

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

STUDENTS AND PARENTS FOR PRIVACY, a voluntary unincorporated association; **C.A.**, a minor, by and through her parent and guardian, **N.A.**; **A.M.**, a minor, by and through her parents and guardians, **S.M.** and **R.M.**; **N.G.**, a minor, by and through her parent and guardian, **R.G.**; **A.V.**, a minor, by and through her parents and guardians, **T.V.** and **A.T.V.**; and **B.W.**, a minor, by and through his parents and guardians, **D.W.** and **V.W.**,

Plaintiffs,

vs.

SCHOOL DIRECTORS OF TOWNSHIP HIGH SCHOOL DISTRICT 211, COUNTY OF COOK AND STATE OF ILLINOIS,

Defendants,

and

STUDENTS A, B, and C, by and through their parents and legal guardians **Parents A, B, and C**, and the **ILLINOIS SAFE SCHOOLS ALLIANCE**,

Intervenor-Defendants.

Case No. 1:16-cv-04945

The Honorable Jorge L. Alonso

Plaintiffs' Motion to Supplement the Record

Plaintiffs Students and Parents for Privacy, C.A., N.A., A.M., S.M., R.M., N.G., R.G., A.V., T.V., A.T.V., B.W., D.W., and V.W. (“Plaintiffs”) respectfully move this Court to supplement the record for Plaintiffs’ Reply to Defendant Board of Education of Township High School District 211’s Supplemental Brief [ECF No. 184] and to Intervenor-Defendants’ Supplemental Brief [ECF No. 183] Addressing *Whitaker By Whitaker v. Kenosha Unified School District No. 1 Board of Education*, 858 F.3d 1034 (7th Cir. 2017), ECF No. 185, with the State of Illinois Department of Human Rights Minor Public Accommodation Charge No. 2017CP0498, attached as Exhibit A.

The Charge came to Plaintiffs’ attention on August 14, 2017 when it was received by Plaintiff V.W. in response to a public records request she filed with the Department. As produced, it displayed the initials of the charging party student and the student’s parent. To ensure the privacy of the charging party, the initials and the charging party’s grade level were redacted before filing with this Court. This is consistent with the practice of all parties in this case to carefully protect the identities of all students given the sensitivity of issues.

The Charge was brought by a male student who professes to be female and attends Palatine High School in District 211, where at least three female student members of Students and Parents for Privacy also attend school. Plaintiffs assert that the Charge evidences an ongoing risk of privacy violations arising from the intentional intermingling of the sexes on District 211 campuses. *See* Pls.’ Reply 4, ECF No. 185.

District 211 Defendants object to this motion on the basis that, as explained in the District’s supplemental brief, ECF No. 184, the relief requested in the pending motion for preliminary injunction by its terms is solely related to Student A who has graduated.

Intervenor-Defendants do not object to the record being supplemented with this document, but do object to Plaintiffs’ continued characterizations of transgender students and, for the reasons given

in the Intervenor-Defendants' briefs (including ECF Nos. 158 and 183), to Plaintiffs' assertion that their privacy interests are implicated.

Respectfully submitted this the 24th day of August, 2017.

By: /s/ Gary S. McCaleb

THOMAS L. BREJCHA, IL 0288446
PETER BREEN, IL 6271981
JOCELYN FLOYD, IL 6303312
THOMAS MORE SOCIETY
19 S. La Salle Street, Suite 603
Chicago, IL 60603
(312) 782-1680
(312) 782 -1887 Fax
tbrejcha@thomasmoresociety.org
pbreen@thomasmoresociety.org
jfloyd@thomasmoresociety.org

GARY S. MCCALED, AZ 018848*
DOUGLAS D. WARDLOW, AZ 032028*
JEANA HALLOCK, AZ 032678*
ALLIANCE DEFENDING FREEDOM
15100 N. 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
(480) 444-0028 Fax
gmccaleb@adflegal.org
dwardlow@adflegal.org
jhallock@adflegal.org

J. MATTHEW SHARP, GA 607842*
ALLIANCE DEFENDING FREEDOM
1000 Hurricane Shoals Road NE
Suite D-1100
Lawrenceville, Georgia 30043
(770) 339-0774
(770) 339-6744 Fax
msharp@adflegal.org

**Admitted Pro Hac Vice
Attorneys for Plaintiffs*

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2017, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following counsel of record who are registered users of the ECF system:

Patrick M. DePoy
Erin D. Fowler
Sally J. Scott
Jennifer A. Smith
Michael A. Warner, Jr.
FRANCZEK RADELET P.C.
300 S. Wacker Drive, Suite 3400
Chicago, IL 60606

*Attorneys for Defendant Board of Education
of Township High School District No. 211*

Britt M. Miller
Laura R. Hammargren
Linda X. Shi
Timothy S. Bishop
MAYER BROWN LLP
71 South Wacker Drive
Chicago, IL 60606

Catherine A. Bernard
Madeleine L. Hogue
MAYER BROWN LLP
1999 K Street, N.W.
Washington, DC 20006

John A. Knight
ROGER BALDWIN FOUNDATION OF ACLU, INC.
150 N. Michigan Ave., Suite 600
Chicago, IL 60601

Ria Tabacco Mar
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004-2400

*Attorneys for Intervenor Defendants Students
A, B, and C, and the Illinois Safe Schools
Alliance*

By: /s/ Gary S. McCaleb
GARY S. MCCALED
Attorney for Plaintiffs

EXHIBIT A

STATE OF ILLINOIS
ILLINOIS DEPARTMENT OF HUMAN RIGHTS

CHICAGO OFFICE
DEPARTMENT OF HUMAN RIGHTS
100 W. RANDOLPH ST., SUITE 10-100
CHICAGO, IL 60601
(312) 814-6200
(866) 740-3953 TTY

SPRINGFIELD OFFICE
DEPARTMENT OF HUMAN RIGHTS
222 S. COLLEGE ST., ROOM 101
SPRINGFIELD, IL 62704
(217) 785-5100
(866) 740-3953 TTY

CHARGE NO: 2017CP0498
MINOR PUBLIC ACCOMMODATION CHARGE

I, [REDACTED] (a minor), by [REDACTED] [REDACTED] (her parent/guardian),
[REDACTED], believe that I have been personally aggrieved by a civil
rights violation committed from June 2015, and continuing through the present (September
2016), by:

RESPONDENT

School District #211
Township High School
1750 Roselle Road
Palatine, Illinois 60067
(847) 755-6600
County: Cook

The particulars of the alleged civil rights violation are as follows:

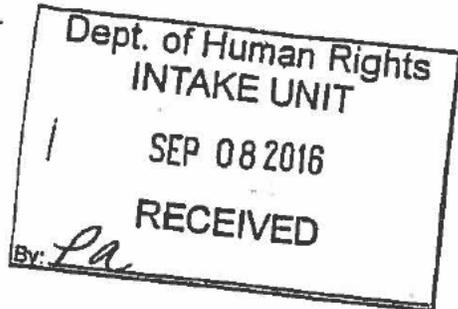
SEE ATTACHED

STATE OF ILLINOIS
ILLINOIS DEPARTMENT OF HUMAN RIGHTS

CHICAGO OFFICE
DEPARTMENT OF HUMAN RIGHTS
100 W RANDOLPH ST., SUITE 10-100
CHICAGO, ILLINOIS 60601
(312) 814-6200
(866) 740-3953 (TTY)

SPRINGFIELD OFFICE
DEPARTMENT OF HUMAN RIGHTS
222 S. COLLEGE ST., ROOM 101
SPRINGFIELD, ILLINOIS, 62704
(217) 785-5100
(866) 740-3953 (TTY)

CHARGE NO: 2017CP0498
CHARGE OF DISCRIMINATION



COMPLAINANT

█ on behalf of █ a minor

I believe that I have been personally aggrieved by a civil rights violation committed on

(date/s of harm): June 2015 through present, by:

RESPONDENT

Daniel E. Cates, Superintendent
Township High School Dist. 211
1750 S. Roselle Road
Palatine, IL 60067
T: 847-755-6600
F: 847-755-6623

SEE ATTACHED

I, █ on oath or affirmation state that I am Complainant herein, that I have read the foregoing charge and know the contents thereof, and that the same is true and correct to the best of my knowledge.

Complainant's Signature and Date

Subscribed and Sworn to

Before me this 3 day
of September, 2016

Carol A Kopp
Notary Public Signature



Notary Stamp

In the Matter of [REDACTED]
[REDACTED] on behalf of [REDACTED] a
minor

ATTACHMENT

I. A. ISSUE/BASIS

June 2015 to Present – Respondent Township High School District 211 (“District 211”) denied [REDACTED] full and equal use of the girls’ locker room at Palatine High School on the basis of her gender-related identity, female (designated male at birth).

B. PRIMA FACIE ALLEGATIONS

1. [REDACTED] is a transgender girl whose gender-related identity is female.
2. Respondent District 211 is a place of public accommodation as defined by the Illinois Human Rights Act.
3. Respondent has been aware of [REDACTED]’s gender-related identity, female, at least since January 2015.
4. [REDACTED] is currently a [REDACTED] at Palatine High School in District 211 for the 2016-2017 school year. In all aspects of her life, she lives and presents as female. District 211 uses her female name and female pronouns when referring to her. It also allows her to dress in female clothing and use the girls’ restroom. However, District 211 has denied [REDACTED] full and equal enjoyment of its facilities by requiring her to change in a restroom in the nurse’s office or a separate single-user locker room instead of the girls’ locker room.
5. [REDACTED] and her mother first discussed where, now that she is presenting as female, she would change for gym class on May 1, 2015 during a meeting with Kathleen “Katie” Sobol, a student counselor at Palatine High School. Since that meeting, [REDACTED] and her mother have had several meetings, phone calls, and email exchanges regarding locker room access with District 211 representatives. Those representatives include Frank Rasmussen, Palatine High School’s Director of Student Services; Mark Kovack, District 211’s Associate Superintendent for Student Services, Gary Steiger, Palatine High School’s Principal and Daniel E. Cates, District 211’s Superintendent-Elect.
6. District 211 treats [REDACTED] differently than non-transgender female students at District 211, because it denies her the use of the girls’ locker room since her gender-related identity, female, fails to match her sex assigned at birth.
7. District 211’s refusal to allow [REDACTED] to use the girls’ locker room is damaging to her health and wellbeing, because the District denies her the ability to live her life in complete conformity with her gender, isolates and stigmatizes her by treating her differently from other girls.

In the Matter of [REDACTED]
[REDACTED] on behalf of [REDACTED], a
Plaintiff

II. A. ISSUE/BASIS

June 2015 to Present – Respondent Township High School District 211 (“District 211”) denied [REDACTED] full and equal use of the girls’ locker room at Palatine High School because of her disability, gender dysphoria.

B. PRIMA FACIE ALLEGATIONS

1. [REDACTED] is an individual with a disability within the meaning of Section 1-103(I) of the Human Rights Act. [REDACTED] has been diagnosed with gender dysphoria by medical experts in that field.
2. [REDACTED] is a qualified individual who has fulfilled all non-discriminatory requirements for full and equal use of the facilities and services at District 211, including the locker room that matches her gender identity.
3. Respondent District 211 is a place of public accommodation as defined by the Illinois Human Rights Act.
4. District 211 has been aware of [REDACTED]’s disability at least since January 2015.
5. [REDACTED] is a [REDACTED] at Palatine High School in District 211 during the 2016-2017 school year. District 211 denies [REDACTED] full and equal use of the locker room at school that matches her gender identity, because of [REDACTED]’s disability. Instead, because of her disability, District 211 requires her to change in the restroom in the nurse’s office or a separate single-user locker room, when girls who do not have gender dysphoria are allowed to change in the girls’ locker room.

III. A. ISSUE/BASIS

June 2015 to Present – Respondent Township High School District 211 (“District 211”) denied [REDACTED] a reasonable accommodation for her disability, gender dysphoria, when it denied her full and equal use of the girls’ locker room.

B. PRIMA FACIE ALLEGATIONS

1. [REDACTED] is an individual with a disability within the meaning of Section 1-103(I) of the Human Rights Act. [REDACTED] has been diagnosed with gender dysphoria by medical experts in that field.
2. [REDACTED] is a qualified individual who has fulfilled all non-discriminatory requirements for full and equal access to the facilities and services at District 211, including full and equal access to the locker room that matches her gender identity.

In the Matter of [REDACTED]
[REDACTED], on behalf of [REDACTED], a
minor

3. Respondent District 211 is a place of public accommodation as defined by the Illinois Human Rights Act.
4. District 211 has been aware of [REDACTED]'s disability at least since January 2015.
5. [REDACTED] is a [REDACTED] at Palatine High School in District 211 during the 2016-2017 school year.
6. [REDACTED] and her mother requested a reasonable accommodation for [REDACTED]'s gender dysphoria, namely that she be given the same access to the girls' locker room at school as other girls. Having the same access to the girls' locker room as other girls is a reasonable accommodation because the recommended medical treatment for many people diagnosed with gender dysphoria, including [REDACTED], is living in complete conformity with the gender with which they identify.
6. District 211 denied [REDACTED] and her mother's request that [REDACTED] be allowed to use the girl' locker room like other girls. District 211 requires that [REDACTED] change in the restroom in the nurse's office or the separate single-user locker room that no girls who do not have gender dysphoria are required to use.