

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

JOEL DOE, a minor; by and through his
Guardians JOHN DOE and JANE DOE;
MARY SMITH; JACK JONES, a minor;
by and through his Parents JOHN
JONES and JANE JONES; and MACY
ROE,

Plaintiffs,

vs.

BOYERTOWN AREA SCHOOL
DISTRICT; DR. RICHARD FAIDLEY,
in his official capacity as
Superintendent of the Boyertown Area
School District; DR. BRETT COOPER,
in his official capacity as Principal; and
DR. E. WAYNE FOLEY, in his official
capacity as Assistant Principal,

Defendants,

And

PENNSYLVANIA YOUTH CONGRESS
FOUNDATION,

Defendant Intervenor.

Case No. 17-1249-EGS

The Honorable Edward G. Smith

**PLAINTIFFS' RESPONSE TO
SUPPLEMENT TO INTERVENOR-
DEFENDANT PENNSYLVANIA
YOUTH CONGRESS
FOUNDATION'S PROPOSED
FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

**PLAINTIFFS' RESPONSE TO SUPPLEMENT TO INTERVENOR-
DEFENDANT PENNSYLVANIA YOUTH CONGRESS FOUNDATION'S
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Amici Curiae admit that they responded to what they called “hypothetical concerns,” among them that intermingling the sexes pursuant to an “inclusive” policy would violate the privacy of other students. Such shadow-boxing at hypotheticals does nothing to inform this Court about how to rule

in this preliminary injunction motion in response to the real harms that Plaintiffs have suffered and will continue to suffer along with other students in this case. Indeed, the instant case is exactly the concrete, first person privacy claims that had not been fleshed out in *Gloucester*. The new proposed findings of fact boils down to an “others are doing it, too” argument that is not relevant to the disposition of this case or the clear facts of this case.

Respectfully submitted this 17th Day of August, 2017.

By: /s/ Randall L. Wenger

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on Thursday, August 17, 2017, the foregoing was filed electronically and served on the other parties via the court's ECF system.

/s/ Randall L. Wenger

Randall L. Wenger

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