

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
NORTHERN DIVISION

MARY SMITH, a minor; by and through her
mother and guardian JANE DOE,
-and-
JANE DOE,

Plaintiffs,

-v-

BOARD OF EDUCATION OF FREDERICK
COUNTY, MARYLAND, consisting of its
President Brad W. Young, Vice President, Liz
Barrett, and members Michael Bunitsky,
Colleen Cusimano, Ken Kerr, April Miller,
Joy Schaefer, and Theresa R. Alban,
Superintendent of Schools, each in their
official capacities; and FREDERICK
COUNTY PUBLIC SCHOOLS.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Mary Smith, by and through her mother Jane Doe, and Jane Doe, state as follows:

1. Mary Smith's civil rights, including her fundamental right to bodily privacy, are being intentionally violated contrary to the United States and Maryland Constitutions and statutory laws.
2. Jane Doe's fundamental parental rights to the care, custody, control, upbringing and information regarding her child is also being intentionally violated.
3. Those laws protecting her include the First Amendment, Fourteenth Amendment, Title IX, invasion of privacy and seclusion, the Maryland Constitution, Declaration of Rights: Freedom of Speech and Due Process (Articles 24 & 40, Edu. Art. 7-121), Equality of Rights Not Denied On Basis of Sex (Article 46), Separation of Powers-Legislative Proceedings and Government

derived of the people and its English Common Law (Articles 1, 5, 8 & 10), and Md. Ann. Code Education Articles §§ 7-424 (Bullying), § 7-301 (Compulsory Attendance), 2-205 (Powers and Duties of the Board [of Education]), § 4-117(b)(1)(Construction or Remodeling of Buildings to conform to State codes), § 5-301 (Public School Construction and Capital Improvements), and Md. Ann. Code Public Safety Article § 12-503 (Construction of State Buildings) and its authority via regulations and construction codes including COMAR 05.02.01, The State Model Performance Code (MPC) For State Buildings (Re: Executive Order 01.01.1992.11; dated 1992), and the International Building Code, each adopted thereunder, which requires separate facilities on the basis of sex.

JURISDICTION AND VENUE

4. This action arises under 42 U.S.C. §§ 1983 *et seq.* (the “Civil Rights Act”) to redress the deprivation of rights secured by the Fourteenth Amendment to the United States Constitution, 20 U.S.C. §§ 1681 *et seq.* (“Title IX”), the State of Maryland Constitution and common law and the aforesaid state statutes.
5. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, 1361 and 1367.
6. The Court has jurisdiction to issue the requested declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202 and Federal Rule of Civil Procedure 57.
7. The Court has jurisdiction to award nominal and compensatory damages under 28 U.S.C. § 1343(a)(4).
8. The Court has jurisdiction to award reasonable attorney’s fees and costs under 28 U.S.C. § 2412, 42 U.S.C. § 1988.
9. Venue lies in this District because a substantial part of the events giving rise to all claims occurred here where the District Defendant is located, pursuant to 28 U.S.C. § 1391(b) and (e).

10. The Court has personal jurisdiction over Defendants because they are domiciled in Maryland.

PARTIES

Plaintiffs

11. Plaintiff and her guardian are citizens of the United States and residents of historic Frederick County, Maryland.

12. Plaintiff Mary Smith is a 15-year-old minor girl. She is a student at a Frederick County High School under the jurisdiction of the Frederick County Board of Education. Mary Smith asserts her civil rights as a woman in her attached, sealed Declaration filed herewith identifying herself and certain protected personal facts (**Exhibit A, incorporated herewith**). Because she is a minor, this action is brought on her behalf by her mother and legal guardian.

13. Jane Doe is the mother of Mary Smith. She is a resident of Frederick County and is experiencing a deprivation of her fundamental right as a parent to the care, custody, control, upbringing and information concerning her daughter. Her Declaration is also attached, in sealed format with certain protected personal facts (**Exhibit B, incorporated herewith**).

Defendants

14. Defendant Board of Education of Frederick County, Maryland (“BOE-FC” or “Board of Education”) is the governing entity of the Frederick County Public Schools (“FCPS”) and is organized and derives its authority from the laws of the State of Maryland.

15. The Board of Education oversees public educational institutions that provide students a pre-kindergarten through 12th grade education.

16. The Board of Education and FCPS receive federal funds and so are subject to the requirements of Title IX.

17. The Board of Education and FCPS includes 66 schools, including 36 elementary schools, 13

middle schools, 10 high schools, 3 public charter schools, an alternative school, a special education school, Flexible Evening High and a Career and Technology Center. Plans are underway to add 2 more elementary schools in the next 3 years.

18. The Board of Education governs the FCPS and its Superintendent, who also sits as secretary-treasurer of the Board of Education, and is the final decision-making authority for all FCPS actions or decisions.
19. The Board of Education is responsible for the enforcement of policies through its decisions and orders to the Superintendent of Schools and administrators, teachers and other employees.
20. At all times relevant herein, the Defendants acted within their scope of authority as elected officials and members of the Board of Education; Theresa Alban, who is appointed to the Board and is the only non-elected member, serves in her capacity as an agent and representative of the Board of Education.

INTRODUCTION

21. In such official capacity, the Board of Education, its members, and FCPS implemented new policies in the fall of 2016 and Spring of 2017, namely Policies 437 (Anti-Bullying and Harassment) and 443 (“Transgender and Gender Non-Conforming Students”), which permit students of one sex to enter and use restrooms, locker rooms and shower facilities (“bath facilities”) designated for members of the opposite sex.
22. The policies also allow for males who identify as females to compete against females under Title IX sports programs and share hotel rooms with them on trips, violating the rights of students who are of the female sex.
23. On information and belief, prior to the policies being passed by the Board of Education, for several years the Board of Education and/or FCPS authorized the use of bath facilities by

members of the opposite sex without informing parents of the change and in *ultra vires* to its authority under state or federal law.

24. The said policies, like a sad chapter from the history of the child cults Soviet Komsomol or Young Pioneers in the failed USSR, further calls for government personnel, teachers, administrators and school employees (“government official”) to prevent and refuse parental access to information about their child whenever the school employee deems it might be detrimental to the “best interest” of the child, including a delegation of power to the government official for consideration of the parent’s religious, cultural and political viewpoints involving so-called gender or sexual identity.
25. Defendant Board of Education has policy-making authority not otherwise provided for in the state school bylaws and regulations to establish policies and practices pursuant to education, however, that authority does not extend to re-classifying State construction codes which mandate separate male and female bath facilities in all government buildings including public schools.
26. On information and belief, the General Assembly in 2014, under then-Governor Martin O’Malley, debated and because of the public outcry to protect the state’s children could not pass any state mandate to require bath facility construction Codes to no longer mandate male and female bath facilities, and instead specifically exempted religious education institutions and private schools from any mandate to allow access to bath facilities by members of the opposite sex, while also remaining silent in the law concerning public school bath facilities, consoling parents that the Legislature of Maryland would not force such a policy of opposite sex students being permitted into bath facilities under “gender identity” or other law.
27. The Board of Education has no authority to alter, abolish or amend the state’s construction

codes nor its Legislative policy for male and female bathrooms.

28. Instead, on information and belief, since the Legislative process was foreclosed to the changes desired by some in political positions on the Board of Education, they acted *ultra vires* and passed the policies with minimal public notice and input, not once requesting parental guidance or feedback on the substantive change to the 400-year policy under English common law and American statutory law and jurisprudence of separate bath facilities for children in the schools.
29. Only in history do we see totalitarian regimes that arrogate to itself powers to force children and citizens to undress in front of members of the opposite sex.
30. In Western civilization, the importance of privacy and personal control over one's right to not be forced to undress by a state official in front of a member of the opposite sex is both sacred and the very essence of what the law protects under the jurisprudence of personal freedom and dignity.
31. Defendants purposefully and intentionally violated Plaintiffs' rights and have further attempted to harass and coerce the minor Plaintiff and her mother into abridging their freedom of speech by threatening retaliation, expulsion and permanent negative academic records for failure to use the pronouns now mandated which upon information and belief, call a male a female when the person or government official requires such pronoun use.
32. Only in totalitarian regimes do government officials threaten individuals with retaliation if they do not make government-mandated speech such as this Board of Education is mandating under its policies by forcing students to use pronouns in violation of their right to Free Speech.
33. This case is easily disposed of in favor of Plaintiffs because state law requires the Board of Education to follow the procedures of Free Government, that is, the Legislature creates and passes the laws of the land and no Board of Education can issue, pass, proclaim or require any

policy in contravention to state law, which is exactly what these Defendants have done.

34. Furthermore, the merits of the case in defense of Plaintiffs' civil liberties and constitutional freedoms guaranteed under the Fourteenth Amendment must be and should be easily upheld if we are to remain a civilized society. This is particularly true when considering the Legislature of Maryland has previously indicated that separate facilities for those who suffer from gender dysphoria can be provided as a matter of compliance in private facilities that have public-access. How much more in matters of education and schools, where children are in the "tender years" and puberty can cause pressures and stresses on youth, that we as a civil society uphold common decency and principles of freedom to ensure that youth are protected in their persons and liberties without the tyranny of a very tiny minority.
35. The policies and practice of both secretly imposing bath facility use by opposite sexes and the new policies of 437 and 443 have had a severe and negative impact on Plaintiff Mary Smith. These include feelings of concern and embarrassment, and she stands fearful and concerned for her safety, of the humiliation and stigma of being viewed by members of the opposite sex, and the stigma and threats she is receiving and will receive in these policy mandates. Defendants policies expose her to retaliation, ridicule and permanent negativity in her school records should she fail to comply with the speech and bath facility mandates and be viewed wrongly as "harassing, intimidating or threatening" or "causing mental or emotional harm" just because she speaks the truth and wants to maintain her own decency and privacy.
36. Plaintiff Mary Smith and girls like her are avoiding the bath facilities altogether just to avoid any potential concerns for their privacy and safety. She demands her rights and protections as a woman.
37. Plaintiff Mary Smith is also a victim of prurient acts at her public school bath facility, with the

failure of her school to adequately monitor the bath facilities, providing opportunity for a female student to video her undressing on her phone and to then distribute photos of her body.

38. Such failures in school administrative personnel to monitor the school bath facilities and hotel rooms while on school trips, coupled with the extreme rise in rape of girls in the public-school bath stalls, demonstrates the urgency for prevention of these horrific policy changes by injunction.

FACTS

39. All paragraphs in this complaint are incorporated as if fully set forth herein.

40. On information and belief as recently learned from statements of Board of Education Vice President Liz Barrett to parents at a hearing, the Board of Education has for several years allowed males and females to ignore the sex-specific bathrooms and locker rooms at FCPS schools.

41. This practice was not supported by any Board of Education public policy or state law, but predicated upon a secret, off-the-record agreement with the Superintendent of Schools to begin to allow this practice in the schools.

42. The practice violated the privacy of students and rights of parents.

43. The practice was recently made official public policy of the Board of Education with the passage of Policies 437 and 443 and enforcing regulations (**Exhibit C, attached and incorporated herewith**).

44. Under this illegal practice of the Board of Education, minor Plaintiff was left unsupervised in a girls' locker room at her FCPS school with other students, also against public FCPS policy.

45. One child videoed minor Plaintiff and her friends in various stages of undressing in the bath facility during PE and uploaded it to the internet, while in school. Minor Plaintiff was partially

undressed in the video. The video was discovered by one of minor Plaintiff's friends and a teacher was informed. This was during the time when cell phones were not to be used during school time and were certainly not to be used in locker rooms, but the practice was to not monitor the bath facilities so as to allow anyone to use either male or female facility if they chose to believe their gender identity should permit them entry and use. The lack of supervision also permitted, on information and belief, a sexualized climate in bath facilities at FCPS schools which continues to this day such that many girls no longer use the locker rooms or showers out of fear of being raped, videoed, or otherwise having their privacy invaded.

46. It is mandatory that students participate in PE class and change into clothing appropriate for Physical Education, causing great anxiety and emotional harm to Minor Plaintiff.
47. Minor Plaintiff does not participate in sports or other extracurricular activities that could require her to change her clothes or shower at her school because of this anxiety, depriving her of her right to privacy and involvement in school events.
48. Such secret practices by the Board of Education caused a deprivation of rights and civil liberties for minor Plaintiff and other girls and boys in the public schools, and deprived Jane Doe and other parents of their rights as parents to the protection and care of their children while at school, because Jane Doe was unaware that the school was forcing her daughter to be unsupervised in school locker rooms while other students of the opposite sex were allowed to enter the showers and bath facilities.
49. The policy 443 by the Board of Education has and is causing a deprivation of rights and civil liberties for minor Plaintiff and other girls and boys in the public schools, and deprived Jane Doe and other parents of their rights as parents to the protection and care of their children while at school because minor Plaintiff is concerned that at any moment a male who identifies as

female will enter her bath facility at school and she will feel humiliated, embarrassed and violated.

50. The policy 443 requires that Minor Plaintiff and any student who feels such violation of space be required to leave the locker room and enter a private bath facility, making the majority of students subservient to the minority who are male or female and entering the bath facility of the opposite sex.

51. Defendants have further attempted to harass and coerce the minor Plaintiff and her mother into abridging their freedom of speech by threatening retaliation, expulsion and permanent negative academic records for failure to use the pronouns now mandated which upon information and belief, call a male a female when the person or government official requires such pronoun use. **(Exhibit D, attached and incorporated herewith).**

52. Such humiliation, stress and government pressure has made minor Plaintiff feel belittled, ostracized if she were to speak out and request privacy, and intimidated into potentially undressing in front of males in her locker room just to avoid the stigma of being required to leave.

53. The public policy of the Maryland Legislature is turned on its head by the Board of Education in that the safe space bath facilities for single use are – for the general public – to be for males or females who identify as something other than their sex to use, not a policy to require those majority female students who disagree with males in their bath facilities to be forced to leave the women’s bath facility and endure the stigma and loss of freedom for disagreeing with the Board of Education’s sexual identity politics that have no basis in law or history outside of totalitarian regimes.

54. Minor Plaintiff has a “504” in place because she suffers from severe anxiety. Through

therapy Jane Doe discovered her daughter's anxiety comes from being bullied in school, and observing other students being bullied while school staff does nothing to intervene and stop the bullying, and in one instance she noted in her school file, her teacher joined in making jokes about a student.

55. Minor Plaintiff's anxiety has only suffered worse from the Board of Education's secret policy and new public policy 443 that allows males to enter her bathroom and locker room.
56. The Board of Education's Policy 443 seeks to further erode parental rights by requiring State personnel in schools to keep certain facts from parents under a best interest analysis, which is an improper usurpation and delegation of parental authority to school personnel.
57. If a student is "transgendered" at school but not at home and being allowed to access the school bathroom and locker room of their "chosen" gender, under Policy 443 government officials may be forbidden from informing the child's parents if the official's personal analysis deems the student's parents may object to the transitioning or be opposed to the child's decisions.
58. A parent may not want their child in the private spaces of the opposite sex, regardless of whether they support their child seeking to be transgendered. FCPS is usurping parental rights by allowing a student to use an alternate identity at school than on the child's birth certificate and common use by the parents of the child as stated on school records, and seeks to retain authority to actually change the child's name without parental authority, up to and including alternate given first and surnames, and use of pronouns.
59. School officials have no lawful authority to change a minor's name or call them by any name other than that which the child's parents designate, nor do school officials have authority to change school records of enrolled names of students without parental authority.
60. The Board of Education's FCPS legal counsel is shown on official video explaining how she

informs teachers of how to keep information out of the public domain, including from parents. Members of the Board of Education are also on this video appearing to be comfortable with keeping certain information from parents and that there is only one way they would ever learn the facts of their child's transgenderism, that is via the "official" school record after a request and granting of permission to review that record, which the Policy 443 makes conditionally available only after an analysis by the State personnel whether the parent should know of the information regarding their child's "Transgender" status.

61. Through this policy the Board of Education and FCPS is prejudging parents to be unqualified to make decisions regarding their child's confused gender identity, in violation of the law of the land and the civil rights of Plaintiffs. FCPS justification for keeping this information from parents is "safety".
62. The anxiety, stress and embarrassment minor Plaintiff feels as a direct result of Defendants' practice and policies has caused her to refrain from using female locker rooms and bath facilities as much as possible, and is a constant point of stress and distraction while she is at school trying to pursue her education, including during instructional time.
63. Mary Smith feels shamed by the Board of Education as if she is a bad person for simply being a woman who is caring and compassionate but does not agree with undressing or voiding her bladder in front of males, and as such has had her privacy violated and invaded by the Defendants.
64. On August 9, 2017 Chief of Staff of the FCPS and FCPS counsel and lawyer Jamie Cannon, Esq. stated in response to questioning on this Policy 443 and implementing regulations that parents will only be notified once and if the school deems the child to be on a "suicide watch" or similar comments, stating that the school "transfers liability back to the parents" only upon

a designation of medical issues, and “Transgenderism” would not apply, or similar words.

65. On August 9, 2017 other Board of Education members, including Jamie Cannon, Esq., stated that the information of a child’s “transitioning” to transgender will be withheld from parents under Policy 443 because “kids are many times scared of parents being upset or disciplining them because of their choices” or similar words.
66. On August 9, 2017 other Board of Education members, including Vice President Liz Barrett, stated that the Policy 443 is required in order to comply with “state law”, but claims “COMAR” and “state regulations”, and “400-20 and FERPA”, requires no-parental disclosure.
67. On August 9, 2017 Board of Education members, including Vice President Liz Barrett and Joy Schaefer, stated “our reasons for not informing parents is because if we do a lot [sic] of students will not come to us for help [sic]”. “Their kid doesn’t feel safe talking to the child’s parents, and that doesn’t mean the child isn’t safe at home, that’s just a natural part of adolescence, and there is a sensitivity for that.”
68. On August 9, 2017 Board of Education member and Vice President Liz Barrett stated that “it wouldn’t matter if the student was transgender or non-binary, other students may have fears of parents and we need to consider when to [not contact parents] and call 9-1-1...” or similar words.
69. On August 9, 2017 Board of Education members asserted that the Policy 443 complies with “FERPA and state law” to “Respect parental rights” because “they have to, it is the law” so the second paragraph says what you want to protect parents, but not as strongly as [some parents] want” because “personal information about transgender and gender-non-conforming students” is “not to be shared with parents”... “if there is a health or safety concern”. But other Board of Education members stated they want the policy to say “at all times, but especially if there is a

health or safety concern...because we must welcome and affirm all students for who they are...”.

70. On August 9, 2017 Board of Education President Brad Young proposed that the policy 443 be changed to say “parents will be contacted if there is a health or safety concern” to which the Board of Education appeared to unanimously, with counsel of Jamie Cannon, Esq., approve of that change. This change was modified to allow no-parental contact or report when there is **no** health or safety concern, under color and pretense of state law violating Plaintiff’s fundamental parental rights.
71. On August 9, 2017 the Board of Education, Vice President Liz Barrett, stated in public meeting that accommodations for parents who do not wish their daughter to be housed on field trips with a transgender male 1) may not be told about the concern, and 2) if they do know, may not be allowed to change rooms, stating that “some kids don’t have to go on field trips if the parents don’t want them to because we can’t address every problem in the school system” and if you don’t like it, “good grief, call the supervisor...” or similar words.
72. Defendants’ policies, regulations and actions, including but not limited to Policy 437 (“bullying”) and 443 (“transgender students”) and its related regulations are forcing Plaintiff Mary Smith and students and parents to use the gender pronouns that the school or a fellow student demands, regardless of the actual sex of the student, all on pain of reporting for bullying, and mistreatment by discipline and retaliation permanently noted in the school records of the student against any offending student, by government school staff.
73. On May 30, 2017 Board of Education Vice President Liz Barrett, a “gender identity” activist who was the primary sponsor of and, on information and belief, internal lobbyist for Policy 443, wrote an e-mail response to Plaintiff Jane Doe addressing Plaintiff’s concerns and

objections to the Policy 443 as not having appropriate public input and notice and VP Barrett stated: "...there is no political necessity [to obtain parental input]. The rights of any group of FCPS children aren't up for a community "vote" or "survey." I'm a parent, and I'm not interested in the community deciding where my child can use the bathroom, nor am I interested in staff members or others questioning the restroom my children use...." (**Exhibit E, attached and incorporated herewith**).

74. VP Barrett admits in this statement that Defendants have no compelling state interest or "political necessity" to justify this violation of minor's right to bodily privacy from persons of the opposite sex.
75. Because of the Defendants' privacy violation, and continuing actions of invading Mary Smith's privacy and Jane Does's parental rights, Plaintiffs are experiencing anxiety, stress, intimidation, fear, apprehension and loss of dignity.
76. Plaintiffs are suffering and will continue to suffer irreparable harm because of Defendant's actions.
77. Plaintiffs have no adequate remedy at law and as such apply to this Court for injunctive relief.

COUNT ONE

**VIOLATION OF RIGHT TO PRIVACY IN CONTRAVENTION TO THE
FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION,
AND ARTICLES 5 AND 24 OF THE MARYLAND CONSTITUTION,
DECLARATION OF RIGHTS
42 U.S.C 1983**

78. Plaintiffs re-allege all matters set forth above and incorporate them as if fully set forth herein.
79. The Fourteenth Amendment protects United States citizens against violation of fundamental rights by state actors.
80. Fundamental rights are liberty interests deeply rooted in the nation's history and tradition, and implicit in the concept of ordered liberty and the rule of law.

81. Mary Smith has a fundamental right to bodily privacy that, at a minimum, includes protection from intimate exposure of her body and intimate activities to a person of the opposite sex. It also includes the corollary protection from intimate exposure to a male's body or intimate activities.

82. The fundamental right to bodily privacy as to persons of the opposite sex is deeply rooted in the nation's history and tradition and has been recognized as a natural right supported by the United States Constitution and federal and state statutory and common law.

83. Maryland's Constitution includes increased protections under its Declaration of Rights for historical natural rights rooted in the history and tradition of English common law as they existed on July 4, 1776, and has made those rights unalienable unless specifically abrogated by statute of the Legislature of Maryland, or by judicial ruling.

84. Specifically, the Maryland Constitution Declaration of Rights, Art. 5(a) states in primary part:

(1) That the Inhabitants of Maryland are entitled to the Common Law of England, and the trial by Jury, according to the course of that Law, and to the benefit of such of the English statutes as existed on the Fourth day of July, seventeen hundred and seventy-six;

85. The Maryland Constitution Declaration of Rights, Art. 24 states Due Process protections of Plaintiffs:

That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land (*amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978*).

86. The fundamental right to bodily privacy is implicit in the concept of ordered liberty because no government acting upon the whims of a Board of Education policy may change the law of the land and compel its citizens to disrobe or engage in intimate activities in the presence of

the opposite sex, or leave the place of women's public accommodation if one objects, as such is a disseizing of the individuals' liberty, privileges and exiling them as a public outlaw.

87. The United States has a history of protecting its citizens, especially children, from suffering the risk of exposing their bodies or their intimate activities to the opposite sex.
88. State law makes any compulsory exposures of children's bodies to include their intimate parts a crime should that result in the child being videoed, photographed, or touched in a prurient manner.
89. Government actors may not, by direct action or by risk of agency or proxy, expose children to becoming victims of child pornography by means of the videoing, photography or exposure of their personal bodies and privacy in a state of being undressed or intimate parts being uncovered.
90. Government actors may not, by direct action or by risk of agency or proxy, force children to undress and enter showers with or in front of members of the opposite sex, which actions evoke imagery from the horrors of Nazi death camps our nation valiantly liberated through victory in World War II.
91. Criminal protections are greater for children than the general public for charges of indecent exposure.
92. Pornography of adults is legal, however, it is illegal to possess, distribute, or even view images of naked children, and state actors may not compel students to expose themselves to the risk of such electronic means of "sexting", especially when the Board of Education recently passed another policy mandating that FCPS schools encourage and allows all children to bring their own electronic devices, phones, iPads, and iPods with cameras to school.
93. It is state law, Md. Ann. Code Public Safety Article § 12-503 (Construction of State Buildings),

that public restrooms, bath facilities and locker rooms are separated by sex, and such policy is an historic American social norm that the Board of Education has no authority to contravene.

94. Minors have a fundamental natural and civil right to be free in their bodies from State compelled risk of exposure of their bodies, or to be shamed into separate facilities because they have a right to use the bath facilities posted and constructed under state law mandates for sex-designated facilities.
95. On May 30, 2017 Board of Education Vice President Liz Barrett, a hard-left lesbian “gender identity” activist who was the primary sponsor of and, on information and belief, internal lobbyist for Policy 443, wrote an e-mail response to Plaintiff Jane Doe addressing Plaintiff’s concerns and objections to the Policy 443 as not having appropriate public input and notice and VP Barrett stated: “...there is no political necessity [to obtain parental input]. The rights of any group of FCPS children aren't up for a community "vote" or "survey." I'm a parent, and I'm not interested in the community deciding where my child can use the bathroom, nor am I interested in staff members or others questioning the restroom my children use....” (**Exhibit E, attached and incorporated herewith**).
96. VP Barrett admits in this statement that Defendants have no compelling state interest or “political necessity” to justify this violation of minor’s right to bodily privacy from persons of the opposite sex.
97. The violation of this right is particularly acute where, as here, her rights were first violated without any notice or consent by secret practice of the Board of Education, in the place where traditionally and by state statute is reserved for persons of one biological sex.
98. The violation is ongoing because it compromises the most intimate of minor’s human affairs in a setting reserved under state and federal law for persons of one biological sex. It is official

bullying and has turned on its head the intent and purpose of the Maryland Legislature to provided separate accommodations for any persons who do not identify with their biological sex, and instead violates the privacy and shames and bullies the woman or man who dares to be a woman or man desiring of privacy consistent with deeply rooted notions of fundamental personal interests in privacy from persons of the opposite sex.

99. Defendants admittedly failed to ensure the least restrictive means of serving any interest that they may later articulate.

100. Accordingly, the actions and practice fail constitutional muster under strict scrutiny and are therefore illegal and unconstitutional.

WHEREFORE, Plaintiffs respectfully requests this Court grant the relief set forth hereinafter in the demand for relief.

**COUNT TWO
VIOLATION OF TITLE IX**

101. Plaintiffs re-allege all matters set forth in this complaint and incorporate them as if fully set forth herein.

102. “Transgender” activists have no legal basis to detract from women’s rights by turning those rights against the very women the law protects, and forcing women to share locker rooms, showers, sports teams and sports grants and scholarships, and be forced to undress in front of, males who from time to time self-identify as females.

103. A woman is not merely an identity, it is her actual personhood and reality as an XX chromosome created human being, engendering to her all the rights and privileges that her status as a woman has gained under law and civilization.

104. Title IX provides that “[n]o persons in the United States shall, on the basis of sex, be

excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S. C. § 1681(a).

105. The Board of Education and FCPS is a federal funding recipient for purposes of Title IX.
106. Title IX has a broad effect in order to combat sex discrimination in taxpayer-funded education.
107. There is an implied right of action for a student to sue school officials under Title IX.
108. Defendants authorizing people to use bath facilities or locker rooms that are sex-designated, by people of the opposite biological sex, violates privacy and creates an environment of sexual harassment.
109. Exposure without consent to persons of the opposite sex in various states of undress creates an environment of sexual harassment.
110. The policy of the Board of Education is to allow those who self-identify with the opposite biological sex to choose to use locker rooms and bath facilities that are designated for the opposite biological sex.
111. This policy 443 needlessly subjects minor Plaintiff to the risk that her unclothed body will be exposed to the opposite sex and that she will be exposed to an unclothed person of the opposite sex, and that the bath facilities will not be monitored by adults who are prevented by criminal Code from viewing minors without legal or medical cause or the consent of their parents in an unclothed state.
112. As a result, Mary Smith experienced embarrassment, humiliation, frustration, degradation, and loss of dignity.
113. Mary Smith has been bullied and marginalized by other students and by teachers on

account of her mother's and her objection to the policy.

114. Out of fear and apprehension, Mary Smith is avoiding bath facilities at school and extracurricular activities that could require changing her clothing at school, causing her great harm and loss of opportunity and rights that she is guaranteed under Title IX.
115. Policy 443 violates Title IX because it intentionally produces sexual harassment and a hostile environment on the basis of sex and denies access to educational programs and benefits.
116. Mary Smith satisfies the elements of Title IX's claim requirements in that: 1) she has and is being subjected to sexual harassment; 2) the harassment is severe, pervasive and objectively offensive; 3) the school must be deliberately indifferent to the harassment; and 4) the harassment must result in the denial of access to educational programs.
117. Title IX and its implementing regulations provide for separate living facilities, bathrooms, locker rooms, and changing areas for male and female biological sexes.
118. Title IX provides for such separate facilities for each sex because a purpose and intent of Congress is to prevent sexual harassment, and allowing members of the opposite sex into bath facilities designated for one biological sex would be sexual harassment.
119. Policy 443, which opens the girls' bath facilities to biological males is harassment based on the girls' sex.
120. Mary Smith has and is experiencing humiliation, degradation, and loss of dignity and fear the same for the future as a result of the policy and practice of the Defendants.
121. Letting biological males use female bath facilities in a public school is so egregious as to satisfy the severity prong.
122. The harassment is ongoing and continuous, preventing Mary Smith from using the bath facilities and discouraging her from engaging in extracurricular activities, thus satisfying the

pervasiveness prong.

123. The environment is one that a reasonable person would find hostile and objectively offensive and one that Mary Smith in fact perceives to be so, and is demonstrated by a long recognized right to be free from persons of the opposite sex in a state of undress or while performing private functions, and is reasonably also demonstrated by criminal public nudity laws and bathroom construction Codes.
124. The Defendants are both on notice of the hostile environment and actually sustain the hostile environment, through passage and implementation of Policy 443.
125. Moreover, Plaintiffs have repeatedly notified Defendants of their objection, only to be rebuffed by Defendants without any lawful basis.
126. Defendants have authority to rescind their policy which would resolve the hostile environment created by that policy, and despite their knowledge of their policy creating the hostile environment, Defendants are refusing to rescind Policy 443.
127. Instead, Defendants have advised that if Mary Smith feels the environment is hostile she should remove herself from the woman's bath facility and use a private stall room made available to people with disabilities and special needs, furthering the shaming and bullying against Mary Smith and violations of her privacy and rights under Title IX.
128. The requirement to remove herself from the girls' bath facilities is not an accommodation contemplated under Title IX and violates her rights thereunder by creating a separate but unequal facility she is bullied into using.
129. Mary Smith has been effectively denied the use of facilities and extra-curricular activities that are to be provided for her pursuant to federal and state law, on account of her biological sex.

130. Defendants policy and actions are violating Title IX by creating a hostile environment on the basis of sex.

WHEREFORE, Plaintiffs respectfully request the court grant the relief set forth hereinafter in the request for relief.

COUNT THREE

INVASION OF PRIVACY – INTRUSION UPON SECLUSION

131. Plaintiff re-allages all matters set in this complaint and incorporates them as if fully set forth herein.

132. Defendants purposefully opened up the girls' bath facilities to biological males who identify as females or "gender non-conforming".

133. As a result, Mary Smith found herself unable to use the girls' bath facilities for fear of a male intruding upon her privacy.

134. As a result of the Defendants' policies and actions, Mary Smith found herself without any adult monitor and being photographed and videoed in her underwear or partially dressed by a fellow student.

135. Mary Smith and Jane Doe have a continuing fear of the ongoing tort of intrusion upon seclusion as long as the Board's policies regarding bath facilities are in place.

136. One's partially clothed body is a private affair and may not be intruded upon without consent.

137. Defendants practices and policies therefore caused and are causing Mary Smith's privacy to be intruded upon and she is fearful every day of the exposure her private affairs and body

or her unwanted intrusion of being forced by officials to view or observe a partially clothed or fully unclothed male body in the girls' bath facility.

138. Common law both under the English and American customs have long protected our right to be free from undressing in the view of someone of the opposite sex and to be free from viewing someone of the opposite sex undressing.

139. Particularly, public school laws including construction codes require separate facilities on the basis of sex, which has always meant solely on the basis of biological and anatomical sex.

140. Defendants' have a duty under its practice and policy to regard Mary Smith's privacy.

141. Defendants failed in their duty to regard Mary Smith's privacy.

142. Mary Smith is discouraged in her use of and lacks access to the girls' bath facilities as a result of this invasion of seclusion.

143. Additionally, Mary Smith has and is suffering emotional damages as a result of this invasion of her seclusion and privacy.

WHEREFORE, Plaintiffs respectfully request that the court grant the relief set forth hereinafter in the request for relief.

COUNT FOUR

FIRST AMENDMENT – RIGHT TO FREE SPEECH

Freedom of Speech and Due Process (Articles 24 & 40, Edu. Art. 7-121)

144. Plaintiff re-alleges all matters set in this complaint and incorporates them as if fully set forth herein.

145. The First Amendment says in part: "Congress shall make no law...abridging the freedom of speech, or of the press..." Amend. I, Const.

146. Justice Robert Jackson in the Supreme Court opinion, *West Virginia Sch. Bd. v. Barnette*,

described this freedom as applying to public schools when writing:

If there is any fixed star in our Constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion **or force citizens to confess by word or act** their faith therein.

West Virginia Sch. Bd. v. Barnette, 319 U.S. 624, 637 (1943)(bold emphasis added).

147. All acts alleged herein by Defendants, and their agents, members, officers, principals, teachers, employees, or persons acting at their behest, were done under color and pretense of state law.

148. Defendants' policies, regulations and actions, including but not limited to Policy 437 ("bullying") and 443 ("transgender students") are forcing Plaintiff Mary Smith and students and parents to use the gender pronouns that the school or a fellow student demands, regardless of the actual sex of the student, all on pain of reporting for bullying, and mistreatment by discipline and retaliation permanently noted in the school records of the student against any offending student, by government school staff.

149. Defendants' policies, regulations and actions are forcing Plaintiff Mary Smith to be silent as to her speech on issues of women's rights and the public interest, on pain of being reported for bullying, and discipline retaliation permanently noted in her school records.

150. Defendants' policies, regulations, procedures and actions are not narrowly tailored to accomplish any compelling governmental purpose, and do not specify, in the nonpublic forum of the public school, that (1) they are content neutral (i.e., they do not treat speech differently based on content); (2) they are narrowly tailored to serve a governmental interest; and (3) they leave open ample alternative means of expression.

151. Additionally, Defendants seek to change thousands of years of normal, reasonable state-law mandated and scientifically-supported speech referring to boys and girls

according to their sex, and instead seeks to legislate *ultra vires* to force a major societal change in speech behavior in violation of the speech rights of Plaintiffs.

152. The actions and policies of Defendants have caused severe emotional damages to Plaintiffs and are continuing to cause such damages each day they are in place.

WHEREFORE, Plaintiffs respectfully request that the court grant the relief set forth hereinafter in the request for relief.

**COUNT FIVE
FOURTEENTH AMENDMENT
– FUNDAMENTAL PARENTAL LIBERTY INTEREST-**

153. Plaintiff re-alleges all matters set in this complaint and incorporates them as if fully set forth herein.

154. On August 9, 2017 Chief of Staff of the FCPS and FCPS counsel and lawyer Jamie Cannon, Esq. stated in response to questioning on this Policy 443 and implementing regulations that parents will only be notified once and if the school deems the child to be on a “suicide watch” or similar comments, stating that the school “transfers liability back to the parents” only upon a designation of medical issues, and “Transgenderism” would not apply, or similar words.

155. On August 9, 2017 other Board of Education members, including Jamie Cannon, Esq., stated that the information of a child’s “transitioning” to transgender will be withheld from parents under Policy 443 because “kids are many times scared of parents being upset or disciplining them because of their choices” or similar words.

156. On August 9, 2017 other Board of Education members, including Vice President Liz Barrett, stated that the Policy 443 is required in order to comply with “state law”, but claims “COMAR” and “state regulations”, and “400-20 and FERPA”, requires no-parental disclosure.

157. On August 9, 2017 Board of Education members, including Vice President Liz Barrett and

Joy Schaefer, stated “our reasons for not informing parents is because if we do a lot [sic] of students will not come to us for help [sic]”. “Their kid doesn’t feel safe talking to the child’s parents, and that doesn’t mean the child isn’t safe at home, that’s just a natural part of adolescence, and there is a sensitivity for that.”

158. On August 9, 2017 Board of Education member and Vice President Liz Barrett stated that “it wouldn’t matter if the student was transgender or non-binary, other students may have fears of parents and we need to consider when to [not contact parents] and call 9-1-1...” or similar words.

159. On August 9, 2017 Board of Education members asserted that the Policy 443 complies with “FERPA and state law” to “Respect parental rights” because “they have to, it is the law” so the second paragraph says what you want to protect parents, but not as strongly as [some parents] want” because “personal information about transgender and gender-non-conforming students” is “not to be shared with parents”... “if there is a health or safety concern”. But other Board of Education members stated they want the policy to say “at all times, but especially if there is a health or safety concern...because we must welcome and affirm all students for who they are...”.

160. On August 9, 2017 Board of Education President Brad Young proposed that the policy 443 be changed to say “parents will be contacted if there is a health or safety concern” to which the Board of Education appeared to unanimously, with counsel of Jamie Cannon, Esq., approve of that change. This change was modified to allow no-parental contact or report when there is **no** health or safety concern, under color and pretense of state law violating Plaintiff’s fundamental parental rights.

161. On August 9, 2017 the Board of Education, Vice President Liz Barrett, stated in public

meeting that accommodations for parents who do not wish their daughter to be housed on field trips with a transgender male 1) may not be told about the concern, and 2) if they do know, may not be allowed to change rooms, stating that “some kids don’t have to go on field trips if the parents don’t want them to because we can’t address every problem in the school system” and if you don’t like it, “good grief, call the supervisor...” or similar words.

162. These policies and procedures, made under color and pretense of state law, violate Plaintiff Jane Doe’s parental rights under the Fourteenth Amendment to the United States Constitution.

163. Defendants policies, regulations and procedures are not narrowly tailored as to serve a compelling government interest, nor are they in compliance with constitutional, federal and state laws providing parental access to all school information about their children.

164. The actions, decisions, policies and regulations of Defendants are a continuing violation of Plaintiff’s parental rights.

165. Plaintiff has and is suffering emotional damages as a result of this violation of her constitutional rights.

WHEREFORE, Plaintiffs respectfully request that the court grant the relief set forth hereinafter in the request for relief.

COUNT SIX

Separation of Powers-Legislative Proceedings

and Government derived of the people and its English Common Law (Articles 1, 5, 8 & 10),

166. Plaintiff re-alleges all matters set in this complaint and incorporates them as if fully set forth herein.

167. The United States and Maryland Constitutions mandate that legislative policy and changes to state law must be accomplished through the ordinary means of civilized and free

governments, that is through the elected Legislators empowered with making the laws.

168. The Maryland Declaration of Rights guarantees this right of self-government to Maryland citizens.

169. Defendants are attempting to bypass such Legislative powers and arrogate to themselves powers they do not possess, namely, to change state law and in so doing violate the separation of powers doctrines and powers of representative government.

170. The proper place for any change to the centuries-old laws and customs of the people to mandate new pronoun use, locker and bath use and sports team membership, is through the elected representatives of the County of Frederick to the Maryland General Assembly, those being solely empowered to propose and seek passage of laws fundamentally altering or changing any state law or custom in existence since before the founding of the United States.

171. Defendants are in violation of the separation of powers doctrines, by implementation of its own changes to state law without legislative or legal declaration or authority.

172. Plaintiffs are being deprived of their right to representative government under color of state law, and as such are suffering damages including severe emotional damages.

WHEREFORE, Plaintiffs respectfully request that the court grant the relief set forth hereinafter in the request for relief.

COUNT SEVEN

VIOLATION OF MARYLAND STATUTES

Education Art. § 2-205 (Powers and Duties of the Board [of Education]), § 4-117(b)(1)(Construction or Remodeling of Buildings to conform to State codes), § 5-301 (Public School Construction and Capital Improvements), and Md. Ann. Code Public Safety Article § 12-503 (Construction of State Buildings)

173. Plaintiff re-alleges all matters set in this complaint and incorporates them as if fully set forth herein.
174. Common usage of terms male and female are defined by Maryland statute.
175. Defendants are redefining such terms *ultra vires* in violation of state law.
176. The powers and duties of Defendants do not extend to redefining gender and sex in schools.
177. The powers and duties of Defendants do not extend to redefining, altering and/or changing public school construction law in Maryland, mandating bathrooms and locker rooms to be identified by and used by members of the male and female sex and not, from time to time, by self-actualization or identity of students.
178. The powers and duties of Defendants do not extend to redefining, altering and/or changing state government building construction codes, which mandate specified spaces for males and females by sex and not by gender identity.
179. Defendants have in fact and are continuing to violate said statutes Education Art. § 2-205 (Powers and Duties of the Board [of Education]), § 4-117(b)(1)(Construction or Remodeling of Buildings to conform to State codes), § 5-301 (Public School Construction and Capital Improvements), and Md. Ann. Code Public Safety Article § 12-503 (Construction of State Buildings) by passage of Policy 437 and 443, and by its additional regulations, practices and actions.
180. For these violations Plaintiffs have been harmed and incurred severe emotional damages.

WHEREFORE, Plaintiffs respectfully request that the court grant the relief set forth hereinafter in the request for relief.

COUNT EIGHT

UNCONSTITUTIONALITY OF STATE STATUTES AND

BOARD OF EDUCATION POLICIES 437 AND 443

Md. Ann. Code Education Articles §§ 7-424 (Bullying), § 7-301 (Compulsory Attendance)

181. Plaintiff re-alleges all matters set in this complaint and incorporates them as if fully set forth herein.
182. Defendants are falsely posturing their changes to centuries of statutory and legal definitions of mankind and personhood as if they are merely complying with state and federal law, including various COMAR, FERPA, and regulatory principles vaguely yet unnamed by Defendants, and statutes such as Md. Ann. Code Education Articles §§ 7-424 (Bullying), § 7-301 (Compulsory Attendance).
183. Defendants' reliance on said laws and statutes is overly broad and without justification.
184. Defendants' reliance on said laws and statutes, to the extent that any court finds it to be reasonable, is vague and unconstitutional as applied.
185. Defendants' reliance on said laws and statutes, to the extent that any court finds it to be reasonable, is alternatively, demonstratively unconstitutional and said statutes should be declared void and of no effect as in direct violation of the civil liberties of Plaintiffs.
186. The compulsory attendance code was originally passed in Maryland in 1907 as a narrowly stated purpose to educate children of ages 8 to 16 in reading, arithmetic and writing skills such that they would not be a burden to society and able to provide for themselves by work and communication.
187. The statutes, policies, regulations and rules, to the extent the court finds Defendants are

following them, are therefore being construed with overbreadth and are unconstitutional as applied and in fact.

188. Plaintiffs are suffering and continuing to suffer harm and severe emotional damages.

WHEREFORE, Plaintiffs respectfully request that the court grant the relief set forth hereinafter in the request for relief.

PETITION FOR RELIEF

WHEREFORE, Plaintiffs petition for judgment against Defendants jointly and/or severally as follows:

- A. A declaration that Defendants' policies and actions violate the Plaintiffs constitutional right to privacy;
- B. A declaration that Defendants' policies and actions violate Title IX of the United States Code to be free from discrimination on the basis of sex, creating a sexually harassing hostile environment against Plaintiff Mary Smith;
- C. A declaration that Defendants' policies and actions are an unlawful intrusion upon bodily seclusion and right to privacy;
- D. A declaration that Defendants' policies and actions violate Plaintiffs right to free speech under the United States and Maryland Constitutions;
- E. A declaration that Defendants' policies and actions violate Plaintiff Jane Doe's Fourteenth Amendment fundamental liberty interests in her parental rights of care, custody and control of the education, upbringing and moral and religious instruction of her daughter under the United States Constitution;

- F. A declaration that Defendants' policies and actions violate the separation of powers doctrine granting sole authority to the Maryland Legislature to pass state laws;
- G. A declaration that Defendants' policies and actions violate state statutes Education Art. § 2-205 (Powers and Duties of the Board [of Education]), § 4-117(b)(1)(Construction or Remodeling of Buildings to conform to State codes), § 5-301 (Public School Construction and Capital Improvements), and Md. Ann. Code Public Safety Article § 12-503 (Construction of State Buildings);
- H. A declaration that FCPS BOARD OF EDUCATION POLICIES 437 AND 443, Md. Ann. Code Education Articles §§ 7-424 (Bullying) *et seq.*, and § 7-301 (Compulsory Attendance) are unconstitutional as a matter of law, or alternatively, as applied;
- I. A permanent injunction enjoining the Defendants' policies and ordering Defendants to:
 - 1) communicate with parents as to all matters they become aware of relating, regarding or involving their child's sexuality or gender or related information or behavior in school; 2) only permit females to enter and use bath facilities of girls' restrooms, locker and shower rooms, and hotel rooms whenever traveling, and males to enter and use bath facilities of girls' restrooms, locker and shower rooms and hotel rooms whenever traveling; and an injunction enjoining Defendants from permitting males to participate in sport, athletic programs, and sports funding and scholarships with females, and females from participation in sports, athletic programs, and sports funding and scholarships with males;
- J. An award of compensatory damages for violation of Plaintiffs constitutional and statutory rights;
- K. An order retaining jurisdiction of this court for the purpose of enforcement of all Orders;
- L. An award of Plaintiffs' costs and expenses of this action, including reasonable attorney's

fees pursuant to 28 U.S.C. § 2412, 42 U.S.C. § 1988;

M. Any other relief to which Plaintiffs are entitled including, but not limited to, attorney's fees and costs of court.

JURY TRIAL DEMAND

Plaintiffs demand a trial by jury on all count, issues, facts and matters to triable.

Respectfully submitted this 11th day of August, 2017.

THE COX LAW CENTER, LLC

BY: Dan Cox, Esq.

/s/

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Attorney for the Plaintiff

EXHIBIT A
(Declaration of Mary Smith)
FILED UNDER SEAL

EXHIBIT B
(Declaration of Jane Doe)
FILED UNDER SEAL

EXHIBIT C
**(Policies 437 & 443 and supporting
regulations)**

POLICY	BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND
BULLYING – HARASSMENT - INTIMIDATION	POLICY 437

437 Purpose

The Board of Education of Frederick County (Board) is committed to establishing and promoting a safe, non-threatening environment for all students to learn. Therefore, the Board believes that bullying, harassment, intimidation, discrimination, or hazing are both morally wrong and offensive and will not tolerate such conduct on the part of any employee, supervisor, manager, administrator, student, or visitor. It is the Board’s intent to provide to all employees and students a work and learning environment free from such acts.

A. Bullying/Harassment/Intimidation

The Board prohibits bullying, harassment, or intimidation of any person on school property or at school-sponsored functions or by the use of electronic technology at a public school or affecting the school setting. Furthermore, the Board prohibits reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation or who are victims, witnesses, bystanders, or others with reliable information about an act of bullying, harassment, or intimidation. The Board acknowledges that the transfer of students who are victims of bullying, harassment, or intimidation to a different school is not a preferred mode of responding and such response should only be considered in consultation, agreement, or at the request of the victim and his/her parent or legal guardian.

B. Definitions

As used in this policy, “bullying, harassment, or intimidation” means intentional conduct, including verbal, physical, or written conduct, or intentional electronic communication that creates a hostile educational environment by substantially interfering with a student’s educational benefits, opportunities, or performance, or with a student’s physical or psychological well-being and is:

- motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, gender expression, religion, ancestry, physical attributes, socioeconomic status, familial status, physical or mental ability, or disability; or
- threatening or seriously intimidating; and
- occurs on school property, at a school activity or event, or on a school bus; or
- substantially disrupts the orderly operation of a school.

C. Prevention, Intervention, Remediation, and Consequences
 All schools must implement best practices as part of a whole-school program inclusive of prevention, intervention/remediation, and consequences.

D. Delegation of Authority
 The Superintendent has developed regulations implementing this policy, inclusive of reporting procedures which are outlined in FCPS Regulation 400-48 Bullying – Harassment - Intimidation Complaint Process for Students.

Legal Reference	§7-424.1, Education Article, <i>Annotated Code of Maryland</i>		
Policy History	Reviewed: 2017	Adopted: 9/22/10	Revised: 6/14/17

POLICY	BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND
CREATING WELCOMING AND AFFIRMING SCHOOLS FOR TRANSGENDER AND GENDER NONCONFORMING STUDENTS	POLICY 443

443.1 Purpose

Gender identity is a protected status in Frederick County Public Schools (FCPS). The purpose of this policy is to prevent discrimination, stigmatization, harassment, and bullying of students who are transgender or who are gender nonconforming and to create school cultures that are safe, welcoming, and affirming for all students. This policy is also designed to ensure that all students have the opportunity to express themselves and live authentically.

Bullying, harassment, and intimidation based on perceived or real sex, sexual orientation, or gender identity or expression is prohibited in FCPS (see Board Policy 437). FCPS addresses bullying, harassment, and intimidation in compliance with its disciplinary policies and regulations, which includes education and providing students and staff with appropriate resources and supports. The Board of Education (Board) acknowledges that the transfer of students who are victims of bullying, harassment, or intimidation to a different school is not a preferred mode of responding and such response should only be considered in consultation, agreement, or at the request of the victim and his/her parent or legal guardian.

443.2 Definitions

*Bullying/Harassment/Intimidation*¹ - Intentional conduct, including verbal, physical, or written conduct, or intentional electronic communication that creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is: (a) motivated by an actual or a perceived personal characteristic of sex, sexual orientation, gender identity, or gender expression; or (b) threatening or seriously intimidating; and (c) occurs on school property, at a school activity or event, or on a school bus; or (d) substantially disrupts the orderly operation of a school.

Gender Expression - The manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.

Gender Identity - A person's deeply held sense or psychological knowledge of their own gender, which can include being female, male, another gender, or no gender. Gender identity is an innate and largely inflexible part of a person's identity. One's gender identity can be the same or different than the gender assigned at birth. The responsibility for determining an individual's gender identity rests with the individual. Children typically begin to understand their own gender identity by age four, although the age at which individuals come to understand and express their gender identity may vary based on each person's social and familial development.

¹ Board Policy 437 *Bullying – Harassment - Intimidation*

Gender Nonconforming – A term for people whose gender expression differs from stereotypical expectations, such as “feminine” boys, “masculine” girls, and those who are perceived as androgynous. This includes people who identify outside traditional gender categories or identify as multiple genders. Other terms that can have similar meanings include gender diverse or gender expansive.

Non-binary/Genderqueer – Terms used by those who identify with neither, both, or a combination of genders.

Sexual Orientation – A person’s romantic and/or physical attraction to people of the same or opposite gender or other genders. Transgender and gender nonconforming people may have any sexual orientation.

Transgender – An adjective describing a person whose gender identity or expression is different from that traditionally associated with an assigned gender at birth.

Transition – The process in which a person goes from living and identifying as one gender to living and identifying as another. Transition is a process that is different for everyone, and it may or may not involve social, legal, or physical changes. There is no one step or set of steps that an individual must undergo in order to have their gender identity affirmed and respected.

443.3 Policy Statement

Flexibility – This policy is designed to provide an overarching framework and assurances that all students will be safe, welcomed, and affirmed. Depending on privacy needs or a transgender student’s own personal transition, school staff are authorized to work with students (and their families, if students explicitly wish) to provide options that may support a student’s needs.

443.4 Privacy/Confidentiality

FCPS respects the rights of students to express their gender identity or expression as they wish. Transgender and gender nonconforming students have the right to discuss and express their gender identity and expression openly and to decide where, when, and with whom to share private information. The fact that a student may wish to use a different name or pronoun at school, or to disclose their transgender or gender nonconforming status to school staff, does not authorize school staff to disclose a student’s personally identifiable or medical information. FCPS will ensure all personally identifiable and medical information relating to transgender and gender nonconforming students will be kept confidential according to applicable federal, state and local privacy and student records laws.

443.5 Use of Preferred Name/Official Records

(a) Names/Pronouns

FCPS recognizes the right of every student to be referred to by their preferred name and pronoun. All staff who work with students will have access to a current and complete list of preferred names and pronouns for all students and will use them in every interaction, unless the interaction could compromise student privacy (see Section 443.4).

(b) Student Records

Each school is required to maintain an official student record of each student, which includes the legal name of the student and birth gender. Official student records can be modified as stipulated under Maryland law ² and/or in accordance with Maryland State Department of Education (MSDE) guidelines.

443.6 Access to Gender-Segregated Facilities

Students, including non-binary students, should determine which facilities are consistent with their gender identity. All students must have access to facilities, including rest rooms, locker rooms, or changing facilities, that correspond to their gender identity. Access is provided without any additional complicating procedure.

Any student, regardless of gender or gender identity or expression, who is uncomfortable for any reason using a gender-segregated facility will be provided a safe and nonstigmatizing alternative. Options include, but are not limited to, privacy curtains, provisions to use private restrooms or office restrooms, or a separate changing schedule. These options are provided to any student without question or complicating procedures required. Under no circumstance is any student required or directed to use a private use facility.

443.7 Participation in Sports and Physical Education Classes

Students are permitted participation in FCPS sports and physical education classes in a manner consistent with their gender identity. The gender identity of student-athletes is not required to be disclosed to coaches, teammates, opponent's coaches, or anyone else if not authorized by the student. If special events, such as out-of-state tournaments or competitions specify particular disclosures, those will be discussed in advance and confidentially with the student.

443.8 Overnight Field Trips

The comfort of all students is paramount in the decisions around overnight field trips. Maximizing students' social integration may be achieved by applying these guidelines:

² §4-211(f), General Article, *Annotated Code of Maryland*

- Make arrangements in consultation with the student. If the transgender or gender nonconforming student's parents or guardians are involved and supportive, they may also be consulted.
- Be sensitive to the need to maintain the student's privacy and not disclose or require disclosure of the student's transgender or gender nonconforming status to the other students or their parents without the consent of the transgender or gender nonconforming student and/or the student's parent.
- Allow students the opportunity to room with others according to their gender identity.
- Make efforts to accommodate any student who desires greater privacy; however, no student should be isolated.

443.9 Other Activities

Dress codes designated for school events like dances, graduations, and other ceremonies shall be gender neutral.

443.10 Training and Professional Development

All FCPS personnel who work directly with students are required to participate in, or have access to, annual training that includes:

- The importance of privacy for all students, as well as an overview of the legal and other implications of disclosing gender identity to parents.
- Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents.
- Developmentally appropriate strategies for communication with students and parents about issues related to gender identity and gender expression that protect student privacy.
- Developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyberbullying.
- Classroom management practices, curriculum, and resources that educators can integrate into their classrooms to foster a more gender-inclusive environment for all students.
- This policy.

Legal Reference	Title IX, Education Amendments of 1972, 20 U.S.C. 1681		
	U.S. Constitution, Equal Protection Clause, 14 th Amendment and 1 st Amendment		
	FERPA 20 U.S.C. 1232		
	COMAR 13A.08.02 "Student Records"/FCPS Regulation 400-20 <i>Student Records</i>		
	HIPPA 45 C.F.R. 160		
	COMAR 13A.01.04.03 "School Safety"		
	§7-424, Education Article, Annotated Code of Maryland		
	COMAR 13A.06.03 "Interscholastic Athletics in the State"		
	Source Documents	GLSEN (Gay, Lesbian and Straight Education Network) <i>Model District Policy on Transgender and Gender Nonconforming Students</i> , Revised February 2016	
MSDE (Maryland State Department of Education) <i>Providing Safe Spaces for Transgender and Gender Nonconforming Youth: Guidelines for Gender Identity Non-Discrimination</i> , October 2015			
NSBA (National School Boards Association) <i>2016 Transgender Students in Schools: Frequently Asked Questions and Answers for Public School Boards and Staff</i> , Version 9.0 Updated March 9, 2017			
MPSSAA (Maryland Public Secondary Schools Athletic Association) <i>Guidance for Participation of Transgender Youth in Interscholastic Athletics</i> , Revised August 2016			
Policy History	Reviewed:	Adopted: 6/14/17	Revised:

Regulation XXXX.X

Special Services

School Counseling Services

Effective

SPECIAL SERVICES/ SCHOOL DIVISION ORGANIZATION PHILOSOPHY AND GOALS

School Counseling Services

Gender Non-Conforming and Transgender Students

I. PURPOSE

To establish procedures and guidelines for schools to support gender non-conforming and transgender students

II. DEFINITIONS

- A. "Sex assigned at birth" refers to the sex designation listed on one's original birth certificate.
- B. "Gender identity" refers to one's internal sense of gender, which may be different from the gender associated with one's sex assigned at birth. One's gender identity is consistently and uniformly asserted, or there is other evidence that the gender identity is sincerely held as part of the student's core identity.
- C. "Transgender" describes an individual whose gender identity is different from that associated with the individual's sex assigned at birth. An individual can express or assert a transgender identity in a variety of ways such as mannerisms, clothing, and pronoun usage. Medical treatments or procedures are not considered a prerequisite for identifying students as transgender. A transgender student is a student who consistently and uniformly asserts a gender identity different from the gender associated with the student's sex assigned at birth, or for which there is documented legal or medical evidence that the gender identity is sincerely held as part of the student's core identity.
- D. "Transition" refers to the experience by which a transgender person goes from living and identifying as the gender associated with the sex assigned at one's birth to living and identifying as the gender consistent with one's gender identity. A gender transition often includes a "social transition," during which an individual begins to live and identify as the gender consistent with the individual's gender identity, with or without certain medical treatments or procedures.
- E. "Gender nonconformity" refers to one's gender expression, gender characteristics, or gender identity that does not conform to stereotypes of what it means to be "masculine" or "feminine."

- F. "Legal Name" refers to the student's official name entered in the FCPS student record following the procedure set forth in the current version of Regulation 2202.
- G. "Preferred Name" refers to a name requested by a student and the student's parents or guardians by which the student would like to be known, which may be different than a student's official name in the FCPS student record. Pronoun usage also should reflect how the student would like to be called.

III. IDENTIFICATION OF GENDER NON-CONFORMING AND TRANSGENDER STUDENTS

- A. Schools shall accept a student and parents or guardians' assertion of a student's gender non-conforming or transgender status when there is consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of the student's core identity. Consistent and uniform assertion can be interpreted as a student's desire to be referred to in a manner consistent with the student's gender identity throughout the school day and throughout every, or almost every, other area of the student's life. If a student's verbal and/or written assertions, appearance, and/or behavior meet these criteria, schools shall affirm the student's gender identity. While not required, additional confirmation of a student's gender identity may come from letters and/or statements from parents or guardians, family friends, or physical and mental health care providers.
- B. The only circumstance in which a school may question a student's asserted gender identity is where school personnel have a credible basis for believing that the student is not asserting their authentic gender identity.

IV. AFFIRMING GENDER NON-CONFORMING AND TRANSGENDER STUDENTS AND THEIR FAMILIES

- A. When a school is made aware of a student's gender non-conforming or transgender status, schools shall offer to convene a support team for the student. The support team shall be a multidisciplinary team that may consist of the parents or guardians, student, classroom teacher(s), administrator, school counselor, school psychologist, school social worker, and/or other staff members as appropriate for this collaboration. The student and the student's parents or guardians may have input into the composition of the team and also may invite any representatives of their choosing to include physical and mental health professionals or advocates.
- B. Support teams shall develop a student-specific support plan to provide the gender non-conforming or transgender student with safe and equitable access to all school and school division facilities and activities, addressing any particular issues raised by the student or the student's parents or guardians. The support team shall consider the student's needs, protection of student privacy, maximization of social integration, minimization of stigmatization, student age, and any perceived safety risks as they contemplate appropriate supports and arrangements. The plan may include, but is not limited to:

1. Annual conferences with a student support team, the student, and the student's parents or guardians to discuss any necessary accommodations for the school year
 2. Regular check-ins with the student and/or the student's parents or guardians by the school counselor, administrator, school psychologist, school social worker, or other designated staff member deemed appropriate
 3. Meetings to support transition from one academic setting to another
 4. Information about community resources
 5. A timeline to support student transition from one gender to another, if applicable
 6. Decisions regarding use of student name and pronouns, restroom and locker room access, gender specific courses, and sports and student activities.
- C. Any alternative arrangement shall, to the extent possible, be provided in a way that does not call attention to the student's gender non-conforming or transgender status.
- D. In situations where a student may be transitioning from one gender to another, either prior to the beginning of or during the current school year, school teams shall consider providing staff training on gender diversity to include responsibilities to support gender non-conforming and transgender students under Title IX and Policy 1450. This training should be generalized to honor the privacy and confidentiality of the student.
- E. A parent or guardian or the student may request that the support team be reconvened at any time.
- F. Every effort shall be made to encourage and support communication between gender non-conforming or transgender students and the student's parents or guardians. Schools may offer to meet jointly with the parents or guardians and the student at school. In no case shall personnel commit themselves to maintain confidentiality around student requests, such as use of preferred names and pronouns different from the legal name of the student, thus keeping such requests from parents, guardians, or appropriate school authorities. Schools shall work to both support student needs as well as the rights of parents or guardians to make educational decisions for their children and otherwise direct their upbringing.

V. STUDENT RECORDS

- A. Each school is required to maintain a permanent pupil record of each student. The student's legal name, birth date, sex, and parent(s) name as they appear on the birth certificate shall be considered the student's official identification and shall be entered in the FCPS student scholastic record and in FCPS systems. A court order or updated birth certificate attesting to any changes in student

identification, to include legal name and sex, is required before any changes will be made to the student scholastic record.

- B. For current FCPS students, legal name and/or gender changes will be reflected in student records generated on and after the date of the record change. Records prior to the date of the record change will not be amended.
- C. Past records of former FCPS students will not be amended.
- D. If a gender non-conforming or transgender student and the student's parents or guardians request a diploma with the student's preferred name, schools may provide a student with both a diploma reflecting the student's legal name as well as a diploma with the student's preferred name that reflects the student's gender identity.
- E. When possible, internally generated and shared school lists of students (e.g., honor roll, graduation programs) should identify gender non-conforming or transgender students by the student's preferred name and gender. Additionally, when possible, school documents such as yearbooks, school newspapers, and communications to outside media should identify gender non-conforming or transgender students by the student's preferred name and gender including using pronouns corresponding to the student's gender identity.

VI. STUDENT NAMES AND PRONOUNS

- A. Students who identify as gender non-conforming or transgender should be called by the student's preferred name and gender pronouns, regardless of the name and gender recorded in the student's permanent pupil record. School counselors, administrators, or other designated school personnel should work with the student and the student's parents or guardians to determine the best course of action to inform teachers, coaches, and other school personnel of this request. Every effort should be made by the student's teachers to reasonably inform substitute teachers of the student's preferred name, gender, and gender pronouns.

VII. RESTROOM AND LOCKER ROOM ACCESSIBILITY

- A. Gender non-conforming and transgender students shall be provided with the option of using a locker room or restroom consistent with the student's gender identity.
- B. Any student who has a need or desire for increased privacy, regardless of the underlying reason, shall be provided with a reasonable alternative such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, or a nearby health or single-use/unisex bathroom), or with a separate changing schedule (e.g., using the locker room that corresponds to the student's gender identity before or after other students).
- C. Gender non-conforming and transgender students may also be provided with the option of using the facilities that correspond to the student's sex assigned at birth.

- D. Any alternative arrangement should be provided in a way that protects the ability of students to keep their gender non-conforming or transgender status confidential.
- E. In no case shall a gender non-conforming or transgender student be required to use a locker room or restroom that conflicts with the student's gender identity or be limited to using only a private area or single-use facility as described in this section.

VIII. GENDER SPECIFIC COURSES

- A. When schools offer a gender specific course or a course with a gender specific section (e.g., men's chorus), gender non-conforming and transgender students shall be allowed to enroll in the course corresponding with the student's gender identity.
- B. In courses where specific units are taught in a way that divides students into groups by gender (e.g., Family Life Education), gender non-conforming and transgender students, with direction of parents or guardians, shall be allowed to participate with the gender group corresponding to the student's gender identity.

IX. STUDENT ACTIVITIES AND ATHLETICS

- A. Student participation in Virginia High School League (VHSL) sponsored programs is governed by current VHSL policies. Gender non-conforming and transgender students shall participate in VHSL sponsored activities in accordance with these policies.
- B. Student participation in school-sponsored clubs, activities, and sports (other than those sponsored by VHSL) shall allow gender non-conforming and transgender students to participate in accordance with the student's gender identity.

X. GENDER SEGREGATION IN OTHER AREAS

- A. As a general rule, in any other circumstances where students are separated by gender in school activities, gender non-conforming and transgender students shall be permitted to participate in accordance with the student's gender identity consistently asserted at schools. Activities that may involve the need for accommodations to address student privacy concerns will be addressed on a case-by-case basis.

XI. DRESS CODES

- A. All students are required to dress in clothing that follow the guidelines as listed in Policy 2613 as well as Regulation 2601 (Student Rights and Responsibilities), regardless of gender identity. There are no separate categories of clothing requirements for either males or females, therefore, gender non-conforming and transgender students shall be allowed to dress in clothing as long as it meets the guidelines in the policies referenced above.

XII. COMPLAINTS

- A. Parents, guardians or students may direct complaints to the school principal, the Region Office, or to the Office of Equity and Employee Relations.

See also the current versions of:

- Policy 1450—Nondiscrimination
- Regulation 2202—Required Admission Credentials for Students
- Policy 2613—Student Dress Code
- Regulation 2601—Student Rights and Responsibilities
- Management of the Student Scholastic Records Manual
- Virginia High School League, Inc. Handbook and Policy Manual

FREDERICK COUNTY PUBLIC SCHOOLS	Reg. No. 400-36
Subject: Creating Welcoming and Affirming Schools for Transgender and Gender Nonconforming Students	Issued: X/X/17
Preparing Office: Office of the Superintendent	Amended:

NEW REGULATION – 6/14/17 BOARD OF EDUCATION ADOPTED NEW POLICY 443

8/9/17 BOARD OF EDUCATION REVIEW/DISCUSSION OF NEW REGULATION

Policy 443

I. Definitions

Gender Expression - The manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.

Gender Identity - A person’s deeply held sense or psychological knowledge of their own gender, which can include being female, male, another gender, or no gender. Gender identity is an innate and largely inflexible part of a person’s identity. One’s gender identity can be the same or different than the gender assigned at birth. The responsibility for determining an individual’s gender identity rests with the individual. Children typically begin to understand their own gender identity by age four, although the age at which individuals come to understand and express their gender identity may vary based on each person’s social and familial development.

Gender Nonconforming – A term for people whose gender expression differs from stereotypical expectations, such as “feminine” boys, “masculine” girls, and those who are perceived as androgynous. This includes people who identify outside traditional gender categories or identify as multiple genders. Other terms that can have similar meanings include gender diverse or gender expansive.

Non-binary/Genderqueer – Terms used by those who identify with neither, both, or a combination of genders.

Sexual Orientation – A person’s romantic and/or physical attraction to people of the same or opposite gender or other genders. Transgender and gender nonconforming people may have any sexual orientation.

Transgender – An adjective describing a person whose gender identity or expression is different from that traditionally associated with an assigned gender at birth.

Transition – The process in which a person goes from living and identifying as one gender to living and identifying as another. Transition is a process that is different for everyone, and it may or may not involve social, legal, or physical changes. There is no one step or set of steps that an individual must undergo in order to have their gender identity affirmed and respected.

II. Purpose

To execute the intent of Board Policy 443 *Creating Welcoming and Affirming Schools for Transgender and Gender Nonconforming Students*, the following procedures are developed for implementation in all schools within Frederick County Public Schools (FCPS).

III. Procedures

A. Identification and Support of Transgender and Gender Nonconforming Students

1. School staff shall accept a student's and/or parent/guardian's assertion of a student's transgender or gender nonconforming status that supports the definitions above and is treated as a sincerely held part of the student's core identity. While not required, a student and/or parent/guardian may provide confirmation of a student's gender identity such as letters and/or statements from parents/guardians, family friends, or physical and mental health care providers.
2. If notified, school staff will offer to convene a support team for the student, which may consist of the parents/guardians, student, classroom teacher(s), administrator, school counselor, school psychologist, school social worker, and/or other staff members as appropriate for this collaboration. Staff will seek input from the student and/or the student's parent/guardian regarding the composition of the team and invite any representatives of the parent/guardian's choosing. The goal of such meeting is to collaborate on how best to support the student in day-to-day activities at school to ensure he/she feels welcomed and safe, and that appropriate accommodations are provided for the student.
3. The support team will then develop a student-specific support plan to provide the student with safe and equitable access to school facilities and activities.

B. Student Records

Each school is required to maintain an official student record of each student, which includes the legal name of the student and birth gender. Official student records can be modified as stipulated under Maryland law ¹ and/or in accordance with Maryland State Department of Education (MSDE) guidelines.

C. Use of Preferred Name

FCPS recognizes the right of every student to be referred to by their preferred name and pronoun. All staff who work with students will have access to a current and complete list of preferred names and pronouns for all students and will use them in every interaction, unless the interaction could compromise student privacy.

D. Diplomas

The high school diploma is considered an official student record and may only be modified

¹ §4-211(f), General Article, *Annotated Code of Maryland*

as stipulated under III. B. If a transgender student has a legal name change after graduation and requests a new diploma to reflect the change, FCPS will provide the new diploma upon legal verification of the name change and a photo ID which matches the name. A diploma replacement fee will be charged to cover the expense of printing the diploma and any associated mailing fees.

E. Other Student Lists

It is an expectation that internally generated and shared school lists of students (e.g. honor roll, graduation programs) will identify transgender or gender nonconforming students by the student's preferred name and gender. Additionally, school documents such as yearbooks, school newspapers, and communications to outside media should identify transgender or gender nonconforming students by the student's preferred name and gender, including using pronouns corresponding to the student's gender identity.

F. Privacy/Confidentiality

FCPS respects the rights of students to express their gender identity or expression as they wish. Transgender and gender nonconforming students have the right to discuss and express their gender identity and expression openly and to decide where, when, and with whom to share private information. The fact that a student may wish to use a different name or pronoun at school, or to disclose their transgender or gender nonconforming status to school staff, does not authorize school staff to disclose a student's personally identifiable or medical information. FCPS will ensure all personally identifiable and medical information relating to transgender and gender nonconforming students will be kept confidential according to applicable federal, state and local privacy and student records laws.

Every effort shall be made to encourage and support communication between transgender and gender nonconforming students and the student's parent/guardian, unless there is a health or safety concern. Schools may offer to meet jointly with the parent/guardian and the student at school. School staff shall work to both support student needs as well as respect the rights of the parent/guardian to have access to student records in compliance with federal and state law.

G. Access to Gender-Segregated Facilities

Students, including non-binary students, should determine which facilities are consistent with their gender identity. All students must have access to facilities, including rest rooms, locker rooms, or changing facilities, that correspond to their gender identity. Access is provided without any additional complicating procedure.

Any student, regardless of gender or gender identity or expression, who is uncomfortable for any reason using a gender-segregated facility will be provided a safe and nonstigmatizing alternative. Options include, but are not limited to, privacy curtains, provisions to use private restrooms or office restrooms, or a separate changing schedule. These options are provided to any student without question or complicating procedures required. Under no circumstance is any student required or directed to use a private use facility.

If there is a credible basis for believing that the student is not asserting their authentic gender identity for the purpose of being disruptive or infringing on the rights of others, school administration has the responsibility to investigate as they would for any other behavior that is being disruptive and follow up with the student and/or parent accordingly.

H. Participation in Sports/Physical Education Classes

Students are permitted participation in FCPS sports and physical education classes in a manner consistent with their gender identity. The gender identity of student-athletes is not required to be disclosed to coaches, teammates, opponent's coaches, or anyone else if not authorized by the student. If special events, such as out-of-state tournaments or competitions specify particular disclosures, those will be discussed in advance and confidentially with the student.

Any concerns may be addressed to the Supervisor of Athletics and Extracurricular Activities who will ensure fair and consistent treatment, and compliance with the Maryland Public Secondary Schools Athletic Association (MPSSAA) rules.

I. Overnight Field Trips

The comfort of all students is paramount in the decisions around overnight field trips. Maximizing students' social integration may be achieved by applying these guidelines:

- Make arrangements in consultation with the student. If the transgender or gender nonconforming student's parents or guardians are involved and supportive, they may also be consulted.
- Be sensitive to the need to maintain the student's privacy and not disclose or require disclosure of the student's transgender or gender nonconforming status to the other students or their parents without the consent of the transgender or gender nonconforming student and/or the student's parent.
- Allow students the opportunity to room with others according to their gender identity.
- Make efforts to accommodate any student who desires greater privacy; however, no student should be isolated.

J. Dress Codes

Dress codes designated for school events like dances, graduations, and other ceremonies shall be gender neutral.

K. Training

All FCPS personnel who work directly with students are required to participate in, or have access to, annual training that includes:

- The importance of privacy for all students, as well as an overview of the legal and other implications of disclosing gender identity to parents.
- Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents.
- Developmentally appropriate strategies for communication with students and parents about issues related to gender identity and gender expression that protect student privacy.

- Developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyberbullying.
- Classroom management practices, curriculum, and resources that educators can integrate into their classrooms to foster a more gender-inclusive environment for all students.
- Board Policy 443 *Creating Welcoming and Affirming Schools for Transgender and Gender Nonconforming Students*.

Approved:

Theresa R. Alban
Superintendent

FREDERICK COUNTY PUBLIC SCHOOLS	Reg. No. 400-48
Subject: BULLYING – HARASSMENT - INTIMIDATION COMPLAINT PROCESS FOR STUDENTS	Issued: 7/1/86
Preparing Office: OFFICE OF THE SUPERINTENDENT	Amended: 6/15/17

I. Policies 309 and 437

NOTE: Cross-reference Policy 318 for responsibilities of investigating sexual harassment involving employers, vendors, volunteers, or outside persons having contact with the school system and Regulation 200-48 which addresses the discrimination complaint process for applicants or employees.

II. Procedures

All school employees who observe, receive reports of, overhear, or otherwise witness bullying, intimidation, or harassment or to whom such harassment is reported shall take prompt and appropriate action.

Staff members who engage in or fail to appropriately address bullying, harassment, or intimidation may be subject to disciplinary consequences up to and including termination. Per Maryland law, a school employee who reports an act of bullying, harassment, or intimidation in accordance with this regulation is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation.

Also prohibited are reprisals or retaliation against individuals who report acts of bullying, intimidation, or harassment or who are targets, witnesses, bystanders or others with information about an act of bullying, intimidation, or harassment.

NOTE: Cross-reference Policies 305 and 323 for information regarding consequences.
Cross-reference Regulation 400-66 for disability discrimination regarding 504 issues.

A. Definitions (list is not intended to be all inclusive)

Bullying, Harassment, or Intimidation

Bullying, harassment, or intimidation includes ongoing intentional conduct, including verbal, physical, or written conduct, or intentional electronic communication that creates a hostile educational environment¹ by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being that occurs on school property, at a school activity or event, or on a school bus.

The following definitions provide additional guidance for evaluating the behavior and the appropriate consequence, recognizing that some behaviors may fall into more than one category.

¹ For purpose of this regulation, educational environment includes a college campus as it pertains to dually enrolled students. In the event a dually enrolled student alleges discrimination occurred on the college campus, investigation of the complaint will be coordinated, as appropriate, with the Title IX coordinator identified at the institution of higher education.

Bullying represents a pattern of behavior when a person repeatedly uses power in an intentional manner, including verbal, physical, written, or electronic communication.

Harassment includes intentional negative actions that offend, ridicule, or demean another individual with regard to race, national origin, marital status, sex, sexual orientation, gender identity, gender expression, religion, ancestry, physical attributes, socioeconomic status, familial status, physical or mental ability or disability.

Intimidation is subjection to an intentional action that seriously threatens and induces a sense of fear and/or inferiority.

B. Bullying/Harassment/Intimidation due to Sex

For purposes of this regulation, sexual harassment is a form of discrimination based on sex and consists of unwelcome and unsolicited sexual advances, requests for sexual favors, sexually motivated physical conduct or communication of a sexual nature by another person when:

1. The harassing conduct causes a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity, or when an employee or third party agent of the school district causes a student to believe that the employee will make an educational decision based on whether or not the student submits to unwelcome sexual conduct; or
2. The unwelcome sexual conduct is severe, persistent or pervasive such that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment.
3. Examples of conduct, which may constitute sexual harassment include but are not limited to:
 - Sexual advances
 - Sexting (electronic transfer of pictures or text of a sexual nature)
 - Touching, patting, grabbing, or pinching another person's intimate body parts, whether that person is of the same sex or the opposite sex
 - Coercing, forcing or attempting to coerce or force the touching of anyone's intimate body parts
 - Coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another
 - Graffiti of a sexual nature
 - Sexual gestures
 - Sexual or dirty jokes
 - Showing pornographic images to others
 - Touching oneself sexually or talking about one's sexual activity in front of others
 - Spreading rumors about or rating other students as to sexual activity or performance
 - Unwelcome, sexually motivated or inappropriate patting, pinching or physical contact
 - Other unwelcome sexual behavior or words, including demands for sexual favors, when accompanied by implied or overt threats concerning an individual's educational status or implied or overt promises of preferential treatment
 - Making fun of another person because of perceived or actual sexual orientation, gender identity, or familial status

C. Bullying/Harassment/Intimidation due to Race, National Origin, Disability, Religion, or Socioeconomic Status

1. Harassment based on race or national origin can include an individual's ancestry, country of origin, or country of origin of the student's parents, family members, or ancestors. In addition, harassment can occur because a person is an immigrant, speaks another language or has a foreign accent.
2. Harassment based on disability refers to an individual having a physical or mental impairment, which substantially limits one or more major life activities or references to the program or services a student receives based on his/her disability.
3. Harassment based on religion includes reference to an individual's commitment or devotion to religious faith or observance.
4. Harassment based on socioeconomic status relates to or involves a combination of social and economic factors in regard to an individual.
5. Bullying and/or harassment may occur when:
 - a. The conduct is sufficiently severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment.
 - b. The conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance.
 - c. The conduct otherwise adversely affects an individual's learning opportunities.
 - d. Examples of conduct that may constitute discrimination/harassment may include:
 - Name-calling, jokes or rumors
 - Threatening or intimidating conduct directed at another
 - Notes, cartoons, or graffiti
 - Specific slurs or negative stereotypes
 - Written or graphic material containing comments or stereotypes, which is posted or circulated and which is aimed at degrading individuals or members of affected classes
 - A physical act of aggression or assault upon another
 - Other kinds of aggressive conduct such as theft or damage to property, which is motivated by the fact that the person is in an affected class

D. Prevention

The school system recognizes its responsibility to implement the following practices in an effort to prevent bullying and harassment in the schools:

1. Conduct annual professional development for administrators and all staff to increase awareness of the prevalence, causes and consequences of bullying and to increase the use of evidence-based strategies for preventing bullying. Additional professional development may be provided for new employees who are hired after the start of school during the school year.
2. Implement counseling and health curriculum on bullying and sexual harassment prevention using school-wide evidence-based anti-bullying programs as a part of a system of positive behavioral supports and school improvement efforts at all grade levels.

3. Create school climate improvement efforts to promote student involvement in the anti-bullying efforts, peer support, mutual respect, and a culture which encourages students to report incidents of bullying to adults.
4. Collaborate with families and the community to inform parents about the prevalence, causes and consequences of bullying, including its central role as a public health hazard, and the means of preventing it.
5. Collect annual school/building-specific data on the prevalence and characteristics of bullying to guide local decision-making related to surveillance, prevention, intervention and professional development.

E. Title IX/Gender Discrimination

1. Title IX is that portion of the Educational Amendments of 1972 which prohibits discrimination on the basis of gender in educational programs or activities receiving federal funds and requires equal opportunity in admissions, athletics, counseling, access to courses, employment policies regarding marital or parental status of students and treatment of students. All students and employees are covered by this law.
2. Title IX also prohibits intimidation, threats, coercion, or retaliation against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulation or because an individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing regarding Title IX.

F. Title IX Complaint Reporting Procedures

1. Informal

An individual who feels he/she has a complaint shall present the matter, either orally or in writing, to the building principal or the official Title IX coordinator where applicable within 20 calendar days of the event that gave rise to the complaint. The informal discussion of problems and continuous interchange of views between the grievant and the building principal, although not required, is encouraged in order to resolve as many disputes as possible. The disposition at this informal level may be either oral or written and shall be communicated to the grievant within 20 calendar days.

2. Formal

If a complainant is not satisfied with the disposition of his/her claim at the informal level, he/she may appeal, in writing, to the Superintendent (or directly with the Board of Education if the complaint involves the Superintendent) or contact the Title IX coordinator where applicable for assistance within 10 calendar days of the informal communication. The Superintendent or designee shall inform the complainant as to the disposition of the claim within 20 calendar days of the receipt of the appeal at this level.

The complainant may appeal the decision of the Superintendent to the Board of Education within 30 calendar days of the Superintendent's decision.

3. Rights of Complainant/Responder

A complainant may either use this complaint procedure or elect to file a complaint directly with the U.S. Department of Education, Office for Civil Rights. At any level of the complaint, the complainant and/or the responder may submit relevant evidence and be represented by an individual of their choosing.

4. Extension of Time Limits by Mutual Agreement of the Parties

The stated time limits may be extended to allow for the collection of pertinent information and an effective resolution of the complaint.

G. Administrative Process/Requirements

1. Student Who Makes a Bullying/Harassment/Intimidation Complaint

- a. All complaints that are reported will be investigated.
 - 1) The school principal, or designee, will initiate the investigation of student complaints against students as timely as possible, ideally within two days.
 - 2) If a student expresses a desire to discuss an incident of bullying, harassment or intimidation with a staff member, the staff member will make an effort to provide the student with a practical, safe, private, and age-appropriate way of doing so.
 - 3) *Bullying, Harassment, or Intimidation Reporting Forms* may be submitted by a student, parent, close adult relative, or staff member to school administration. A student may request assistance from a staff member to complete the form if the student wishes. The *Bullying, Harassment, or Intimidation Reporting Forms* may be obtained in the school's main (front) office and counselor's office. The forms may also be obtained electronically from the school system's web site.
 - 4) Student complaints against a staff member will be initially investigated by the school principal or designee in consultation with the executive director of Human Resources. The principal and the executive director of Human Resources will jointly determine appropriate follow-up investigations as warranted.
 - 5) The executive director of Human Resources will investigate a complaint against a volunteer, vendor, or other person having business or contact with the school system and will report findings and recommend appropriate action to the superintendent or his designee.
 - 6) The Title IX coordinator will investigate complaints alleging Title IX violations in conjunction with appropriate personnel.
 - 7) It cannot be predicted what will be discovered or if a hearing may result from the ultimate outcome of the investigation. Efforts will be made, however, to increase the confidence and trust of the targeted individual and any witnesses, by informing them that any information discussed and recorded will be confined to "need to know" status. Neither the targeted individual nor witnesses should be promised absolute confidentiality at the onset of an investigation.

- b. If it has been established that an incident may have occurred, an administrator shall contact a parent/guardian of the student making the complaint and the parents of the offender of the incident.
 - c. The administrator reporting the incident will inform the parent/legal guardian that the student is being offered counseling support and follow-up will occur within two weeks and again at four weeks after the initial conference to determine if the bullying, harassment or intimidation has ceased. After the follow-up sessions, the person conducting the counseling will contact the individuals involved as appropriate.
 - d. The administrator conducting the investigation will complete the incident investigation form and send copies including the incident reporting form and the counseling intervention form to the appropriate director and the coordinator of Counseling and Student Support.
 - e. The administrator/designee will create a written record of the bullying, harassment or intimidation incident and any disciplinary actions taken, as well as the statements of the targeted individual, witnesses, and offender. Such documents are considered confidential as they contain student record information. Discussions with all parties should be documented as soon as possible after the event. Any material records or evidence will not be discarded while a criminal investigation or prosecution resulting from the incident is ongoing.
 - f. Information obtained from the *Bullying, Harassment, or Intimidation Reporting Forms* shall be recorded for data collection, storage, and submission according to the requirements of Maryland law.
 - g. Local school systems shall provide summary information for individual schools and the school system obtained from the *Bullying, Harassment, or Intimidation Reporting Forms* to their schools.
 - h. If at any time the parent/legal guardian has questions or concerns about the process, they may contact the principal or supervisor of counseling.
2. Student Against Whom the Complaint is Made
- a. Consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for peers engaged in reprisal or retaliation and for persons found to have made false accusations will be imposed in accordance with FCPS Regulation 400-8 on student discipline.
 - b. A conference may be held with the parent/legal guardian and student to determine how best to help the student prevent future acts of misconduct.
 - c. The administrator/designee should be aware that some acts of bullying, harassment, or intimidation could also be delinquent acts. If they are delinquent acts, they promptly shall be reported to the responsible law enforcement agency according to the Code of Maryland Regulations (COMAR) 13A.08.01.15.

- d. The student is required to participate in an activity designed by the school administrator, counselor or school team to educate, sensitize and instill openness and tolerance within approximately two weeks after the investigation.
- H. Support services are available to the student offender, the targeted individual, witnesses, and any bystanders. Interventions and programs should be implemented as appropriate based on context, situation, age, and severity. Schools are encouraged to provide a list of the types of available support services based upon their available resources and those available in the communities in which their schools are located.
- I. Bullying, Harassment or Intimidation of Students with Disabilities

This section only applies when it has been concluded by the school administrator that bullying, harassment or intimidation has occurred against a student who has an IEP/504 plan.

1. Schools are obligated to ensure that a student with a disability who is the target of documented bullying, harassment or intimidation behavior continues to receive a free and appropriate public education (FAPE) in accordance with his or her IEP/504.
2. The school, as a result of the effects of bullying, harassment or intimidation, must convene an IEP/504 team to determine whether, as a result of the effects of bullying, harassment or intimidation, the student's needs have changed and revise the IEP/504 accordingly.
3. The IEP/504 team should consider examining the environment in which the bullying, harassment or intimidation occurred to determine if changes to the environment are warranted.
4. The IEP/504 team should exercise caution when considering a change in the placement or the location of services provided to the student, and should keep the student in the current placement unless the student can no longer receive FAPE in the current least restrictive environment (LRE) placement.
5. In all cases the documented prior written notice must be given to the parent, prior to any implementation in change of IEP/504.

J. Notification

FCPS notifies all students and staff annually of its discrimination/harassment/bullying complaint process regulation via the FCPS web site and the Calendar Handbook.

- K. The Maryland State Department of Education (MSDE) is familiar with the reporting and investigation procedures of Frederick County Public Schools. Individuals with questions may contact the following MSDE staff:

Director of Student Services & Alternative Programs Branch
410-767-0311

School Safety Specialist
410-767-0311

Approved:
Original signed by

Theresa R. Alban
Superintendent

Target

-8-

Reg. No. 400-48

COUNSELING INTERVENTION REPORT
Bullying – Harassment – Intimidation

School _____ Incident Date & Location _____

Name of Target _____ Grade / Sex / Race Code

1. Summary of Incident:

2. What type of bullying was this?

- | | |
|---|--|
| <input type="checkbox"/> Physical aggression | <input type="checkbox"/> Intimidating (bullying), extorting, or exploiting |
| <input type="checkbox"/> Getting another person to hit/ harm the target | <input type="checkbox"/> Spreading harmful rumors or gossip |
| <input type="checkbox"/> Teasing, name calling, or threatening | <input type="checkbox"/> Electronic communication – Cyberbullying |
| <input type="checkbox"/> Demeaning and making jokes about the target | <input type="checkbox"/> Electronic communication – Sexting |
| <input type="checkbox"/> Making rude and/or threatening gestures | <input type="checkbox"/> Electronic communication – Other |
| <input type="checkbox"/> Excluding or rejecting the target | <input type="checkbox"/> Other _____ |

3. How did you feel when you were bullied by _____ ? _____

4. How did you react when the bullying occurred? _____

5. If you are in a similar position in the future, what will you do? _____

6. What can we do here at school to make you feel safe? _____

Target

-9-

Reg. No. 400-48

Two Week Follow-Up Date: _____

1. Have you been bullied by the same individual or other individuals since we last met? _____

2. Is there anything you need from school staff members? _____

3. What have you learned from this experience? _____

4. Have you noticed other people being bullies throughout your school days? _____
 Have you reported this information? _____

5. Is there any additional information you want me to know? _____

Four Week Follow-Up Date: _____

1. Have you been bullied by the same individual or other individuals since we last met? _____

2. Is there anything you need from school staff members? _____

3. Have you noticed other people being bullies throughout your school days? _____
 Have you reported this information? _____

4. Is there any additional information you want me to know? _____

Name and Signature of Person completing the report:

_____ (Typed or printed) _____ (Signature)

Name of Person conducting the intervention: _____ (Typed or printed) _____ Date

NOTE: The Reporting Form (if appropriate), the Incident/Investigation Form, and the Counseling Intervention Report are to be sent to the following:
*Coordinator of Counseling and Student Support *Principal

Offender

**COUNSELING INTERVENTION REPORT
Bullying – Harassment – Intimidation**

School _____ Incident Date & Location _____

Name(s) of other student(s) against whom the complaint is made _____
Grade / Sex / Race Code

_____ Grade / Sex / Race Code

1. Why do you think your behavior has been identified as bullying?

2. What type of bullying was this?

- Physical aggression
- Intimidating (bullying), extorting, or exploiting
- Getting another person to hit/ harm the target
- Spreading harmful rumors or gossip
- Teasing, name calling, or threatening
- Electronic communication – Cyberbullying
- Demeaning and making jokes about the target
- Electronic communication – Sexting
- Making rude and/or threatening gestures
- Electronic communication – Other
- Excluding or rejecting the target
- Other _____

3. How did you feel when you were bullying? _____

4. Why did you choose to treat your target the way you did? _____

5. If you are in a similar position in the future, what can you do instead? _____

Educational Activity Assigned: _____

Date Completed: _____

Offender

-11-

Reg. No. 400-48

Two Week Follow-Up Date: _____

1. Have you bullied the same individual or other individuals since we last met? _____

2. What behaviors have you changed in an effort to avoid repeating your bullying behaviors? _____

3. What have you learned from this experience? _____

4. Have you noticed other people being bullies throughout your school days? _____
 Have you reported this information to school staff? _____

5. Is there any additional information you want me to know? _____

Four Week Follow-Up Date: _____

1. Have you bullied the same individual or other individuals since we last met? _____

2. Have you noticed other people being bullies throughout your school days? _____
 Have you reported this information to school staff? _____

3. Is there any additional information you want me to know? _____

Name and Signature of Person completing the report:

(Typed or printed) (Signature)

Name of Person conducting the intervention: _____
(Typed or printed) Date

NOTE: The Reporting Form (if appropriate), the Incident/Investigation Form, and the Counseling Intervention Report are to be sent to the following:

*Coordinator of Counseling and Student Support *Principal

This form is to be confidentially maintained in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

BULLYING, HARASSMENT, OR INTIMIDATION REPORTING FORM

Directions: Bullying, harassment, or intimidation are serious and will not be tolerated. This is a form to report alleged bullying, harassment, or intimidation that occurred on school property, at a school-sponsored activity or event off school property; on a school bus; or on the way to and/or from school, in the current school year. If you are a student target, the parent/guardian of a student target, or a close adult relative of a student target or a school staff member and wish to report an incident of alleged bullying harassment, or intimidation, complete this form and return it to the Principal at the student target's school. Contact the school for additional information or assistance at any time.

Bullying, harassment, or intimidation means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that: (I) creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is: 1. motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, gender expression, religion, ancestry, physical attribute, socioeconomic status, familial status, or physical or mental ability or disability; or 2. threatening or seriously intimidating; and (II) 1. occurs on school property, at a school activity or event, or on a school bus; or 2. substantially disrupts the orderly operation of a school. Electronic communication means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.

Today's date: _____ / _____ / _____ School: _____
Month Day Year
 School System: _____

Person Reporting Incident	Name: _____
Telephone: _____	E-mail: _____
Place an X in the appropriate box: <input type="checkbox"/> Student <input type="checkbox"/> Bystander <input type="checkbox"/> Parent/Guardian <input type="checkbox"/> Close Adult Relative <input type="checkbox"/> School Staff	

1. Name of student target: _____ Age: _____
(Please print)

2. Name(s) of alleged witness(es) (if known): (Please print)	Age	School (if known)	Is he/she a student?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

3. Name(s) of alleged offender(s) (if known): (Please print)	Age	School (if known)	Is he/she a student?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

4. On what date(s) did the incident happen?
 _____ / _____ / _____ _____ / _____ / _____ _____ / _____ / _____
Month Day Year Month Day Year Month Day Year

5. Place an X next to the statement(s) that best describes what happened (choose all that apply):

- Any bullying, harassment, or intimidation that involves physical aggression
- Getting another person to hit or harm the student target
- Teasing, name-calling, making critical remarks, or threatening, in person or by other means
- Demeaning and making the target of jokes
- Making rude and/or threatening gestures
- Excluding or rejecting the target
- Intimidating (bullying), extorting, or exploiting
- Spreading harmful rumors or gossip
- Related to the student target's disability
- Related to the student target's perceived sexual orientation
- Electronic Communication: ___ email ___ text ___ sexting ___ social media ___ other
- Gang related
- Gang recruitment
- Human trafficking/Prostitution recruitment
- Racial harassment
- Sexual harassment
- Other (specify) _____

6. Where did the incident happen (choose all that apply)?

- On school property
- On a school bus
- Other location _____
- At a school-sponsored activity or event off school property
- On the way to/from school
- Via internet – sent on or off school property

7. Describe the incident(s), including what the alleged offender(s) said or did.

(Attach a separate sheet if necessary)

8. Why did the harassment or intimidation (bullying) occur?

(Attach a separate sheet if necessary)

9. Did a physical injury result from this incident? Place an X next to one of the following:

- No
- Yes, but it did not require medical attention
- Yes, and it required medical attention

10. If there was a physical injury, do you think there will be permanent effects? Yes No

11. Was the student target absent from school as a result of the incident? Yes No
If yes, how many days was the student target absent from school as a result of the incident? _____

12. Did a psychological injury result from this incident? Place an X next to one of the following:

- No
- Yes, but psychological services have not been sought
- Yes, and psychological services have been sought

13. Is there any additional information you would like to provide?

(Attach a separate sheet if necessary)

Signature: _____ **Date:** _____

This form is to be confidentially maintained in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

BULLYING/HARASSMENT/INTIMIDATION INCIDENT INVESTIGATION FORM

School Personnel Completing Form: _____ Position: _____

Today's date: _____ / _____ / _____ School: _____
Month Day Year

Date of incident: _____ / _____ / _____ School System: _____
Month Day Year

<p>Person Reporting Incident (From reporting form) Name: _____</p> <p>Telephone: _____ E-mail: _____</p> <p>Place an X in the appropriate box: <input type="checkbox"/> Student <input type="checkbox"/> Parent/Guardian <input type="checkbox"/> Close Adult Relative <input type="checkbox"/> School Staff <input type="checkbox"/> Bystander</p>
--

1. Name of student target: _____ Age: _____ Days absent as result of incident: _____
 _____ Age: _____ Days absent as result of incident: _____
 _____ Age: _____ Days absent as result of incident: _____
 (Please print)

2. Name(s) of alleged witness(es) (If known) Age School

_____	_____	_____
_____	_____	_____
_____	_____	_____

(Please print)

3. Name(s) of alleged offender(s) (If known): Age School Is he/she a student? Days absent due to incident

_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

(Please print)

Total number of alleged offenders: _____

Definition as used in this regulation: Bullying, harassment, or intimidation includes ongoing intentional conduct, including verbal, physical, or written conduct, or intentional electronic communication that creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being that occurs on school property, at a school activity or event, or on a school bus.

4. What actions were taken to investigate this incident? (choose all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Interviewed student target | <input type="checkbox"/> Interviewed student target's parent/guardian |
| <input type="checkbox"/> Interviewed alleged offender(s) | <input type="checkbox"/> Interviewed alleged offender's parent/guardian |
| <input type="checkbox"/> Interviewed witness(es) | <input type="checkbox"/> Examined physical evidence |
| <input type="checkbox"/> Witness statements collected in writing | <input type="checkbox"/> Conducted student record review |
| <input type="checkbox"/> Interviewed school nurse | <input type="checkbox"/> Obtained copy of police report |
| <input type="checkbox"/> Interviewed school resource officer | <input type="checkbox"/> Examined video evidence |
| <input type="checkbox"/> Reviewed any medical information available | <input type="checkbox"/> Contacted social media site |
| <input type="checkbox"/> Interviewed teachers and/or school staff | <input type="checkbox"/> Other (specify) |

5. Place an X next to the statement(s) that best describes what happened (choose all that apply):

- Any bullying, harassment, or intimidation that involves physical aggression
- Getting another person to hit or harm the student target
- Teasing, name-calling, making critical remarks, or threatening, in person or by other means
- Demeaning and making the target of jokes
- Making rude and/or threatening gestures
- Excluding or rejecting the target
- Intimidating (bullying), extorting, or exploiting
- Spreading harmful rumors or gossip
- Related to the student target's disability
- Related to the student target's perceived sexual orientation
- Electronic Communication: ___ email ___ text ___ sexting ___ social media ___ other
- Gang related
- Gang recruitment
- Human trafficking/Prostitution recruitment
- Racial harassment
- Sexual harassment
- Other (specify) _____

6. The harassment, bullying, or intimidation was primarily motivated by: (choose only one)

- | | |
|--|---|
| <input type="checkbox"/> Race | <input type="checkbox"/> Socioeconomic status |
| <input type="checkbox"/> National origin | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Familial status/marital status | <input type="checkbox"/> To impress others |
| <input type="checkbox"/> Sexual nature | <input type="checkbox"/> Just to be mean |
| <input type="checkbox"/> Sexual orientation | <input type="checkbox"/> Gang related |
| <input type="checkbox"/> Gender identity/Gender expression | <input type="checkbox"/> Gang recruitment |
| <input type="checkbox"/> Gender | <input type="checkbox"/> Human trafficking/Prostitution recruitment |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Because of another reason
(specify) _____ |
| <input type="checkbox"/> Disability | <input type="checkbox"/> The reason is unknown |
| <input type="checkbox"/> Physical appearance | <input type="checkbox"/> None of the above; the behavior did not meet
the definition |

7. Other contributing factors: (check any that apply)

- Race
- National origin
- Familial status/marital status
- Sexual nature
- Sexual orientation
- Gender identity/Gender expression
- Gender
- Religion
- Disability
- Physical appearance
- Socioeconomic status
- Retaliation
- To impress others
- Just to be mean
- Gang related
- Gang recruitment
- Human trafficking/Prostitution recruitment
- Because of another reason (specify) _____
- The reason is unknown
- None of the above; the behavior did not meet the definition

8. Where did the incident happen? (choose all that apply)

- On school property
- On a school bus
- Other location _____
- At a school-sponsored activity or event off school property
- On the way to/from school
- Via internet – sent on or off school property

9. What corrective actions were taken in this case? (choose all that apply)

- None were required; incident did not meet definition of bullying
- None; incident did not warrant any corrective action
- None were required; this was a false allegation
- None were required; bullying was not substantiated
- Incident investigated and found to be different offense
- Student conference
- Student warning
- Letter of apology
- Mediation
- Counseling (intervention required per Reg. 400-48)
- Parent Letter
- Parent phone call (required for student making complaint)
Date parent contacted: _____
- Parent conference (required for student against whom complaint is made) Date conference held: _____
- Detention
- In-school suspension
- Out-of-school suspension/expulsion
- Behavior contract
- Alternative placement/setting
- Plan of support to include a "go to" adult in the school
- Separation from other student to include transfer or change in schedule
- Other (specify)
- Employee intervention and/or dispute

10. Additional pertinent information gained during the interview:

(Attach a separate sheet if necessary)

11. Investigator notes:

(Attach a separate sheet if necessary)

12. Is the alleged target a student with a disability? (IEP or 504 plan) YES NO If yes, apply the criteria of Section I on page 7 of Regulation 400-48

Signature: _____ Date: _____

NOTE: The Reporting Form (if appropriate), the Incident/Investigation Form, and the Counseling Intervention Report are to be sent to the following:

- Coordinator of Counseling and Student Support
- Principal

Revised 06.15.17

LEGAL SERVICES

191 South East Street
Frederick, MD 21701-5918
301-696-6851 phone
301-696-6823 fax
www.fcps.org



Frederick County Public Schools
Reach. Challenge. Prepare.

Jamie R. Cannon, Esq.
Chief of Staff & Legal Counsel
jamie.cannon@fcps.org

Monique S. Wilson
Paralegal
monique.wilson@fcps.org

Sent via email: Wasps1965@comcast.net

July 20, 2017

John W. Ashbury, Editor & Publisher
The Tentacle
3 Sylvia Circle
Thurmont, MD 21788

RE: Maryland Public Information Act Request -
Transgender Students Enrolled in FCPS

Dear Mr. Ashbury:

Ms. Monique Wilson referred your July 6, 2017, email to me for a response. Specifically, you questioned the response provided that we do not have a public record in response to your request for the number of transgender students enrolled in Frederick County Public Schools (FCPS). I confirmed with Ms. Janet Shipman, Coordinator, Student Services and Ms. Jamie Aliveto, Director, System Accountability and School Improvement (SASI) that FCPS does not seek or track information from students regarding their transgender status.

At prior Board of Education meetings this past year, some students openly disclosed their transgender status and provided public comment. You could access that information directly on the BoardDocs link if you wish to gather data from that public record at <http://www.boarddocs.com/mabe/fcps/Board.nsf/Public>. Also, you may access archived Board of Education meetings at <http://www.fcps.org/centraloffice/fcps-television>. The Board of Education meeting dates with public comments are:

- March 8, 2017
- April 12, 2017
- May 10, 2017
- June 14, 2017

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Jamie R. Cannon". The signature is fluid and cursive, written in a professional style.

Jamie R. Cannon, Esquire

cc: Jamie Aliveto, Director, System Accountability and School Improvement (SASI)
Janet Shipman, Coordinator, Student Services

-----Original Message-----

From: Barrett,Liz <Liz.Barrett@fcps.org>

To: [REDACTED]@aol.com>; Board <Board@fcps.org>

Cc: johnandshawna4 <johnandshawna4@comcast.net>; fpaschal <fpaschal@comcast.net>

Sent: Thu, Jun 29, 2017 10:48 pm

Subject: Re: Policy 437

Hi [REDACTED]

If a student who is transgender identifies as such at school, he or she is referred to by staff and teachers by the name and pronoun selected by the student.

Students aren't subject to discipline when they make mistakes. If a student repeatedly mis-genders a student after being instructed about their mistake or did so with malice (like the intent to bully or harass), staff would handle through conversations and feedback. If it continued, the discipline would progress. Regulations are being developed to implement Policy 443. These will ensure implementation is consistent.

Liz

-----Original Message-----

From: Barrett,Liz <Liz.Barrett@fcps.org>
To: Jane Doe; Board <Board@fcps.org>
Cc: Alban,Theresa <Theresa.Alban@fcps.org>
Sent: Tue, May 30, 2017 11:58 am
Subject: Re: 443

[Dear] ***Jane Doe*****,

I'm happy to respond to the points you raised in your previous email regarding Policy 443 as well as additional points you raised in this email.

I have some graduations and BOE meetings to attend today, but I'll respond in detail later this evening.

Briefly, now, however I will share that there is no political necessity. The rights of any group of FCPS children aren't up for a community "vote" or "survey." I'm a parent, and I'm not interested in the community deciding where my child can use the bathroom, nor am I interested in staff members or others questioning the restroom my children use. I can't imagine you'd want any different for your children.

Moreover, I hope you'll realize that rights aren't a zero-sum game -- we aren't sharing a pie with portions taken from some to give to others. We're making things right for a group of students.

More later.

Kind regards,

Liz Barrett

Vice President

Board of Education of Frederick County

From: Jane Doe
Sent: Tuesday, May 30, 2017 11:51 AM
To: Board
Cc: Alban,Theresa
Subject: 443

Ladies & Gentlemen,

Are you going to put out a public survey to see how many parents are for or against this policy?

I am still against this policy. We all know it wasn't created out of necessity, it's a political policy.

I would like to see a Find Out First asking parents if they are for or against the policy with the language of the policy in the survey. I would also like to see a public survey to gauge if the public at large is for or

against this policy.

Please be aware why you keep saying you want "welcoming" environments, FCPS staff has been busy bullying parents and students into taking PARCC. One incident is so egregious I pray every day this parent comes forward.

Related to the refusal bullying, Dr. Alban says it is up to principals to communicate how they will handle a "student" refusal, not one email I sent to FCPS principals has been answered. I would appreciate someone informing them I need an answer to my question that Dr. Alban refuses to answer because she says it's their decision. Seeing as not one responded, I know they are being communicated to.

Thank you

Jane Doe

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS MARY SMITH, a minor; by and through her next friend, mother and guardian, JANE DOE</p> <p>(b) County of Residence of First Listed Plaintiff <u>FREDERICK</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) DAN COX, ESQ., THE COX LAW CENTER, LLC, P.O. BOX 545, EMMITSBURG, MD 21727; 410-254-7000</p>	<p>DEFENDANTS BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND; BRAD YOUNG, PRESIDENT; LIZ BARRETT, Vice President; MICHAEL BUNITSKY, COLLEEN CUSIMANO, KEN KERR, APRIL FREDERICK County of Residence of First Listed Defendant <u>FREDERICK</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
--	--

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%;"></td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> <td style="width:45%;"></td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

Click here for: [Nature of Suit Code Descriptions](#).

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty	<p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from Another District (specify)
 6 Multidistrict Litigation - Transfer
 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC 1983

Brief description of cause:
Declaratory and Injunctive Relief, and Damages, for FOURTEENTH AMENDMENT PRIVACY VIOLATIONS, ETC

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$ 9999999
 CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: AUGUST 11, 2017 SIGNATURE OF ATTORNEY OF RECORD: /S/ DANIEL L. COX, BAR NO. 28245

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.