosure of Plaintiffs' witnesses' identities to the District's attorneys and to Principal Lisa Perkovich, Superintendent Noel Schmidt, and former Superintendent Deron Stender, to the extent that the Defendant District's attorneys find disclosure necessary to confirm allegations and review student records to provide a full defense against Plaintiffs' claims. Decl. of Jordan Lorence ¶ 8 . The District described its response to Plaintiffs' request in its Memorandum in Opposition to Plaintiffs' Motion for Preliminary Injunction on page 9, footnote 3, saying "the District needs to know the identity of the individuals in order to investigate and respond to the Complaint" and calling the requested protective order "onerous." Plaintiffs maintain that given the significant privacy interests articulated herein, *see supra* section I, that the

protective order previously requested by Plaintiffs (described above) would adequately balance the District's discovery needs with Plaintiffs' witnesses privacy concerns.

Conclusion

Plaintiffs' privacy interests demonstrably outweigh any countervailing consideration favoring disclosure of their identities. For all the foregoing reasons, Plaintiffs' ask this Court to enter an order permitting all members and fact witnesses identified in Privacy Matters' Complaint—including Parents A, B, D, E, and F, and students referred to in Plaintiffs' Complaint as Girl Plaintiffs A, B, D, E, and F—to proceed in this case using the letter pseudonyms ascribed to them in Plaintiffs' Complaint.

Date: November 2, 2016

By: /s/ Jordan Lorence

RENEE K. CARLSON, MN 0389675
CARLSON LAW, PLLC
855 Village Center Drive, #259
St. Paul, MN 55127
(612) 455-8950
rcarlson@rkclawmn.com

JORDAN LORENCE, MN 0125210
ALLIANCE DEFENDING FREEDOM
440 First St. NW, Suite 600
Washington, DC 20001
(202) 393-8690
jlorence@ADFlegal.org

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DOUGLAS G. WARDLOW, MN 0339544
KATHERINE L. ANDERSON, AZ 033104*
ALLIANCE DEFENDING FREEDOM
15100 N. 90th St.
Scottsdale, Arizona 85260
(480) 444-0020
gmccaleb@ADFlegal.org
dwardlow@ADFlegal.org
kanderson@ADFlegal.org

**Admitted Pro Hac Vice*

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2016, I electronically filed the foregoing document entitled Memorandum of Law in Support of Plaintiffs' Motion to Proceed Pseudonymously with the Clerk of Court using the Court's ECF system, which will effectuate service on all parties.

/s/ Jordan Lorence
Jordan Lorence

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

PRIVACY MATTERS, a voluntary unincorporated association, and **PARENT A,** president of Privacy Matters,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF EDUCATION; JOHN B. KING, JR., in his official capacity as United States Secretary of Education; **UNITED STATES DEPARTMENT OF JUSTICE; LORETTA E. LYNCH,** in her official capacity as United States Attorney General; and **INDEPENDENT SCHOOL DISTRICT NUMBER 706, STATE OF MINNESOTA,**

Defendants,

and

JANE DOE, by and through her mother, **SARAH DOE,**

Intervenor-Defendant.

Case No. 0:16-cv-03015-WMW-LIB

Judge Wilhelmina M. Wright
Magistrate Judge Leo I. Brisbois

DECLARATION OF JORDAN LORENCE

I, Jordan Lorence, hereby declare the following:

1. I make this declaration based on my personal knowledge.
2. The Plaintiffs are filing a motion for the Plaintiffs and their witnesses to proceed with pseudonyms.
3. Plaintiffs Privacy Matters and Parent A seek leave for all members and fact witnesses identified in Privacy Matters' Complaint—including Parents A, B,

D, E, and F, and student witnesses referred to in Plaintiffs' Complaint as Girl Plaintiffs A, B, D, E, and F —to proceed in this case using the letter pseudonyms ascribed to them in Plaintiffs' Complaint.

4. Everyone that motion would apply to is either a minor child, or a parent of a minor child.
5. The attorney for the federal Defendants wrote me and has no objection to Plaintiffs' request to use pseudonyms for minor children and the parents of those minor children.
6. The attorney for Intervenor Doe wrote me and has no objection to Plaintiffs' request to use pseudonyms for minor children and the parents of those minor children.
7. The attorney for the School District wrote me and stated, "While I think in theory the District would not object to the use of pseudonyms by the Plaintiffs, I would like to reserve our right to challenge and object to the motion depending on the individuals who are involved and the arguments contained in the motion."
8. In October 2016, Plaintiffs sought agreement from the District to an attorneys' only protective order that would limit disclosure of Plaintiffs' witnesses' identities to the District's attorneys and to Principal Lisa Perkovich, Superintendent Noel Schmidt, and former Superintendent Deron Stender, to the extent that the Defendant District's attorneys find disclosure necessary to confirm allegations and review student records to provide a full defense against

Plaintiffs' claims. The Plaintiffs and the Defendant District were unable to reach an agreement on this protective order.

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

Executed on November 2, 2016.

Jordan Lorence

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

PRIVACY MATTERS, a voluntary unincorporated association, and **PARENT A,** president of Privacy Matters, Plaintiffs, v. **UNITED STATES DEPARTMENT OF EDUCATION; JOHN B. KING, JR.,** in his official capacity as United States Secretary of Education; **UNITED STATES DEPARTMENT OF JUSTICE; LORETTA E. LYNCH,** in her official capacity as United States Attorney General; and **INDEPENDENT SCHOOL DISTRICT NUMBER 706, STATE OF MINNESOTA,** Defendants, and **JANE DOE,** by and through her mother, **SARAH DOE,** Intervenor-Defendant.	**Case No. 0:16-cv-03015-WMW-LIB** Judge Wilhelmina M. Wright Magistrate Judge Leo I. Brisbois

DECLARATION OF PARENT A

I, the Parent referred to in Plaintiffs' Complaint as Parent A, hereby declare the following:

1. I am the President of Privacy Matters, a voluntary unincorporated association.
2. I make this declaration based on my personal knowledge.
3. Privacy Matters exists to protect the First Amendment and privacy rights of public school students and the rights of their parents to educate them on bodily

privacy and sexual modesty. Privacy Matters aims to accomplish its objectives through legal means advocating for sex-separated private facilities, such as restrooms, locker rooms, showers, and overnight accommodations, for male and female public school students.

4. I am the parent of a minor male child currently enrolled at Virginia High School (VHS), who is referred to in Plaintiffs' Complaint ¶ 188.
5. My son, who is referred to in Plaintiffs' Complaint ¶ 188, is a member of Privacy Matters.
6. My son who is enrolled at VHS is currently subject to the policies of the Defendants in this lawsuit, which open private facilities, such as locker rooms, restrooms, and showers, to students of the opposite sex based on a student's professed gender identity.
7. I am also the parent of a minor female who was previously enrolled at VHS and who is referred to in Plaintiffs' Complaint as Student A.
8. I believe that if my initials or my daughter's (Student A's) initials are disclosed that our identity will be easily discerned by members of the community.
9. I fear that if my identity or my daughter's (Student A's) identity is disclosed that my son mentioned above will face retaliation from students, faculty, and the administration at VHS, as well as from members of the broader community.

10. My son works hard at school and I fear that our involvement in this lawsuit and/or our membership in Privacy Matters, if disclosed, could negatively impact his educational opportunities or success.

11. Facts about our decision to remove my daughter from VHS were included in Plaintiffs' Complaint, which is public record. Because I am afraid that disclosure of our identities will result in retaliation against my family by the community, including against my son who is enrolled at VHS, I intentionally avoid disclosing that my daughter (Student A) is enrolled in private school because I believe that disclosing that fact could result in our identification. I have only disclosed that my daughter is in private school to a few close friends and family members who I trust and who have previously indicated their support of Privacy Matters' lawsuit against VHS.

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

Executed on November 2, 2016.

Parent A

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

PRIVACY MATTERS, a voluntary unincorporated association, and **PARENT A**, president of Privacy Matters, Plaintiffs, v. **UNITED STATES DEPARTMENT OF EDUCATION; JOHN B. KING, JR.,** in his official capacity as United States Secretary of Education; **UNITED STATES DEPARTMENT OF JUSTICE; LORETTA E. LYNCH,** in her official capacity as United States Attorney General; and **INDEPENDENT SCHOOL DISTRICT NUMBER 706, STATE OF MINNESOTA**, Defendants, and **JANE DOE,** by and through her mother, **SARAH DOE**, Intervenor-Defendant.	**Case No. 0:16-cv-03015-WMW-LIB** Judge Wilhelmina M. Wright Magistrate Judge Leo I. Brisbois

DECLARATION OF PARENT F

I, the Parent referred to in Plaintiffs' Complaint as Parent F, hereby declare the following:

1. I make this declaration based on my personal knowledge.

2. I am the parent of a minor female child who is currently enrolled at Virginia High School (VHS) and who is a member of Privacy Matters.

3. My daughter who is enrolled at VHS is currently subject to the policies of the Defendants in this lawsuit, which open private facilities, such as locker rooms, restrooms, and showers, to students of the opposite sex based on a student's professed gender identity.
4. I am also the parent of a minor female who was previously enrolled at VHS and who is referred to in Plaintiffs' Complaint as Student F.
5. I believe that if my initials or my daughter's (Student F's) initials are disclosed that our identity will be easily discerned by members of the community.
6. I fear that if my identity or my daughter's (Student F's) identity is disclosed that my daughter who is currently enrolled at VHS will face retaliation from students, faculty, and the administration that could negatively impact her educational opportunities or success.
7. I also fear that our involvement in this lawsuit and/or our membership in Privacy Matters, if disclosed, could negatively impact the educational opportunities or success of my daughter at VHS.

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

Executed on November 2, 2016.

Parent F

Parent F