

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
CIVIL APPEAL STATEMENT OF PARTIES AND ISSUES

Case No: 16-4117 Case Manager: Roy G. Ford

Case Name: Bd. of Educ. of the Highland Local School Dist. v. Doe

Is this case a cross appeal?  Yes  No

Has this case or a related one been before this court previously?  Yes  No

If yes, state:

Case Name: \_\_\_\_\_ Citation: \_\_\_\_\_

Was that case mediated through the court’s program?  Yes  No

**Please Identify the Parties Against Whom this Appeal is Being Taken and the Specific Issues You Propose to Raise:**

This appeal is taken against Third-Party Plaintiff-Appellee Jane Doe. Without waiving the right to assert additional issues, Third-Party Defendants-Appellants propose to raise the following issues:  
Whether the term "sex" in Title IX of the Education Amendments of 1972, and its implementing regulations, is a binary trait, that is innate, and defined in relationship to the reproductive role.  
Whether the U.S. Department of Education’s interpretation of the term “sex” as including “gender identity” is entitled to deference.  
Whether transgender status is a protected classification under Title IX.  
Whether transgender status is subject to heightened scrutiny under the Equal Protection Clause.  
Whether Appellants have an interest in providing students with a safe and private environment for performing some of life’s most essential and intimate functions consistent with society’s long-held tradition of performing such functions in sex-separated spaces based on sex.  
Whether a board of education's policy of separating showers, restrooms and other intimate facilities based on sex, as opposed to gender identity, is rationally or substantially related to a conceivable legitimate interest.  
Whether Title IX’s prohibition against sex discrimination requires a recipient of federal education funds to allow an unaltered male access to female student restrooms where Third-Party Defendants can and have provided access to individual-user restrooms.  
Whether Third-Party Plaintiff has a strong likelihood of success on the merits.  
Whether Third-Party Plaintiff will suffer irreparable injury without the injunction, where Third-Party Defendants have provided access to individual-user restrooms.  
Whether the issuance of an injunction will cause substantial harm to others.  
Whether the issuance of an injunction will serve the public interest.

This is to certify that a copy of this statement was served on opposing counsel of record this 12th day of

October, 2016 .

Patrick Vrobel

Name of Counsel for Appellant