

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JULIET EVANCHO, ET AL.,)	
)	
Plaintiffs,)	2:16-cv-01537
)	
v.)	Judge Mark R. Hornak
)	
PINE-RICHLAND SCHOOL DISTRICT,)	
ET AL,)	
)	
Defendants.)	

**ORDER GRANTING IN PART PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION AND DENYING WITHOUT
PREJUDICE THE DEFENDANTS’ MOTION TO DISMISS**

Pending before the Court is Plaintiffs’ Motion for Preliminary Injunction [22, 24] filed by Plaintiffs Juliet Evancho; Elissa Ridenour; and A.S., a minor, by and through his parent and next friend (collectively, “Plaintiffs”). Also pending is the Defendants’ Motion to Dismiss [34].

Plaintiffs request that this Court preliminarily enjoin Defendants Pine-Richland School District (“District”); Dr. Brian R. Miller, in his official capacity as Superintendent of the Pine-Richland School District; and Nancy Bowman, in her official capacity as Principal of Pine-Richland High School (“High School”) (collectively, “Defendants”), from (1) enforcing Resolution 2 or any policy, practice, or custom of the Pine-Richland School District and/or Pine-Richland High School that denies Plaintiffs the access and use of the restrooms and other sex-designated facilities consistent with their gender identities; (2) taking any formal or informal disciplinary action against Plaintiffs for using the restrooms and other sex-designated facilities consistent with their gender identities; and (3) refusing to treat Plaintiffs consistently with their gender identities in any respect.

Defendants request that the Complaint be dismissed in its entirety.

Having reviewed the papers filed in support of and in opposition to these Motions, having heard arguments from counsel and having provided the parties a full opportunity to place any relevant matter into the record, for good cause shown, the Court hereby GRANTS IN PART Plaintiffs' Motion for Preliminary Injunction, and DENIES WITHOUT PREJUDICE the Defendants' Motion to Dismiss, finding and concluding as follows:

1. Plaintiffs have given proper notice to Defendants of their Motion pursuant to Rule 65(a)(1), and a hearing on these Motions has been held in open Court.

2. For the reasons stated, and based on the facts found and conclusions reached, all as set forth at length in this Court's Opinion of this date, Plaintiffs have demonstrated (1) a likelihood of success on the merits of their Equal Protection claim; (2) that they will likely suffer irreparable harm absent the grant of preliminary injunctive relief; (3) that the balance of the equities weighs in favor of granting such relief; and (4) that the entry of preliminary injunctive relief is in the public interest.

3. The Court hereby preliminarily restrains and enjoins Defendants, their officers, employees, and agents; all persons acting in active concert or participation with any Defendant, or under any Defendant's supervision, direction, or control; and all other persons within the scope of Federal Rule of Civil Procedure 65(d)(2), from (1) enforcing as to the Plaintiffs the Defendant District's Resolution 2 or any policy, practice, or custom of the Pine-Richland School District and/or Pine-Richland High School that denies Plaintiffs the access and use of the District's restrooms consistent with the Plaintiffs' gender identities (or the use by any student including the Plaintiffs of the District's single-user restrooms otherwise made available to

students); (2) taking any formal or informal disciplinary action against Plaintiffs because they used the District's restrooms consistent with their gender identities so long as such use is otherwise not in violation of the District's Code of Student Conduct; and (3) otherwise modifying the manner in which the Defendants interacted with the Plaintiffs prior to the adoption of Resolution 2 with regard to the Plaintiffs' gender identities and in relation to the Plaintiffs' attendance in the District and/or the Plaintiffs' participation in any District program or activity.

4. The Court specifically finds that ordering such preliminary injunctive relief during the pendency of this litigation restores and preserves the *status quo ante* and poses little risk of financial burden or cost, or material risk of monetary loss, on or to the Defendants. Plaintiffs will therefore be required to post security in the amount of \$500.00 on or before March 1, 2017.

5. In order to facilitate communication with and within the High School community, this Preliminary Injunction Order shall take effect on March 1, 2017. It shall remain in effect pending final disposition in this action, or further order of this Court.

6. The Defendants' Motion to Dismiss For Failure to State A Claim [34] is DENIED without prejudice. Defendants shall file their Answer to the Plaintiffs' Complaint on or before March 15, 2017.

Entered this 27th day of February, 2017 at 4:00 p.m. E.S.T.

s/ Mark R. Hornak
Mark R. Hornak
United States District Judge

cc: All counsel of record