

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

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

**Plaintiff’s Witness and Exhibit List for Preliminary Injunction Hearing**

Plaintiff, by counsel, in compliance with this Court’s Order of June 5, 2018 (Dkt. 33), submits his witness and exhibit list for the preliminary injunction hearing in this cause.

*Witnesses*

1. Record-keeper, ECHO Community Health Care, 315 Mulberry Street, Evansville, IN 47713, 812/421-7489 (in the event that the authenticity of certain records, introduced as exhibits in J.A.W.’s deposition, cannot be stipulated to).
2. Record-keeper, Within Sight, LLC, 15 S. Vann Ave., Evansville, IN 47714, 812/402-8333 (in the event that the authenticity of certain records, introduced as exhibits in J.A.W.’s deposition, cannot be stipulated to).
3. Any and all persons necessary for impeachment or rebuttal.

*Exhibits*

1. The deposition of plaintiff J.A.W., with exhibits.
2. The deposition of Superintendent David Smith, with exhibits.
3. The expert report/declaration, with exhibits, of Dr. Randi Ettner, Ph.D., 1214 Lake Street, Evanston, IL 60201, 847/328-3433. (Previously provided to defendant).

4. The expert report/declaration, with exhibits, of Dr. Judy Chiasson, Ph.D., Program Coordinator for the Office of Human Relations, Diversity, and Equity, Los Angeles Unified School District, 333 S. Beaudry Ave., 29th Floor, Los Angeles, CA 90017, 213/241-8719. (Previously provided to defendant).
5. The expert report/declaration, with exhibit, of Dr. Janine Fogel, M.D., C.C.F.B., A.B.F.M., Assistant Professor of Clinical Family Medicine, Medical Director, Transgender Health and Wellness Program, Eskenazi Health Outpatient Center, 720 Eskenazi Ave., 5th Floor, Indianapolis, IN 46202, 317/880-6029. (Previously provided to defendant).
6. The expert report/declaration, with exhibits, of Dr. Dennis Fortenberry, Donald Orr Professor of Adolescent Medicine, Chief, Division of Adolescent Medicine, Professor of Pediatrics, Indiana University School of Medicine – Department of Pediatrics, 410 W. 10th Street, Room 1001, Indianapolis, IN 46202, 317/274-8812. (Previously provided to defendant).
7. The Complaint for Declaratory and Injunctive Relief and Damages (Dkt. 1) and the defendant's Answer – Demand for Jury Trial (Dkt. 34).
8. The declaration of J.A.W. (Dkt. 17-1).
9. The supplemental declaration of J.A.W.
10. The declaration of Zachary J. Mulholland, with exhibits. (Previously provided to defendant).
11. The declaration of Alecander Dean. (Previously provided to defendant).
12. Certain state polices, rules, or statutes concerning transgender students' access to restrooms of their gender identities (available at the citations noted):

Colorado - Colo. Rev. Stat. § 24-34-301(7); 3 CCR 702-2:81.9(B); Colorado Department of Regulatory Agencies, *DORA advisory regarding Colorado protections for equal access for transgender persons to public facilities under Colorado law*, Feb. 24, 2017,

<https://www.colorado.gov/pacific/dora/advisory-equal-access-transgender-Colorado-law> (last visited July 3, 2018)

Connecticut - State of Connecticut, Daniel P. Malloy, Executive Order No. 56, <https://portal.ct.gov/-/media/CD26957CDAEA4D7AA25C3871B8BD2034.pdf> (last visited July 3, 2018)

District of Columbia - D.C. Code Ann. § 2-1402.41(1); D.C. Mun. Regs. tit. 4, § 802.1

Hawaii - State of Hawaii, *Guidance on Supports for Transgender Students* at 6, available at <http://www.hawaiipublicschools.org/DOE%20Forms/Civil%20Rights/TransgenderSupports.pdf> (last visited July 3, 2018)

Iowa –Iowa Code § 216.9; Iowa Department of Education, *Equality for transgender students*, Oct. 2017, <https://www.educateiowa.gov/resources/laws-and-regulations/legal-lessons/equality-transgender-students> (last visited July 3, 2018).

Maine – *Doe v. Regional School Unit 26*, 86 A.3d 600, 607 (2014); <https://www.maine.gov/mhrc/guidance/CCmemo.education.so.pdf> at 3 (last visited July 3, 2018).

Maryland - “Maryland State Department of Education, *Providing Safe Spaces for Transgender and Gender Non-Conforming Youth: Guidelines for Gender Identity Non-Discrimination* at 13 (Oct. 27, 2015), <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/ProvidingSafeSpacesTransgendergenderNonConformingYouth012016.pdf> (last visited July 3, 2018)

Massachusetts - Massachusetts Department of Elementary & Secondary Education, *Safe Schools Program for LGBTQ Students –Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment –Nondiscrimination on the Basis of Gender Identity* at 3 (Feb. 15, 2013) <http://www.doe.mass.edu/sfs/lgbtq/GenderIdentity.html> (last visited July 4, 2018)

Michigan – “Students should be allowed to use the restroom in accordance with their gender identity.” [Michigan] State Board of Education, *Statement and Guidance on Safe and Supportive Learning Environments for Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) Students* at 5 (Sept. 14, 2016), [https://www.michigan.gov/documents/mde/SBEStatementonLGBTQYouth\\_534576\\_7.pdf](https://www.michigan.gov/documents/mde/SBEStatementonLGBTQYouth_534576_7.pdf) (last visited July 4, 2018)

Minnesota – “Minnesota Department of Education, *A Toolkit for Ensuring Safe and Supportive Schools for Transgender and Gender Nonconforming Students* at 10 safe/ (last visited July 4, 2018)

New Jersey – N.J.S. 18A:36-41(b)

New York – (New York) State Education Department, *Guidance to School Districts for Creating a Safe and Supportive School Environment for Transgender and Gender Nonconforming Students* at 9-10, [http://www.p12.nysed.gov/dignityact/documents/Transg\\_GNCGuidanceFINAL.pdf](http://www.p12.nysed.gov/dignityact/documents/Transg_GNCGuidanceFINAL.pdf) (last visited July 4, 2018); Letter from New York Attorney General and New York Commissioner of Education of February 28, 2018, [common/nysed/files/nysed-oag-joint-guidance-letter-2-28-18.pdf](http://common.nysed/files/nysed-oag-joint-guidance-letter-2-28-18.pdf) (last visited July 4, 2018).

Rhode Island – Rhode Island Department of Education, *Guidance for Rhode Island Schools on Transgender and Gender Nonconforming Students* at 8-9 (June, 2016), <http://www.thriveri.org/documents/Guidance.for.RhodeIsland.Schools.on.Transgender.and.Gender.Nonconforming.Students-2016.pdf> (last visited July 4, 2018); Rhode Island Department of Education, *RI Department of Education Reaffirms Policy on Protections for Transgender Students*, <http://www.ride.ri.gov/InsideRIDE/AdditionalInformation/News/ViewArticle.aspx> (last visited July 4, 2018)

Vermont – “Vermont Agency of Education, *Continuing Best Practices for Schools Regarding Transgender and Gender Nonconforming Students* at 6 (Feb, 23, 2017) <http://education.vermont.gov/sites/aoe/files/documents/edu-best-practices-transgender-and-gnc.pdf> 9 (last visited July 4, 2018).

Washington – State of Washington – Office of Superintendent of Public Instruction, *Equity and Civil Rights - Gender Identity and Expression in Schools* (April 10, 2018), <http://www.k12.wa.us/Equity/GenderIdentity/default.aspx> (last visited July 4, 2018).

13. Certain policies of school systems in other states concerning transgender students access to restrooms of their gender identities (available at the citations noted):

Boston - Boston Public Schools, Superintendent’s Circular, EQT-4 (Jan. 1, 2017), <https://drive.google.com/file/d/0B9mGu0dNZp6bSGIIODdtUHVyS2s/view> (last visited July 5, 2018)

Chicago - Chicago Public Schools, Guidelines Regarding the Support of the Transgender and Gender Nonconforming Students, <http://dig.abclocal.go.com/wls/documents/FINAL%20CPS%20Student%20Transgender%20Guidelines.pdf> (last visited Jul. 5, 2018)

New York City – New York City Department of Education, Transgender and Gender Nonconforming Student Guidelines, (Mar. 1, 2017), <http://schools.nyc.gov/NR/rdonlyres/6AAB4B91-3292-4EB0-86D8-DC0FF7811CC1/0/TransGNCGuidelinesMarch1finaltopost.pdf>

Milwaukee - Milwaukee Public Schools, Gender Inclusion Guidelines (Oct. 2016), <https://esb.milwaukee.k12.wi.us/attachments/f36536ea-e075-4a98-b13554abb5ee05c1.pdf> (last visited Jul. 5, 2018)

Minneapolis - Minneapolis Public Schools, Permissible Grouping Principles, Reg. 6135 A, (Jan. 16, 2014), [http://policy.mpls.k12.mn.us/uploads/regulation\\_6135\\_a.pdf](http://policy.mpls.k12.mn.us/uploads/regulation_6135_a.pdf) (last visited Jul. 5, 2018)

14. Certain Indiana school policies (available at the citations noted):

Avon Community School Corporation, *Bylaws & Policies*, No. 2260, available through <http://www.neola.com/avon-in/> (last visited July 5, 2018)

Bartholomew Consolidated School Corporation, *Bylaws & Policies*, No. 2260, available through <http://www.neola.com/bartholomew-in/> (last visited July 5, 2018)

Brownsburg Community School Corporation, *Bylaws and Policies*, No. 2260, available through <http://www.neola.com/brownsburg-in/> (last visited July 5, 2018)

Carmel Clay School Corporation, *Nondiscrimination In District Programs and Activities*, BP 0410, <http://www.gamutonline.net/district/carmel/DisplayPolicy/1097225/> (last visited July 5, 2018)

Elkhart Community Schools, *Bylaws and Policies*, No. 2260, <http://www.neola.com/elkhartcomm-in/> (last visited July 5, 2018)

Fort Wayne Community Schools, *Bylaws & Policies*, No. 1500, available through <https://www.fwcs.k12.in.us/files/board/Bylaws-Series-1000.pdf>

Gary Community School Corporation, *Policy Manual*, No. 506 (at 206), available through <https://www.garycsc.k12.in.us/wp-content/uploads/2018/02/GCSC-Policy-Manual-.pdf> (last visited July 5, 2018)

Hamilton Heights School Corporation, *Bylaws & Policies*, No. 2260 (available through <http://www.neola.com/hamiltonheights-in/> (last visited July 5, 2018)

Metropolitan School District of Lawrence Township, *Bylaws & Policies*, No. 2260, available through <http://www.neola.com/msdlawrence-in/> (last visited July 5, 2018)

Metropolitan School District of Warren Township, *Student Rights & Responsibilities Handbook 2018-2019 School Year* at 6, available through <http://www.warren.k12.in.us/student-rights-responsibilities>)

Perry Township Schools, *Student Rights, Responsibilities, Rules and Regulations Booklet 2017-2018*, at 23, <http://www.perryschools.org/wp-content/uploads/2017/06/StudentRRRRBooklet.pdf> (last visited July 6, 2018)

South Bend Community School Corporation, *Bylaws & Policies*, No. 2260, available through <http://www.neola.com/southbend-in/> (last visited July 5, 2018)

15. Arika Herron, Indianapolis Star, *Beyond Brownsburg: How Indiana schools treat transgender students* June 24, 2018, <https://www.indystar.com/story/news/education/2018/06/24/transgender-policies-indiana-schools-lgbtq-rights-discrimination/719048002/> (last visited July 4, 2018). (Available at the citation noted).
16. The declaration of Tammy Work.
17. Any documents necessary for impeachment or rebuttal.

s/ Kenneth J. Falk

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No. 6777-49

s/ Gavin M. Rose

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**Certificate of Service**

I hereby certify that on this 6th day of July, 2018, a copy of the foregoing was filed electronically with the Clerk of this Court. A copy will be served by the Court's system on:

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