

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

J.A.W.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Cause No. 3:18-cv-37-WTL-MPB
EVANSVILLE VANDERBURGH SCHOOL	)	
CORPORATION,	)	
	)	
Defendant.	)	

ANSWER
DEMAND FOR JURY TRIAL

The Defendant, Evansville Vanderburgh School Corporation (“EVSC”), for its answer to Plaintiff J.A.W.’s Complaint for Declaratory and Injunctive Relief and Damages, alleges and says that:

1. EVSC admits that J.A.W. is a high school student attending schools within the EVSC. It admits that J.A.W.’s birth certificate, pursuant to which J.A.W. was enrolled in the EVSC notes that J.A.W.’s gender at birth is female. EVSC is either without information sufficient to form a belief as to the truth of the remaining allegations in paragraph 1 or it specifically denies same.

2. Paragraph 2 asserts a legal conclusion to which no response is required. To the extent a response is required, EVSC denies the same.

3. Paragraph 3 asserts a legal conclusion to which no response is required. To the extent a response is required, EVSC denies the same.

4. Paragraph 4 asserts a legal conclusion to which no response is required. To the extent a response is required, EVSC denies that J.A.W. is entitled to any type of relief herein.

5. Paragraph 5 asserts a legal conclusion to which no response is required. To the extent a response is required, EVSC denies the allegations contained in paragraph 5.

6. EVSC admits the allegations contained in paragraph 6.

7. EVSC admits the allegations contained in paragraph 7.

8. EVSC admits the allegations contained in paragraph 8.

9. EVSC is without information sufficient to form a belief as to the truth of the allegations in paragraph 9.

10. EVSC admits that J.A.W.'s gender at birth as identified on J.A.W.'s birth certificate is female. EVSC is without information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 10.

11. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 11.

12. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 12.

13. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 13.

14. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 14.

15. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 15.

16. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 16.

17. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 17.

18. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 18.

19. EVSC denies the allegations contained in paragraph 19.

20. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 20.

21. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 21.

22. EVSC denies the allegations contained in paragraph 22.

23. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 23.

24. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 24.

25. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 25.

26. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 26.

27. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 27.

28. EVSC denies the allegations contained in paragraph 28.

29. EVSC denies the allegations contained in paragraph 29.

30. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 30.

31. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 31.

32. EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 32.

33. EVSC admits the allegations contained in paragraph 33.

34. To the extent paragraph 34 refers to a written document which is not attached to the Complaint, EVSC admits that the terms of any document speak for itself and EVSC is without sufficient information to form a belief as to the truth of the allegations contained in paragraph 34.

35. To the extent paragraph 35 refers to a written document which is not attached to the Complaint, EVSC admits that the terms of any document speak for itself and EVSC is without sufficient information to form a belief as to the truth of the allegations contained in paragraph 35.

36. EVSC denies the allegations contained in paragraph 36.

37. EVSC admits the allegations contained in paragraph 37.

38. Paragraph 38 asserts a legal conclusion to which no response is required. To the extent a response is required, EVSC is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 38.

39. EVSC denies the allegations contained in paragraph 39.

40. EVSC denies the allegations contained in paragraph 40.

41. EVSC denies the allegations contained in paragraph 41.

First Affirmative Defense

In order to maintain a suit in Federal Court, a child must be represented by a competent adult. Thus, this action is not properly before the Court for decision.

Second Affirmative Defense

Plaintiff's Complaint fails to state a claim upon which relief may be granted.

Third Affirmative Defense

To the extent Plaintiff seeks monetary damages herein, Plaintiff's action is barred in that Plaintiff failed to file an appropriate tort claim notice under the law of the State of Indiana.

Fourth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, for failure to exhaust administrative remedies.

Fifth Affirmative Defense

One or more of Plaintiff's claims may be barred by absolute, qualified, discretionary, or some other form of immunity.

Sixth Affirmative Defense

Any policies developed and/or applied by EVSC were rationally related and/or substantially related to a legitimate and/or substantial governmental interest.

Seventh Affirmative Defense

Plaintiff is not a member of a suspect or protected class.

Eighth Affirmative Defense

Plaintiff has failed to mitigate his damages, if any.

Ninth Affirmative Defense

EVSC did not have notice that its actions may result in a violation of Title IX and, thus, any finding against EVSC would amount to a violation of the Spending Clause in Article I, Section 8 of the U.S. Constitution.

Tenth Affirmative Defense

EVSC did not have notice that its actions may result in a violation of the Equal Protection Clause of the Fourteenth Amendment.

Eleventh Affirmative Defense

EVSC reserves the right to assert any other affirmative defenses uncovered through the course of discovery and litigation of this matter.

WHEREFORE, Defendant, EVSC, prays that Plaintiff take nothing by way of the Complaint herein, that said Complaint be dismissed in its entirety and that judgment be entered for the Defendant awarding to Defendant its costs and fees herein laid out and expended.

Respectfully submitted,

s/ Patrick A. Shoulders

Patrick A. Shoulders #308-82

Robert L. Burkart #16664-82

Jean M. Blanton #24840-82

ZIEMER STAYMAN WEITZEL & SHOULDERS, LLP

20 N. W. First Street

P. O. Box 916

Evansville, IN 47706

Tel. No. (812) 424-7575

Fax No. (812) 421-5089

Email: pshoulders@zsws.com

rburkart@zsws.com

jblanton@zsws.com

Attorneys for the Defendant.

CERTIFICATE OF SERVICE

I certify that on the 13th day of June, 2018, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Kenneth J. Falk
kfalk@aclu-in.org

Gavin M. Rose
grose@aclu-in.org

Jan P. Mensz
jmensz@aclu-in.org

s/ Patrick A. Shoulders
Patrick A. Shoulders