

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-54

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

**BRIEF IN SUPPORT OF GLOUCESTER COUNTY
SCHOOL BOARD'S MOTION FOR SUMMARY JUDGMENT**

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INTRODUCTION

In the long history of this litigation, the fundamental question remains the same: Is the Gloucester County School Board's ("School Board") restroom and locker room policy lawful? The answer is, and always has been, yes. From the outset, the School Board's goal has been to accommodate Plaintiff Gavin Grimm ("Grimm") while simultaneously balancing the legitimate interests of all of its students, from kindergarten through twelfth grade. The School Board's policy treats all students the same. All students may use either the restroom and locker room facilities that correspond with their anatomy and physiology or one of three single-stall restrooms available for any student. The School Board's policy complies with Title IX. It also fulfills the requirements of the Equal Protection Clause. Simply put, the School Board's policy does not discriminate.

The School Board is entitled to summary judgment on Grimm's claims under both Title IX and the Equal Protection Clause, notwithstanding the additional issues presented for the first time in the Second Amended Complaint ("Complaint"). This Court should reject Grimm's Title IX claim as foreclosed by the text of Title IX and its implementing regulations, and it should hold that separating students for restroom and locker room use in accordance with their anatomical and physiological characteristics does not violate the Equal Protection Clause. Importantly, the Fourth Circuit has never found a Title IX or an Equal Protection Clause violation under the facts alleged in Grimm's Complaint, and the foreign cases that Grimm relies upon do not adequately address the fundamental reasons why both claims are not actionable under this operative set of facts.

It also is important to recognize what is and is not at issue in this case. This Court may address only a judicial question—is the School Board's policy consistent with Title IX and the

Equal Protection Clause? Questions of policy, on the other hand, are the province of legislative bodies, not the judiciary. Grimm's reliance on assertions that other school districts have successfully adopted policies consistent with those that he advocates is not material to the claims at issue here. Instead, the question is whether the School Board's policy violates federal *law*, not whether it is the best or even a desirable *policy* in the judgment of a federal court.

UNDISPUTED MATERIAL FACTS

1. Grimm was born a female. Grimm was born with female genitalia and fully functioning female reproductive organs. Grimm was issued a birth certificate that stated Grimm's sex as female. Grimm, 112:19-20; 113:3-8; 117:17-118:12; Penn, 48:4-12¹.

2. At conception, a fetus is determined to be either a male (XY) or female (XX). Sex is determined or recognized at birth by external genitalia and internal reproductive organs. Van Meter, 7:18-8:11, Van Meter expert report; Penn, 48:4-49:7; 49:19-22.

3. Grimm enrolled in Gloucester County School system as a girl. Grimm began high school and started ninth grade as a girl. Andersen Declaration; GCSB 1086, 1117, 1118, 1127, 1151-1154.

4. At the beginning of Grimm's sophomore year in August 2014, Grimm and Grimm's mother met with the school principal and guidance counselor and explained that Grimm was transitioning from female to male. Collins, 24:3-22; Grimm, 34:18-19; 35:13-36:1.

5. School officials agreed to refer to Grimm using Grimm's new name and by using male pronouns. See Original Complaint, ¶ 28 (ECF Doc. 8)²; Andersen, 90:21-91:7; Grimm, 36:13-20; Collins, 24:18-22.

¹ Plaintiff identified Dr. Melinda Penn, a Pediatric Endocrinologist, as an expert in this case.

6. Grimm initially used the restroom in the nurse's office. Grimm, 38:8-10; 47:7-11.

7. On October 20, 2014, Grimm began using the boys' restroom with the principal's support. Collins, 59:17-22; School Board Supplemental Answer to Interrogatory No. 1. Grimm also was granted permission to complete his physical education requirements through a home-bound program, and, as a result, never needed to use the locker rooms at the school. Grimm, 96:14-97:9.

8. Within two days, parents of students in the community learned that a transgender boy was using the boys' restrooms and complained. Collins, 67:8-22. Additionally, a student complained about the lack of privacy in the bathroom. Collins, 67:17-22; School Board Supplemental Answer to Interrogatory No. 1. Grimm was also involved in an altercation with a fellow student concerning Grimm's use of the male restroom. Grimm, 90:20-93:17; GCSB 03541.

The School Board received 39 emails and several oral communications, mostly from parents of students in Gloucester County, in opposition to a transgender student using the restroom that was inconsistent with the student's biological sex and expressing concerns about student privacy. School Board Supplemental Answer to Interrogatory No. 1.

² This allegation from the original Complaint is absent from the Amended Complaint; however, this Court may still consider it. It is appropriate to consider this prior admission because pleadings "superseded by amended pleadings are admissions against the pleader in the action in which they were filed." Pennsylvania R. Co. v. City of Girard, 210 F.2d 437, 440 (6th Cir. 1954). A court is entitled to take judicial notice of the records of the proceedings, and facts subject to judicial notice may be considered by the Court on a motion to dismiss—and *a fortiori* on a motion for summary judgment. Briggs v. Newberry County Sch. Dist., 838 F. Supp. 232, 233-34 (D.S.C. 1992), aff'd 989 F.2d 491 (4th Cir. 1993).

For example, one parent wrote:

“I respectfully ask that you act to protect the rights and privacy of students who are not transgender ... I have a son who attends ... School, and cannot imagine how he would feel if a transgender student began to utilize the boys restroom ... All students, not just one, should have their privacy upheld ... Please act on behalf of the entire student population, not just one student. This is not a discrimination issue, it is a privacy issue.” GCSB 02630.

Another concerned family of Gloucester students wrote,

“[t]he decision regarding any transgender student using the restroom they assign to themselves should be considered based on the needs and privacy of ALL STUDENTS in the school ... Our boys ... are mortified by the idea that any female, including their mother or sister, would be in a bathroom with them while they are using it. Our daughter is concerned that a decision to allow [transgender boys] into the men’s restrooms will lead to a male student assigning himself as a female and being allowed in the women’s restrooms ... Surely there is a place somewhere in the school that can be remodeled to include two to three stalls and designated as a unisex bathroom and used by anyone who feels the need.” GCSB 04189-90.

Indeed, the School Board was advised on the afternoon of December 9, 2014, by another citizen that the ACLU website noted with approval that “some school administrations offer [transgender] students the use of the employee single stall restroom.” GCSB 04165-66.

9. A School Board member proposed the following policy for public debate at a November 11, 2014, School Board meeting:

Whereas the GCPS recognizes that some students question their gender identities, and

Whereas the GCPS encourages such students to seek support, advice, and guidance from parents, professionals and other trusted adults, and

Whereas the GCPS seeks to provide a safe learning environment for all students and to protect the privacy of all students, therefore

It shall be the practice of the GCPS to provide male and female restroom and locker room facilities in its schools, and the use of said facilities shall be limited to the corresponding biological genders, and students with gender identity issues shall be provided an alternative appropriate private facility.

GCSB 1277; 11/14/14 School Board Meeting Minutes.

A public discussion about the use of restrooms and locker rooms by transgender students ensued with students and parents of students expressing their opposition and privacy concerns.³

10. Grimm voluntarily addressed the School Board in a public meeting, on November 11, 2014. Grimm, 103:3-7. The School Board did not identify Grimm as the transgender student. Grimm, 105:13-106:20. By a vote of 4-3, the School Board deferred a vote on the policy until its meeting on December 9, 2014. 11/14/14 School Board Meeting Minutes.

11. Before the December 9, 2014 meeting, the School Board issued a press release announcing “plans to designate single stall, unisex restrooms ... to give all students the option for even greater privacy.” At the December 9, 2014 public meeting, parents and students again expressed their privacy concerns concerning the use of restrooms and locker rooms.⁴ On December 9, 2014, the School Board passed the policy by a 6-1 vote. 12/9/14 School Board Meeting Minutes.

12. The School Board subsequently installed three single-stall unisex restrooms that were available for use beginning on December 15, 2014. GCSB 1261, 1267, 1272, 4286. Any student was allowed to use the single-stall restrooms. They are not just for transgender students. Andersen, 44:20-45:3; 49:11-13, Anderson Declaration.

13. The School Board enacted the policy to protect the privacy interests of all students in the Gloucester County school system. Andersen, 22:1-11. The policy is focused to ensure student’s privacy of not having to share a restroom with someone from an opposite

³ The complete November 14, 2014 public discussion can be found at:
http://gloucester.granicus.com/MediaPlayer.php?view_id=10&clip_id=1065.

⁴ The complete December 9, 2014 public discussion can be found at:
http://gloucester.granicus.com/MediaPlayer.php?view_id=10&clip_id=1090

physiological sex, including not being exposed to or having to be in a state of undress before another student of the opposite physiological sex. Andersen, 25:15-17; 25:19-26:12; 27:22-28:5. A secondary governmental interest was student safety. Andersen, 22:15-23:1.

14. Pursuant to the Diagnostic and Statistical Manual Of Mental Disorders, Fifth Edition (“DSM-V”), gender dysphoria is a diagnosis to describe the distress that a patient or person experiences when their gender identity does not align with their sex. Van Meter expert report; Penn, 53:3-54:6; DSM-V p. 451. The term “sex” refers to the biological indicators of male and female such as in sex chromosomes, gonads, sex hormones, and nonambiguous internal or external genitalia. Penn, 54:8-15; DSM-V p. 451. There is not an objective test to diagnose gender dysphoria. Van Meter expert report; Penn, 55:15-17.

15. Choosing gender identity does not cause chromosomal changes in the body. Penn, 51:14-17. A person’s innate sense of belonging to a particular gender does not cause biological changes in the body. Penn, 51:18-21. Transgender individuals generally do not have intersex conditions. Transgender individuals remain biologically men or biologically women. Van Meter expert report; Penn, 52:14-21.

16. The use of restrooms that are in line with a transgender patient’s gender identity instead of the sex designated at birth is one component of an overall mental health social transition plan or “gender affirming care” plan to treat gender dysphoria. The premise of gender affirming care can be managed through other methods without requiring school systems to permit transgender students to use the bathroom that is inconsistent with their biological sex. If a transgender student is not permitted to use the bathroom consistent with his gender identity in school, there are other methods of social transition that can be used to help treat gender dysphoria. Van Meter expert report; Penn, 62:15-63:7; 70:18-71:4.

17. In June 2016, before Grimm's senior year of high school, Grimm underwent chest-reconstruction (double mastectomy) surgery. Grimm, 152:3-5, 16-18. This procedure does not create any biological changes in the transgender individual. Instead, it is only a physical change. Penn, 78:8-12. Surgical gender reassignment procedures cannot be completed until the transgender individual is at least 18 years of age. Van Meter, 109:18-21; Penn, 78:19-79:15. To that extent, Grimm remains biologically and anatomically female. Penn, 78:8-12; 79:19-80:1; Grimm, 118:7-12.

18. During Grimm's senior year in high school, Grimm provided a different Virginia birth certificate to the high school in November of 2016 listing Grimm's sex as male. Lord, 46:21-47:12. The birth certificate Grimm provided was not issued in conformity with Virginia law based upon the School Board's understanding of the Code of Virginia and applicable administrative regulations. The School Board declined to revise Grimm's official school transcript, because the information that Grimm provided was at odds with the process and procedures outlined by Virginia law and the Virginia Administrative Code to amend a birth certificate, and the birth certificate provided was stamped void and not "amended." Andersen, 65:8-66:1; GCSB 04247. The School Board has a governmental interest is to ensure that student's educational records are maintained in accordance with all applicable federal and state laws. Andersen, 76:19-77:5.

19. The School Board informed Grimm that he had a right to a hearing related to the School Board's decision not to amend Grimm's official transcript and educational records pursuant to School Board policy JO and Family Educational Rights and Privacy Act. Grimm did not request a hearing on the School Board's denial of his request to have his transcript changed,

either while he was a student at Gloucester High School or after his graduation in the spring of 2017. ECF Doc. 171-1; Andersen Declaration.

20. Grimm was permitted to use the single user restrooms at the high school. Andersen, 44:20-45:3, 49:11-13; Andersen Declaration. On June 10, 2017, Grimm graduated from Gloucester High School in Gloucester County, Virginia. Grimm is now 19 years old. Grimm, 9:4-5.

21. Grimm now seeks the following relief:

- A. A declaration that the Board's policy violated Gavin's rights under the Fourteenth Amendment to the United States Constitution and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, et seq., on the day the policy was first issued and throughout the remainder of his time as a student at Gloucester High School;
- B. A declaration that the Board's refusal to update Gavin's official school transcript to match the "male" designation on his updated birth certificate violated—and continues to violate—Gavin's rights under the Fourteenth Amendment to the United States Constitution and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.*
- C. Nominal damages in an amount determined by the Court;
- D. A permanent injunction requiring the Board to update Gavin's official school records to match the male designation on his updated birth certificate;
- E. Plaintiff's reasonable costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and
- F. Such other relief as the Court deems just and proper.

ECF Doc. 177, pp. 17-18.

LAW AND ARGUMENT

I. Standard of Review.

Under Rule 56, Fed.R.Civ.P., a moving party is entitled to summary judgment if the evidence shows that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. The facts "must be viewed in the light most favorable to the nonmoving party only if there is a 'genuine' dispute as to those facts." Scott v. Harris, 550

U.S. 372, 380 (2007), quoting Rule 56(c). “Summary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules as a whole, which are designed ‘to secure the just, speedy and inexpensive determination of every action.’” Celotex Corp. v. Catrett, 477 U.S. 317, 327 (1986), quoting Fed.R.Civ.P. 1. It is the “affirmative obligation of the trial judge to prevent factually unsupported claims and defenses from proceeding to trial.” Drewitt v. Pratt, 999 F.2d 774, 778-79 (4th Cir. 1993) (internal quotation marks and citations omitted).

“Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no ‘genuine issue for trial.’” Scott v. Harris, 550 U.S. at 380, quoting Matsushita Elec. Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87 (1986) (additional quotation marks omitted). A dispute is genuine only if the evidence is such that a reasonable jury could return a verdict in favor of the nonmoving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). “The mere existence of a scintilla of evidence in support of the plaintiff’s position will be insufficient; there must be evidence on which the jury could reasonably find for the plaintiff.” Id. at 252.

Further, the nonmoving party “must do more than simply show that there is some metaphysical doubt as to the material facts.” Matsushita, 475 U.S. at 586.

Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial. In such a situation, there can be “no genuine issue as to any material fact,” since a complete failure of proof concerning an essential element of the nonmoving party’s case necessarily renders all other facts immaterial. The moving party is “entitled to a judgment as a matter of law” because the nonmoving party has failed to make a sufficient showing on an essential element of her case with respect to which she has the burden of proof.

Celotex, 477 U.S. at 322-23.

II. The School Board’s Policy of separating restrooms by anatomical and physiological sex is valid under Title IX and 34 C.F.R. § 106.33.

A. The School Board’s Policy complies with Title IX.

Grimm’s Title IX claim is barred by the plain language of Title IX and its implementing regulation, 34 C.F.R. § 106.33. Throughout this litigation, Grimm has pressed an interpretation of Title IX that “sex” is determined solely according to “gender identity,” meaning “a person’s deeply felt, inherent sense of one’s gender.” ECF Doc. 177, ¶ 20. The text, history, and structure of Title IX, and the plain language of its implementing regulation, foreclose that view. Although the Fourth Circuit originally accepted an *agency interpretation* adopting Grimm’s position, relying on the doctrine of Auer v. Robbins, 519 U.S. 452 (1997), even then the Court acknowledged that such an interpretation is “not the intuitive one.” G.G. ex rel. Grimm v. Gloucester Cty. Sch. Bd., 822 F.3d 709, 722 (4th Cir.), cert. granted in part, 137 S. Ct. 369, 196 L. Ed. 2d 283 (2016), vacated and remanded, 137 S. Ct. 1239, 197 L. Ed. 2d 460 (2017). See also id., 822 F.3d at 720 (holding that “the Board’s reading—determining maleness or femaleness with reference exclusively to genitalia—” is one of multiple “plausible reading[s]” of 34 C.F.R. § 106.33.”

The better interpretation—which is reflected in the School Board’s policy—is that when separating boys and girls on the basis of sex in restrooms and similar facilities, schools may rely on the anatomical and physiological differences between males and females rather than students’ gender identity.

1. Statutory and Regulatory Background.

In the words of its principal sponsor, the late Senator Birch Bayh of Indiana, Title IX aimed “a death blow” at “one of the great failings of the American educational system”—

namely, “corrosive and unjustified discrimination against women.” 118 Cong. Rec. 5809, 5803.⁵ Congress did so by enacting in Title IX a straightforward ban on discrimination in federally funded educational programs on the basis of “sex.” 20 U.S.C. § 1681(a). At the same time, Title IX preserved settled expectations of privacy between males and females by permitting “separate living facilities for the different sexes,” 20 U.S.C. § 1686, and “separate toilet, locker room, and shower facilities on the basis of sex,” 34 C.F.R. § 106.33 (“section 106.33”). Such exceptions were “designed,” as Senator Bayh explained, “to allow discrimination only in instances where personal privacy must be preserved.” 121 Cong. Rec. 16060.

2. Title IX prohibits sex discrimination as a means of ending educational discrimination against women.

Title IX’s ban on sex discrimination emerged from Congress’s multifaceted efforts in the early 1970’s to address discrimination against women. See generally Paul C. Sweeney, *Abuse, Misuse & Abrogation of the Use of Legislative History: Title IX & Peer Sexual Harassment*, 66 UMKC L. Rev. 41, 50–54 (1997). Frustrated with lack of progress on the Equal Rights Amendment (“ERA”), Senator Bayh decided to pursue its goals through other means. Birch Bayh, *Personal Insights and Experiences Regarding the Passage of Title IX*, 55 Clev. St. L. Rev. 463, 467 (2007). Believing that the worst discrimination against women was in “the educational area,” *id.* at 468, Bayh focused on the Higher Education Act of 1965, which granted money to universities. Sweeney, *supra*, at 51. In 1972, while that Act was being amended, floor amendments added the text that is now Title IX. See 117 Cong. Rec. 39098; 118 Cong. Rec. 5802–03.

⁵ “Senator Bayh’s remarks, as those of the sponsor of the language ultimately enacted” as Title IX, have been considered “an authoritative guide to the statute’s construction.” N. Haven Bd. of Educ. v. Bell, 456 U.S. 512, 526–27 (1982).

Those amendments were designed principally to end discrimination against women in university admissions and appointments. See 117 Cong. Rec. 39250, 39253, 39258; 118 Cong. Rec. 5104–06. Title IX’s architects viewed such discrimination as rooted in pernicious stereotypes about women. 118 Cong. Rec. 5804.

3. Title IX allows certain facilities and programs to be separated by sex.

Congress understood that not all distinctions between men and women are based on stereotypes. Foremost among those are distinctions needed to preserve privacy. As ERA proponents had grasped, “disrobing in front of the other sex is usually associated with sexual relationships,” Barbara A. Brown, Thomas I. Emerson, Gail Falk, Ann E. Freedman, *The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women*, 80 Yale L.J. 871, 901 (1971), and thus implicated the recently-recognized right to privacy. See id. at 900–01 (citing Griswold v. Connecticut, 381 U.S. 479 (1965)). That privacy right, the proponents believed, “would permit the separation of the sexes” in intimate facilities such as “public restrooms[.]” Id.

Both the Senate and the House grasped this commonsense principle. For instance, Senator Bayh noted that sex separation would be justified where “absolutely necessary to the success of the program” such as “in classes for pregnant girls,” and “in sports facilities or other instances where personal privacy must be preserved.” 118 Cong. Rec. 5807. Representative Thompson—“disturbed” by suggestions that banning sex discrimination would prohibit all sex-separated facilities—proposed an amendment stating that “nothing contained herein shall preclude any educational institution from maintaining separate living facilities because of sex.” 117 Cong. Rec. 39260. The language was introduced that day and adopted by the House without debate. 117 Cong. Rec. 39263. Although Bayh’s version lacked a similar proviso, the

conference committee included Thompson's language without further discussion. H.R. Conf. Rep. No. 92-1085 at 222.

Subsequently, the Department of Health, Education, and Welfare ("HEW") proposed a Title IX regulation providing that sex separation would be permitted for "toilet, locker room and shower facilities." 39 Fed. Reg. 22228, 22230 (June 20, 1974). The final regulations retained HEW's clarification. 40 Fed. Reg. 24128, 24141 (June 4, 1975); 34 C.F.R. § 106.33 ("section 106.33").⁶ HEW's regulations continued to use the statutory term "sex," without elaboration.

When Congress considered the HEW regulation, Senator Bayh again linked the issue to privacy. He introduced into the record a scholarly article explaining that Title IX "was designed to allow discrimination only in instances where personal privacy must be preserved. For example, the privacy exception lies behind the exemption from the Act of campus living facilities. The proposed regulations preserve this exception, as well as permit 'separate toilet, locker room, and shower facilities on the basis of sex.'" 121 Cong. Rec. 16060.

Title IX regulations contain another relevant provision for separating male and female students, one also based on physical differences, in athletic activities. Thus, recipients are permitted to establish "separate teams for members of each sex where selection ... is based upon competitive skill or the activity involved is a contact sport." 34 C.F.R. § 106.41(b).

⁶ HEW's regulations were recodified in their present form after the reorganization that created the Department of Education in 1980. See 45 Fed. Reg. 30802, 30960 (May 9, 1980). Additionally, because multiple agencies issue Title IX regulations, the section 106.33 exception appears verbatim in 25 other regulations. See, e.g., 7 C.F.R. § 15a.33 (Agriculture); 24 C.F.R. § 3.410 (Housing & Urban Development); 29 C.F.R. § 36.410 (Labor); 38 C.F.R. § 23.410 (Veterans Affairs); 40 C.F.R. § 5.410 (EPA).

B. The text and history of Title IX and Section 106.33 refute the notion that the statutory term “sex” must be equated with (much less limited to) “gender identity.”

The most straightforward way to resolve the Title IX claim is the one previously taken by this Court. See ECF Doc. 57 at p. 10. As the Court correctly explained, Title IX regulations “specifically allow[] schools to maintain separate bathrooms based on sex as long as the bathrooms for each sex are comparable.” Id. at p. 12. It is beyond dispute that in the 1970s—when Congress enacted Title IX and HEW adopted section 106.33—the term “sex” at least *included* the anatomical and physiological distinctions between men and women.⁷ It follows that when schools establish separate restrooms, locker rooms, and showers for boys and girls, Title IX and section 106.33 affirmatively permit them to rely on anatomical and physiological sex to distinguish those facilities, regardless of whether the term “sex” could also theoretically include some notion of “gender identity.” ECF Doc. 57 at p. 12 (concluding that, because the School Board’s policy is permitted by the regulation, “the Court need not decide whether ‘sex’ in ... [s]ection 106.33 also includes ‘gender identity’”). As a straightforward matter of interpretation, nothing more is necessary to dismiss Grimm’s Title IX claim on summary judgment. ECF Doc. 57 at pp. 12-13.

Grimm’s contrary position depends on a reading of Title IX that is incompatible with the plain meaning of the term “sex”: namely, that for Title IX purposes one’s internal, perceived sense of gender identity is *determinative* of one’s sex. See, e.g., G.G. S. Ct. Br. at 2 (asserting that Grimm “knew that he was a boy” because “[I]ike other boys, Gavin has a male gender

⁷ Indeed, as discussed below, all relevant indicia of meaning show that the understanding of “sex” shared by Title IX’s architects was determined *wholly* by those physiological distinctions. The same is true, in common parlance, up to the present day. See Memorandum Opinion, Sept. 17, 2015, ECF Doc. 57, at p. 12 (“under any fair reading, ‘sex’ in [s]ection 106.33 clearly includes biological sex”).

identity”). Practically speaking, Grimm’s position means that physiology is not only irrelevant but *invalid* under Title IX as a basis for separating boys and girls in restrooms. Grimm’s interpretation thus forbids something the statute and regulation affirmatively permit: use of the anatomical and physiological distinctions between males and females to separate boys and girls in restrooms, locker rooms, and showers. Grimm’s view is incorrect as a matter of law.

Indeed, Grimm’s own expert agrees that there is a biological, anatomical and physiological component to determining the sex of an individual. Moreover, the undisputed evidence shows that the desired use of a restroom consistent with a transgender individual’s gender identity is not because of the transgender individual’s “sex.” Instead, it is one component of a mental health treatment plan – social transitioning – to address gender dysphoria.⁸ It is not an immutable right based on sex. Thus, under these circumstances, a policy of providing segregated same sex restrooms and single-stall unisex restrooms for any student to use does not violate Title IX and is indeed permissible under section 106.33.

1. The term “sex” at a minimum *includes* the anatomical and physiological distinctions between men and women.

As the Supreme Court and the Fourth Circuit have long held, “[i]t is a fundamental canon of statutory construction that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning” as of “the era of [the statute’s] enactment[.]” Sandifer v. U.S. Steel Corp., 134 S. Ct. 870, 876 (2014) (quotes omitted); see also United States v. Abdelshafi, 592 F.3d 602, 607 (4th Cir. 2010) (“A statute’s plain meaning is determined by reference to its words’ ‘ordinary meaning at the time of the statute’s enactment.’”) (quoting

⁸ Dr. Penn acknowledges that gender dysphoria is diagnosed by a mental health provider and that she does not provide or create a medical treatment plan that includes “social transitioning.” Penn, 58:10-59:6; Penn, 62:4-13.

United States v. Simmons, 247 F.3d 118, 122 (4th Cir. 2001)). All available linguistic evidence confirms that the term “sex” deployed in Title IX and section 106.33 referred solely to the anatomical and physiological differences between men and women. The use of that term thus provides no support for the radical notion espoused by Grimm that one’s “sex” for Title IX purposes should be determined, not by anatomical and physiological characteristics, but instead (and entirely) by an individual’s internal “gender identity.”

This conclusion plainly follows from the linguistic evidence considered by *both* the majority and dissenting opinions in the Fourth Circuit’s decision on this matter. Those opinions cited nine dictionaries between them, covering a period from before the enactment of Title IX to the present. Every single one referred to *anatomical and physiological* characteristics as a criterion for distinguishing men from women.⁹ G.G., 822 F.3d at 721–22; 736–37. Thus, all of those Title IX-era definitions explicitly referred to physiological characteristics as a central determinant of one’s “sex.” None even hinted that “sex” even includes—much less *turns on*—one’s internal gender identity.

The same is true of the DSM-V, which provides the mental health criteria for diagnosing gender dysphoria in transgender individuals. In doing so, the DSM-V defines “sex” as the biological indicators of male and female such as in sex chromosomes, gonads, sex hormones, and nonambiguous internal or external genitalia. DSM-V, p. 451.

⁹ See G.G., 822 F.3d at 721–22 & n.7 (majority) (citing *American College Dictionary* 1109 (1970), *Webster’s Third New International Dictionary* 2081 (1971), *Black’s Law Dictionary* 1583 (10th ed. 2014), and *American Heritage Dictionary* 1605 (5th ed. 2011)); *id.* at 736–37 (dissent) (citing *The Random House College Dictionary* 1206 (rev. ed. 1980), *Webster’s New Collegiate Dictionary* 1054 (1979), *American Heritage Dictionary* 1187 (1976), *Webster’s Third New International Dictionary* 2081 (1971), *The American College Dictionary* 1109 (1970), *Webster’s New World College Dictionary* 1331 (5th ed. 2014), *The American Heritage Dictionary* 1605 (5th ed. 2011), and *Merriam-Webster’s Collegiate Dictionary* 1140 (11th ed. 2011)).

No putative ambiguities in a few dictionary definitions can overcome the weight of linguistic evidence that physiology is at least a critical factor in the term “sex” as deployed in Title IX. See, e.g., MCI Telecommunications Corp. v. Am. Tel. & Tel. Co., 512 U.S. 218, 226–28 (1994) (rejecting reliance on outlier dictionary definitions “whose suggested meaning contradicts virtually all others”). Furthermore, even the allegedly ambiguous definitions of sex still referred overwhelmingly to “anatomical and physiological differences” between the sexes, as well as characteristics that “subserve[] biparental reproduction.” See G.G., 822 F.3d at 721 (quoting *American College Dictionary* (1970) and *Webster’s Third New International Dictionary* (1971)). And *none* referred to “gender identity,” or anything like it, as a constitutive part of one’s sex—much less the sole, determinative factor.

Consequently, there is not a linguistic basis to contend that the term “sex” in Title IX could ever have been understood to refer to gender identity *at all*, and certainly not to the *exclusion* of objective physiological characteristics distinguishing men from women. Cf., e.g., Doe v. Boyertown Area School District, 897 F.3d 518, 522 (3rd Cir. 2018), *petition for cert. pending*, No. 18-658 (“‘Sex’ is defined as the ‘anatomical and physiological processes that lead to or denote male or female.’ Typically, sex is determined at birth based on the appearance of external genitalia. [¶] ‘Gender’ is a ‘broader societal construct’ that encompasses how a ‘society defines what male or female is within a certain cultural context.’”) (citing “testimony of Dr. Scott Leibowitz, an expert in gender dysphoria and gender-identity issues in children and adolescents, and the findings that the District Court made based upon that expert’s testimony”); See also Van Meter, 7:18-8:11, Van Meter expert report; Penn, 48:4-49:7; 49:19-22.

The prohibition against “sex” discrimination enacted by Congress in 1972 is not so elastic that, today, someone born anatomically and physiologically female could be considered a

male for purposes of Title IX based on that person’s internal perceptions. That re-imagination of the term “sex” does not merely broaden the “comparable evils” at which the framers of Title IX were aiming, rather, it entirely subverts the basis of Title IX’s anti-discrimination provision. Cf. Oncale, 523 U.S. at 79.

Instead of joining Grimm in rewriting Title IX, this Court should simply adopt the intuitive interpretation that the School Board is permitted by Title IX to separate the sexes in restrooms and locker rooms based on the anatomical and physiological distinctions between males and females, as school districts around the nation have been doing in reliance on Title IX for the past five decades. That straightforward conclusion is enough to resolve Grimm’s claim.

2. Congress understood Title IX to permit classifications based on physiology.

Furthermore, to the extent the Court wishes to refer to Title IX’s legislative history, that history confirms that “sex” was understood by the framers of Title IX and its regulations to encompass the anatomical and physiological differences between men and women. See, e.g., St. Francis Coll. v. Al-Khazraji, 481 U.S. 604, 612–13 (1987) (confirming textual meaning through legislative history). Congress’s manifest purpose in enacting Title IX’s ban on “sex” discrimination was to fix the pervasive problem of discrimination against women in educational programs. See, e.g., 118 Cong. Rec. 5803; 117 Cong. Rec. 39251. At the same time, however, Congress sought to preserve schools’ ability to separate males and females to preserve “personal privacy,” see 118 Cong. Rec. 5807 (Sen. Bayh).

These twin goals of Title IX confirm that Congress and HEW were employing the then-universal understanding of “sex” as a binary term encompassing the anatomical and physiological distinctions between men and women. Not a shred of legislative history suggests that Congress considered the concept of “gender identity” at all, much less that the concept could

supplant physiology in determining one's sex. Nor is there any evidence that in promulgating section 106.33 HEW considered "sex" to include, much less turn on, gender identity.

Other indicators of congressional purpose likewise show that gender identity is outside the scope of Title IX. For example, the subsequently enacted Violence Against Women Act ("VAWA")—a Spending Clause statute, like Title IX—prohibits funded programs or activities from discriminating based on either "sex" or "gender identity." 42 U.S.C. § 13925(b)(13)(A). "Sex" and "gender identity" must have meant distinct things to the Congress that enacted VAWA—otherwise including gender identity with sex would create surplusage. See, e.g., National Credit Union Admin. v. First Nat'l Bank & Tr. Co., 522 U.S. 479, 501 (1998) (rejecting agency interpretation under Chevron for this reason). Other statutes enacted after Title IX relate to discriminatory acts based on "gender" and "gender identity," confirming that when it legislates, Congress distinguishes outward manifestations of sexual identity—akin to sex—from inward, perceived ones. See 18 U.S.C. § 249 (federal hate crimes); 42 U.S.C. § 3716(a)(1)(C) (Attorney General authority to assist with State and local investigations and prosecutions); 20 U.S.C. § 1092(f)(1)(F)(ii) (crime reporting by universities); 42 U.S.C. § 294e-1(b)(2) (federal mental health grants). Yet Congress has never supplemented Title IX with an additional gender identity-based standard.

In addition to the absence in Title IX of a distinct prohibition on gender identity discrimination, in other contexts Congress has repeatedly declined to enact statutes forbidding gender identity discrimination in education. The Student Non-Discrimination Act, introduced in

2010, 2011, 2013, and 2015 in both the Senate and the House,¹⁰ would condition school funding on prohibiting gender identity discrimination. Another measure, the “Equality Act,” would amend the Civil Rights Act of 1964 to prohibit gender identity discrimination in various contexts, including employment and education.¹¹ Neither bill has ever left committee.

In the face of Congress’s failure to add the concept of gender identity to Title IX—indeed, its repeated decision *not* to do so—Grimm’s position amounts to asking this Court to “update” the law by judicial amendment. But no court has that authority. And in any event, there is no evidence that modern Congresses believed that the term “sex” in Title IX *already* included gender identity. To the contrary, the only plausible explanation for the absence of the term “gender identity” from Title IX is that Title IX has *never* included it, and still does not. If Congress wishes to incorporate that distinct concept into Title IX, it knows how to do so. This Court should decline Grimm’s invitation to do the work of Congress.

3. The implementing regulations confirm this interpretation.

In its Order entered May 22, 2018 (ECF Doc. 148), the Court declined to interpret the statutory term “sex” as referring “to the ‘then-universal understanding of ‘sex’ as a binary term encompassing the physiological distinctions between men and women,’ as understood during the passage of Title IX and the promulgation of § 106.33,” on the ground that “this fails to address the question of how § 106.33 is to be interpreted regarding transgender students or other individuals with physiological characteristics associated with both sexes.” *Id.* at page 16. Examination of the Department of Education’s Title IX regulations demonstrates that the

¹⁰ H.R. 4530 (111th Cong. 2010); S. 3390 (111th Cong. 2010); H.R. 998 (112th Cong. 2011); S. 555 (112th Cong. 2011); H.R. 1652 (113th Cong. 2013); S. 1088 (113th Cong. 2013); H.R. 846 (114th Cong. 2015); S. 439 (114th Cong. 2015).

¹¹ S. 1858 (114th Cong. 2015); H.R. 3185 (114th Cong. 2015).

Department has always employed a “binary” interpretation. Thus, 34 C.F.R. § 106.21 provides that a recipient of federal financial assistance “may make pre-admission inquiry as to the sex of an applicant for admission, but only if such inquiry is made equally of such applicants of *both sexes*” (Emphasis added.) Section 106.60 contains identical language with respect to applicants for employment.

34 C.F.R. § 106.17 provides similarly that to be approved by the Secretary a “transition plan” must, *inter alia*, “(2) State whether the educational institution or administratively separate unit admits students of *both sexes*, as regular students and, if so, when it began to do so.” (Emphasis added.) (A “transition plan” is “a plan subject to the approval of the Secretary ... under which an educational institution operates in making the transition from being an educational institution which admits only students of one sex to being one which admits students of *both sexes* without discrimination.” 34 C.F.R. § 106.2 (emphasis added).) “A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of *both sexes*”; and in determining whether equal opportunities are available, the Department “will consider, among other factors: (1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of *both sexes*.” 34 C.F.R. § 106.41 (emphases added).

In short, the Department’s regulations consistently employ an unambiguously “binary” understanding of the statutory term “sex”—consistently with the then-universal understanding during the passage of Title IX and the promulgation of § 106.33. Respectfully, this Court is not at liberty to substitute an interpretation which is at odds with that of the Congress that enacted Title IX and the implementing regulations.

4. Supreme Court and Fourth Circuit precedent strongly supports the School Board's interpretation of Title IX.

Supreme Court and Fourth Circuit sex discrimination precedents also offer compelling support for reading the term “sex” in Title IX as referring to (or at least including) the anatomical and physiological differences between men and women. When determining the nature of prohibitions on sex discrimination, the Supreme Court and this Court have focused on anatomical and physiological differences, especially in contexts involving the lawful separation of males and females for privacy purposes. That underscores the correctness of interpreting Title IX to rely on physiology and to permit the School Board's restroom and locker room policy.

For instance, in United States v. Virginia, 518 U.S. 515, 540–46 (1996), the Supreme Court held that the Equal Protection Clause required the Virginia Military Institute to admit women. Yet, even as it rejected stereotypes based on “inherent differences” between the sexes, the Court nonetheless emphasized that “[p]hysical differences between men and women are enduring” and explained that “[a]dmitting women to VMI would undoubtedly require alterations necessary to afford members of each sex privacy from the other sex in living arrangements, and to adjust aspects of the physical training programs.” Id. at 533, 550 n.19. Thus, the Court's analysis of its “privacy” concerns was grounded in objective, “physical differences” between the sexes, and not in subjective factors like gender identity.

Even more pointedly, in Tuan Anh Nguyen v. INS, 533 U.S. 53, 59–60 (2001), the Supreme Court upheld against equal protection challenge a federal immigration standard that made it easier to establish citizenship if a person had an unwed citizen mother, as opposed to an unwed citizen father. The easier standard for persons with citizen mothers was explicitly justified on *biological* grounds—namely that “[f]athers and mothers are not similarly situated with regard to the proof of biological parenthood.” Id. at 63. In so holding, the Court rejected

the argument that this distinction “embodies a gender-based stereotype,” explaining that “[t]here is nothing irrational or improper in the recognition that at the moment of birth ... the mother’s knowledge of the child and the fact of parenthood have been established in a way not guaranteed in the case of the unwed father.” Id. at 68. In its conclusion, the Court added these observations that apply with equal force here:

To fail to acknowledge even our most basic biological differences—such as the fact that a mother must be present at birth but the father need not be—risks making the guarantee of equal protection superficial, and so disserving it. Mechanistic classification of all our differences as stereotypes would operate to obscure those misconceptions and prejudices that are real. ... The difference between men and women in relation to the birth process is a real one, and the principle of equal protection does not forbid Congress to address the problem at hand in a manner specific to each gender.

Id. at 73. Here again, the Court’s analysis of these issues was driven by objective, physiological differences between the sexes.

The physiological conception of sex underlying the Virginia and Tuan Anh Nguyen decisions has been deployed recently by the Fourth Circuit. In Bauer v. Lynch, 812 F.3d 340 (4th Cir. 2016), cert. denied, 137 S. Ct. 372 (Oct. 31, 2016), the Court rejected the argument that differing FBI fitness standards for men and women—based on their “innate physiological differences”—constituted impermissible sex discrimination under Title VII. Id. at 343. Relying on Virginia, Bauer held that the different standards were justified because “[m]en and women simply are not physiologically the same for the purposes of physical fitness programs,” and, despite Virginia’s rejection of sex stereotypes, “some differences between the sexes [are] real, not perceived[.]” Id. at 350. Indeed, Bauer’s reasoning had been foreshadowed by the Fourth Circuit’s earlier decision in Faulkner v. Jones, 10 F.3d 226 (4th Cir. 1993). In that case, the Court noted that sex separation in intimate facilities is justified by “acknowledged differences” between the sexes. Id. at 233. And the Court observed that “[t]he point is illustrated by society’s

undisputed approval of separate public rest rooms for men and women based on privacy concerns.” Id. at 232.

Those decisions strongly support interpreting Title IX and its regulations to allow privacy-based separation of men and women on the basis of anatomical and physiological differences, precisely as the School Board’s policy does in multiple-stall restrooms and locker rooms.¹² That conclusion is driven as much by commonsense and longstanding privacy expectations as anything else. As Justice Kennedy wrote for the Court in Nguyen, “[t]o fail to acknowledge even our most basic biological differences ... risks making the guarantee of equal protection superficial, and so disserving it.” Nguyen, 533 U.S. at 73. And Justice Stevens captured this point in City of Los Angeles, Department of Water & Power v. Manhart, when he wrote for the Court that “[t]here are both real and fictional differences between women and men.” 435 U.S. 702, 707 (1978).

Anatomical and physiological differences between men and women are real ones, especially where they are relied on to safeguard reasonable privacy expectations that have long been part of the fabric of public life. And it is difficult to imagine a more appropriate setting for safeguarding privacy than school restrooms. Indeed, the undisputed facts here establish those anatomical and physiological differences exist in this case, despite Grimm’s gender identity assertions and Grimm’s chest reconstructive surgery before Grimm’s senior year of high school.

In response to this line of reasoning, Grimm has previously pointed to the Supreme Court’s recognition that sex stereotyping—namely, “assuming or insisting” that men and women

¹² Lower courts have similarly concluded that federal prohibitions on “sex” discrimination concern physiological distinctions between men and women. See, e.g., Johnston v. Univ. of Pittsburgh of the Com. Sys. of Higher Educ., 97 F. Supp. 3d 657, 670, 676 (W.D. Pa. 2015), appeal dismissed (Mar. 30, 2016) (collecting decisions).

conform to “the stereotype associated with their group,” see Price Waterhouse v. Hopkins, 490 U.S. 228, 251 (1989)—can be a form of sex discrimination. See, e.g., G.G. S. Ct. Br. at 36 (“Unlike other boys, Gavin had a different sex identified for him at birth. He therefore upsets traditional assumptions about boys Discriminating against Gavin for upsetting those expectations is sex discrimination.”). But it makes no sense to say that distinguishing boys from girls on the basis of *physiological or anatomical characteristics* amounts to prohibited sex “stereotyping,” especially where those very characteristics directly relate to the privacy interests the Board’s policy seeks to protect.

Furthermore, the School Board’s policy distinguishes boys and girls based on physical sex characteristics alone, and *not* based on any of the characteristics typically associated with sex stereotyping—such as whether a woman is perceived to be sufficiently “feminine” in the way she dresses or acts. Cf., e.g., Price Waterhouse, 490 U.S. at 235 (finding sex stereotyping where female employee not promoted because her employer thought she was too “macho,” “overly aggressive [and] unduly harsh” for a woman, and should have walked, talked, dressed, and styled her hair and make-up “more femininely”). Indeed, the School Board’s standard rejects classifying students based on whether they meet *any* stereotypical notion of maleness or femaleness. The School Board’s policy does not, for instance, allow only “masculine” boys into the boys room, while requiring more “effeminate” boys to use the girls room. Instead, the policy designates multiple-stall restrooms and locker rooms based on *physiology*, period—regardless of how “masculine” or “feminine” a boy or girl looks, acts, talks, dresses, or styles their hair. Far from violating Price Waterhouse, then, the Board’s policy is the *opposite* of the kind of sex stereotyping prohibited by that decision. See, e.g., Etsitty v. Utah Transit Auth., 502 F.3d 1215, 1224 (10th Cir. 2007) (concluding that Price Waterhouse does not require “employers to allow

biological males to use women’s restrooms,” because “[u]se of a restroom designated for the opposite sex does not constitute a mere failure to conform to sex stereotypes”).

C. Equating “sex” with gender identity would undermine Title IX’s structure.

Not only does Grimm’s interpretation find no support in Title IX’s text and history or in any analogous sex discrimination precedents, that interpretation—requiring access to sex-separated facilities based on gender identity alone—would also undermine Title IX’s structure, obstruct its purposes, and lead to obvious and intractable problems of administration. Because “[i]t is implausible that Congress meant [Title IX] to operate in this manner,” King v. Burwell, 135 S. Ct. 2480, 2494 (2015), this is yet another reason to reject Grimm’s radical reinterpretation of Title IX.

1. Grimm’s interpretation would itself lead to discrimination.

Grimm’s proposed interpretation leads to other contradictions as well, and to discrimination in different forms. Most obviously, persons whose gender identities align with physiological sex would have access only to one facility, but transgender individuals such as Grimm could elect to use *either* the facilities designated for people of their sex *or* the opposite sex’s facilities. There would thus be different degrees of access depending on whether a person’s gender identity diverges from physiology. That is “sex” discrimination under Grimm’s own argument.

Grimm’s position also implies that while Grimm’s discomfort in the girls’ restroom requires relief under Title IX, another boy’s discomfort with Grimm’s presence in the boys’ restroom is legally meaningless—indeed, that it must be stamped out as mercilessly as sentiments favoring racial segregation. See G.G. S. Ct. Br. at 30 (claiming that Grimm must be treated as subject to invidious discrimination, citing Plessy v. Ferguson, 163 U.S. 537 (1896)).

For the School Board to provide Grimm with a choice between the girls' room and an alternative unisex restroom open to all students is, in Grimm's view, an affront to Grimm's dignity. Yet forcing the same choice on Grimm's male classmates—notwithstanding their own adolescent modesty, personal sensitivities, or religious scruples—is simply the price to be paid. The same logic would apply to the feelings of boys sharing locker rooms and showers with a transgender individual like Grimm and to 14-year old girls sharing facilities with 18-year old physiological males. Title IX should not be interpreted to create so one-sided a regime.

Insofar as Grimm proposes solutions to any of these problems, they are unlikely to be of any help. For example, some of Grimm's prior briefs imply that a transgender individual's access to the other physiological sex's facilities turns on gender presentation (*i.e.*, whether someone appears to be relatively more masculine or feminine) and the sincerity of an individual's feelings of discomfort on being required to use a facility consistent with anatomical and physiological sex. In other words, because Grimm "presents" as a boy, despite the anatomical and physiological differences that exist, and feels more at home in a boys' restroom, Grimm should have access to boys' restrooms.

That standard does little for privacy concerns and nothing for girls and women in school sports. Worse, it suggests that schools must evaluate access to restrooms, locker rooms, and showers based on the subjective sincerity of a student's desire to adopt an "identity" at odds with his or her anatomy and physiology and how consistently or comprehensively the student "presents" his or her preferred gender identity. Even putting aside the manifest difficulty of discerning adolescent motivations, administrators inevitably would have to evaluate students' access to facilities based on relative masculine or feminine traits. But that is classic sex-stereotyping, see Price Waterhouse, 490 U.S. at 250–51 (forbidding adverse actions against

women under Title VII based on stereotypical views of women’s appearance or mannerisms), which schools would undertake at their peril.

These and other serious practical problems counsel strongly against an attempt to transform the statutory prohibition on sex discrimination into the distinctly different prohibition on gender identity discrimination, as Grimm’s Title IX claim demands.

2. Grimm’s interpretation would frustrate Title IX’s purposes.

Like any statute, Title IX should be interpreted so that its “manifest purpose is furthered, not hindered.” Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 63 (2012). And here, one of Title IX’s purposes was to maintain schools’ ability to separate male and female students in some circumstances - in particular - when personal privacy is implicated. But this purpose is incompatible with an approach that understands “sex,” not by the anatomical and physiological distinctions between males and females, but instead by “gender identity”—“a person’s deeply felt, inherent sense of being a boy, a man, or male; a girl, a woman, or female.” ECF Doc. 177 ¶20. If access to sex-separated facilities turns on gender identity, then the sex separation contemplated by Title IX and its regulations would effectively cease to exist. Under that regime, a school board might *wish*, as a matter of legislative policy, to keep boys and girls in separate locker rooms; but in practice any given restroom or locker room would be open to members of both sexes. An interpretation of the key term “sex” that frustrates key goals of Title IX should be rejected.

By the same token, there is not the remotest suggestion that Title IX was intended to place school children in the position of using restrooms, lockers rooms, and showers in the presence of individuals with physical sex characteristics of the opposite sex. Grimm’s interpretation thus nullifies what the framers of Title IX and its regulations plainly sought to

preserve: spaces available to members of one anatomical and physiological sex and off-limits to the other. That outcome would surprise Title IX’s congressional advocates, who authorized separate “living facilities” to ensure that members of different physical sexes would be separable in certain intimate settings. If the law’s framers had contemplated that members of one sex could use the opposite sex’s facilities, based on their *perception* of having been born in the wrong sex, there would have been no reason for permitting separation of sexes in intimate settings. See G.G., 822 F.3d at 738 (Niemeyer, J. dissenting).

E. If “sex” were equated with “gender identity,” Title IX and its regulations would be invalid for lack of clear notice.

Finally, even if Title IX and its regulations were ambiguous as applied to transgender individuals, then under Grimm’s interpretation, Title IX violates the Spending Clause for failure to afford funding recipients clear notice of the conditions of funding. This Court should interpret Title IX in a way that does not render it potentially unconstitutional.

Title IX was enacted under the Spending Clause, and the threat of withdrawing federal funding is the main enforcement mechanism. See 20 U.S.C. § 1682. Moreover, “[l]egislation enacted pursuant to the spending power is much in the nature of a contract, and therefore, to be bound by federally imposed conditions, recipients of federal funds must accept them voluntarily and knowingly.” Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy, 548 U.S. 291, 296 (2006) (quotes and alteration omitted) (quoting Pennhurst State School & Hosp. v. Halderman, 451 U.S. 1, 17 (1981)). For that reason, “when Congress attaches conditions to a State’s acceptance of federal funds, the conditions must be set out unambiguously,” for “States cannot knowingly accept conditions of which they are unaware or which they are unable to ascertain.” Id. (quotes and citation omitted).

For more than four decades, States have accepted Title IX funding with the understanding that they could maintain separate facilities based the different physiologies of men and women. Nothing in the text of Title IX or its implementing regulations “even hint[s]” that they would ever have to do anything else—and certainly not that they would be compelled to adopt a new regime of separation based on students’ subjective, internal gender identities. Arlington, 548 U.S. at 297. Thus, adopting Grimm’s position would set the stage for a funding condition that States never could have anticipated.

Accordingly, given the limits on Congress’ spending power, that position must be rejected under the rule of constitutional avoidance. See, e.g., Edward J. DeBartolo Corp. v. Fla. Gulf Coast Bldg. & Constr. Trades Council, 485 U.S. 568, 575 (1988) (“[W]here an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems unless such construction is plainly contrary to the intent of Congress.”). That rule supports interpreting Title IX in a way that does not permit courts or agencies to “surpris[e] participating States with post-acceptance or retroactive conditions.” NFIB v. Sebelius, 132 S. Ct. 2566, 2606 (2012) (quoting Pennhurst, 451 U.S. at 25). This is yet another reason to reject the interpretation Grimm proposes.

III. The School Board has not violated the Equal Protection Clause.

The Fourteenth Amendment provides, in pertinent part, that “[n]o State shall ... deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. Amend. XIV, § 1. The equal protection requirement “does not take from the States all power of classification,” Personnel Adm’r of Massachusetts v. Feeney, 442 U.S. 256, 271 (1979), but “keeps governmental decision makers from treating differently persons who are in all relevant respects alike.” Nordlinger v. Hahn, 505 U.S. 1, 10 (1992).

Thus, “[t]he [Equal Protection] Clause requires that similarly-situated individuals be treated alike.” Giarratano v. Johnson, 521 F.3d 298, 302 (4th Cir. 2008). In order to make out a claim under the Equal Protection Clause, a plaintiff must demonstrate that he has been treated differently from others similarly situated and that the unequal treatment was the result of intentional discrimination. Morrison v. Garraghty, 239 F.3d 648, 652 (4th Cir. 2001); Brown v. Wilson, No. 3:13CV599, 2015 WL 3885984, at *6 (E.D. Va. 2015); Veney v. Wyche, 293 F.3d 726, 730 (4th Cir. 2002).

A. Grimm cannot prevail because all students are treated the same under the School Board’s Policy.

The School Board’s restrooms policy does not discriminate against any class of students. Instead, the policy was developed to treat all students and situations the same. To protect the safety and respect the privacy of all students, the School Board has had a long-standing practice of limiting the use of restroom and locker room facilities to the corresponding physiology of the students. The School Board also provides three single-stall restrooms for any student to use regardless of his or her physiology.

Under the School Board’s restroom policy,¹³ Grimm was treated like every other student in the Gloucester Schools. All students have two choices under the policy. Every student can use a restroom associated with their physiology, whether they are boys or girls. If students choose not to use the restroom associated with their physiology, they can use a private, single-stall restroom. No student is permitted to use the restroom of the opposite sex. As a result, all

¹³ The policy that Grimm claims is unconstitutional and violates Title IX also provides that students are to use a locker room associated with their biological sex. Grimm voluntarily chose not to use the boys’ locker room and is not asserting that this part of the policy is unconstitutional or in violation of Title IX.

students, including female to male transgender and male to female transgender students, are treated the same.

Any student, including Grimm, was permitted to use the single-stall restrooms, but Grimm refused to do so. Grimm also was permitted, but chose not to use the girls' restroom under the School Board's policy. Grimm, 90:12-19; 121:11-17. Grimm, therefore, cannot demonstrate either that he was treated differently from others similarly situated or that he was subject to intentional discrimination in violation of the Equal Protection Clause. See Workman v. Mingo County Bd. of Educ., 419 F. App'x 348, 354 (4th Cir. 2011) (no evidence of unequal treatment in application of state mandatory vaccination laws before admission to school); Hanton v. Gilbert, 36 F.3d 4, 8 (4th Cir. 1994) (no evidence that similarly situated males were afforded different treatment).

B. Transgender persons are not a suspect class entitled to heightened scrutiny.

Neither the United States Supreme Court nor the Fourth Circuit has recognized transgender status as a suspect classification under the Equal Protection Clause. Other courts have rejected the notion that transgender status, or other classifications of sex, is a suspect classification.¹⁴ See, e.g., Etsitty v. Utah Transit Authority, 502 F.3d 1215, 1222 (10th Cir. 2007) (holding that transsexuals are not a protected class under Title VII); Druley v. Patton, 601 F. App'x 632, 635 (10th Cir. 2015) (declining to recognize transgender as a suspect class); Wrightson v. Pizza Hut of Am., Inc., 99 F.3d 138, 143 (4th Cir. 1996) (Title VII does not afford

¹⁴ Some Courts have recognized a Price Waterhouse theory under Title VII that protects transgendered individuals who can demonstrate that they were subject to discrimination, because their appearance and conduct does not conform to traditional male or female stereotypes. See Price Waterhouse v. Hopkins, 490 U.S. 228 (1989). These cases do not, however, recognize a theory of liability simply because the plaintiff is transgendered. See, e.g., Etsitty, 502 F.3d at 1222 n.2. Grimm's allegations do not support a Price Waterhouse stereotype claim of discrimination.

a cause of action for discrimination based upon sexual orientation); Williamson v. A.G. Edwards & Sons, Inc., 876 F.2d 69, 70 (8th Cir. 1989) (“Title VII does not prohibit discrimination against homosexuals”), cert. denied, 493 U.S. 1089 (1990); Brown v. Zavaras, 63 F.3d 967, 970-71 (10th Cir. 1995) (declining to recognize transsexuality as a protected class); Schroer v. Billington, 577 F. Supp. 2d 293, 305 (D.D.C. 2008) (“transsexuality itself [is] a characteristic that, in and of itself, nearly all federal courts have said is unprotected by Title VII”); Johnston, 97 F. Supp. 3d 657, (holding that transgender status is not a suspect classification); Jamison v. Davue, No. CIV S-11-2056 WBS, 2012 WL 996383, at *3 (E.D. Cal. Mar. 23, 2012) (“Plaintiff is cautioned, however, that transgender individuals do not constitute a ‘suspect’ class, so allegations that defendants discriminated against him based on his transgender status are subject to a mere rational basis review.”)¹⁵

This Court should not step out on its own and recognize transgender as a new suspect classification. Indeed, the Supreme Court has admonished lower courts not to create new suspect classifications. See City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 441 (1985). Accordingly, Grimm’s equal protection claim should be reviewed under the rational basis standard.

¹³ See also Doe v. Alexander, 510 F. Supp. 900, 904 (D. Minn. 1981); Braninburg v. Coalinga State Hosp., No. 1:08-CV-01457-MHM, 2012 WL 3911910, at *8 (E.D. Cal. Sept. 7, 2012); Kaeo-Tomaselli v. Butts, No. CIV. 11-00670 LEK, 2013 WL 399184, at *5 (D. Haw. Jan. 31, 2013); Lopez v. City of New York, No. 05 CIV. 10321(NRB), 2009 WL 229956, at *13 (S.D.N.Y. Jan. 30, 2009); Starr v. Bova, No. 1:15 CV 126, 2015 WL 4138761, at *2 (N.D. Ohio July 8, 2015); Murillo v. Parkinson, No. CV 11-10131-JGB VBK, 2015 WL 3791450, at *12 (C.D. Cal. June 17, 2015); Stevens v. Williams, No. 05-CV-1790-ST, 2008 WL 916991, at *13 (D. Or. Mar. 27, 2008); Rush v. Johnson, 565 F. Supp. 856, 868 (N.D. Ga. 1983).

C. The School Board’s Policy is presumptively constitutional under rational basis review.

Requiring students to use facilities that correspond to their birth sex in order to provide privacy to all students has been recognized as a rational basis by multiple courts. See Johnston, 97 F. Supp. 3d at 669-70 (citing Etsitty, 502 F.3d at 1224; Causey v. Ford Motor Co., 516 F.2d 416 (5th Cir. 1975)). Indeed, the Supreme Court also has recognized (1) that there are inherent “[p]hysical differences between men and women” that are “enduring” and render “the two sexes ... not fungible” and (2) that each sex must be afforded privacy from the other sex. United States v. Virginia, 518 U.S. 515, 533, 550 n. 19 (1996).¹⁶ The Fourth Circuit likewise has held that individuals have a right to bodily privacy. See Lee v. Downs, 641 F.2d 1117, 1119 (4th Cir. 1981) (“Most people, however, have a special sense of privacy in their genitals, and involuntary exposure of them in the presence of people of the other sex may be especially demeaning and humiliating.”). In particular, the Fourth Circuit has acknowledged “society’s undisputed approval of separate public rest rooms for men and women based on privacy concerns.” Faulkner v. Jones, 10 F.3d at 232.

This is not a revolutionary proposition. Other courts also have found that there is a basic need for bodily privacy. See, e.g., Doe v. Luzerne Cty., 660 F.3d 169, 177 (3rd Cir. 2011) (an individual has “a constitutionally protected privacy interest in his or her partially clothed body,” and this “reasonable expectation of privacy” exists “particularly while in the presence of members of the opposite sex”); Brannum v. Overton Cty. Sch. Bd., 516 F.3d 489, 498 (6th Cir. 2008) (“the constitutional right to privacy ... includes the right to shield one’s body from

¹⁶ In a 1975 *Washington Post* editorial, then Columbia Law School Professor Ruth Bader Ginsburg wrote that “[s]eparate places to disrobe, sleep, perform personal bodily functions are permitted, in some situations required, by regard for individual privacy.” Ginsburg, *The Fear of the Equal Rights Amendment*, WASH. POST, Apr. 7, 1975, at A21 (emphasis added).

exposure to viewing by the opposite sex”); Sepulveda v. Ramirez, 967 F.2d 1413, 1415-16 (9th Cir. 1992) (“[t]he right to bodily privacy is fundamental,” and “common sense, decency, and [state] regulations” require recognizing it in a parolee’s right not to be observed by an officer of the opposite sex while producing a urine sample).

Protecting bodily privacy is of particular concern when it comes to students. Beard v. Whitmore Lake Sch. Dist., 402 F.3d 598, 604 (6th Cir. 2005) (“Students of course have a significant privacy interest in their unclothed bodies”). Indeed, the School Board has a responsibility to ensure students’ privacy, which is especially acute when children are still developing, both emotionally and physically. See, e.g., Burns v. Gagnon, 283 Va. 657, 671, 727 S.E.2d 634, 643 (2012); Davis v. Monroe County School Board of Education, 526 U.S. 629, 646-47 (1999). That is exactly the aim of the School Board’s restroom policy in this case. Andersen, 22:1-11; 25:15-17; 25:19-26:12; 27:22-28:5.

In Johnston, 97 F. Supp. 3d 657, a case dealing with transgender restroom use in an educational setting, the Court rejected the arguments being made by Grimm. There, the plaintiff was born a biological female, like Grimm. The plaintiff entered college as a female, but later identified as a male. The plaintiff was diagnosed with gender identity disorder, legally changed his name, and began living as a male. The plaintiff used the men’s restrooms and locker rooms on campus. The plaintiff, however, remained anatomically a female.

Thereafter, the plaintiff was told that he could not use the men’s restrooms or locker rooms. When the plaintiff refused to comply with this policy, he was expelled from the University. The plaintiff filed suit against the University alleging that the school’s policy violated the Equal Protection Clause of the Fourteenth Amendment. The District Court, in a detailed analysis and opinion, rejected this claim.

Johnston held that transgender status is not a suspect classification and that providing separate restroom and locker room facilities for college students based on their biological sex did not violate the Equal Protection Clause. Johnston, 97 F. Supp. 3d at 671-72. As the Court noted, this holding is consistent with the holdings of numerous other courts that have considered allegations of discrimination by transgender individuals, whether under the Fourteenth Amendment or Title VII. See, e.g., Frontiero v. Richardson, 411 U.S. 677, 686 (1973); Etsitty v. Utah Transit Auth., 502 F.3d at 1221-22; Ulane v. Eastern Airlines, Inc., 742 F.2d 1081, 1084 (7th Cir. 1984); Sommers v. Budget Mktg., Inc., 667 F.2d 748, 750 (8th Cir. 1982).

The same result should be reached here. The School Board's policy is rationally related to protecting students' privacy rights; and it is not just rationally related, but substantially related, to the important governmental interest of protecting the privacy of all of its students. The School Board has a responsibility to its students—ages 6 to 18—to ensure their privacy while engaging in personal bathroom functions. This is particularly true in an environment where children are still developing, both emotionally and physically. See, e.g., Burns v. Gagnon, 283 Va. at 671, 727 S.E.2d at 643 (school administrators have a responsibility “to supervise and ensure that students could have an education in an atmosphere conducive to learning, free of disruption, and threat to person.”); Va. Code § 22.1-254 (compulsory attendance). This legitimate privacy interest of students and parents was expressed in the many emails and communications the Board received when the issue came to light, including during the public School Board hearings on November 14, 2014 and December 9, 2014 where privacy was the emphasis. The School Board policy was enacted to protect that right.

As Johnston recognized, the context of this dispute is important. Here, the School Board is balancing the needs, interests and rights of children in kindergarten through twelfth grade.

The right to privacy for young, dependent students strongly supports maintaining sex-segregated bathrooms and locker rooms. See Johnston, 97 F. Supp. 3d at 668 (finding “controlling the unique contours under which this case arises,” namely a public school which is “tasked with providing safe and appropriate facilities for all of its students.”)

Furthermore, the School Board’s interest in protecting students’ privacy rights based on their physiology has been recognized by the Department of Education. The regulations implementing Title IX specifically allow schools to provide “separate toilet, locker room, and shower facilities on the basis of sex.” 34 C.F.R. § 106.33. Grimm’s suggestion that the School Board does not have a substantial interest in providing separate restroom and locker room facilities based on physiology is unfounded.

Grimm’s identification as a male does not alter the anatomical and physiological differences between Grimm and other male students, nor does it erase the anatomical and physiological differences between a male student who identifies as a female and other female students. And even Grimm must concede that student privacy is a legitimate interest for the School Board to consider.

The School Board took both Grimm’s interests and the interests of its other students into consideration and developed a policy that seeks to accommodate the best interests of all of its students. In doing so, the School Board bolstered these privacy rights by providing single-stall restrooms for any student to use. Accordingly, there is not only a rational basis, but a substantial basis for the School Board’s policy requiring students either to use the restroom and locker room associated with their physiology or to use a single-stall restroom of their choice. Johnston, 97 F. Supp. 3d at 671-72; United States v. Biocic, 928 F.2d 112, 115-16 (4th Cir. 1991) (recognizing anatomical differences between men and women for purposes of equal protection analysis.)

D. The School Board's Policy is constitutional under intermediate scrutiny.

Grimm may argue that the School Board's policy creates a sex based classification that is subject to intermediate scrutiny. There is no disputing that classifications based on sex are subject to intermediate scrutiny. See United States v. Virginia, 518 U.S. 515, 532–33 (1996). Intermediate scrutiny, however, does not apply in the context of this case. Unlike laws that differentiate between fathers and mothers, widows and widowers, unwed fathers and unwed mothers, see Sessions v. Morales-Santana, 137 S. Ct. 1678, 1688-89 (2017), separating boys and girls into different bathrooms based on their physiology is not sex-based discrimination that is prohibited by the Equal Protection Clause. A claim such as Grimm's that attempts to insert "gender identity" as a component of "sex" fails to state an Equal Protection Clause claim as a matter of law.

The equal protection question surrounds Grimm's sex at birth. Johnston, 97 F. Supp. 3d at 671 ("While Plaintiff alleges that he is a 'male,' ... Plaintiff was assigned the sex of "female" at birth ... Thus, while Plaintiff might identify his *gender* as male, his *birth sex* is female. It is this fact ... that is fatal to Plaintiff's sex discrimination claim. Regardless of how gender and gender identity are defined, the law recognizes certain distinctions between male and female on the basis of birth sex."). The evidence in this case establishes that Grimm's birth sex is female. Grimm's choice of gender identity did not cause chromosomal or biological changes in his body, and Grimm remains biologically female. Van Meter expert report; Penn, 51:14-17; 51:18-21; 52:14-21. While, Grimm had chest reconstruction surgery in June of 2016, this procedure did not create any biological changes in Grimm, but instead, it was only a physical change. Penn, 78:8-12. Further, while Grimm asserts that he had a new birth certificate issued during his senior year in high school as a result of this procedure, the evidence nevertheless establishes that

Grimm still was anatomically and physiologically female. As such, Grimm cannot state a sex discrimination claim under the Equal Protection clause.

Yet, even if intermediate scrutiny applied, the School Board's policy meets that threshold. Intermediate scrutiny requires the government to demonstrate that a challenged policy serves "important governmental objectives" and that the purportedly discriminatory means employed are "substantially related" to the achievement of those objectives. *Id.* at 533. The government is not, however, required to show that the policy is the "least intrusive means of achieving the relevant government objective." See *United States v. Staten*, 666 F.3d 154, 159-60 (4th Cir. 2011) (citations and internal quotation marks omitted). "In other words, the fit needs to be reasonable; a perfect fit is not required." *Id.* at 162.

Again, the School Board has an interest in protecting the privacy rights of its students. See, e.g., *Beard v. Whitmore Lake Sch. Dist.*, 402 F.3d 598, 604 (6th Cir. 2005) ("Students of course have a significant privacy interest in their unclothed bodies."); *Doe v. Renfrow*, 631 F.2d 91, 92-93 (7th Cir. 1980) ("[i]t does not require a constitutional scholar" to conclude that a strip search invades a student's privacy rights). As recently as January 2016, the Fourth Circuit cited *Virginia* approvingly while concluding that physiological differences justified treating men and women differently in some contexts. See *Bauer v. Lynch*, 812 F.3d 340, 350 (4th Cir. 2016).

Bauer found that different standards for men and women arose from the FBI's efforts to "normalize testing standards between men and women in order to account for their innate physiological differences." *Id.* at 343. In light of this purpose, the Fourth Circuit explained:

Men and women simply are not physiologically the same for the purposes of physical fitness programs.... The Court [in *Virginia*] recognized that ... some differences between the sexes were real, not perceived, and therefore could require accommodations.

Id. at 350.

The School Board's interests in student privacy that justify segregation of restroom and locker rooms arise from the physiological differences between boys and girls and not from differences in gender identity. See Faulkner v. Jones, 10 F.3d at 232 (finding that "society's undisputed approval of separate public rest rooms for men and women based on privacy concerns.")

Even though the law allows the School Board to do so, the School Board did not tell Grimm that his only choice was to use the girls' restroom. Instead, the School Board addressed, in a uniform, nondiscriminatory manner, the possibility that students, including Grimm, may not be comfortable using the restroom that corresponds with their anatomical and physiological sex for whatever reason. In an effort to protect the privacy of all of its students, the School Board offers sex segregated bathrooms and three single-stall restrooms. Any student, including Grimm, could use these single-stall restrooms, regardless of their biological sex or gender identity, if they are uncomfortable using a communal restroom, or for any other private or personal reason.

The School Board's restroom policy does not discriminate against any class of individuals. The policy treats all students and situations the same. Under this policy, all students, including female to male transgender and male to female transgender students, are treated the same. The School Board did not develop the restroom and locker room policy to single out Grimm or anyone else on the basis of gender identity. Instead, the policy reflects the anatomical and physiological differences between boys and girls. It is nondiscriminatory in implementation and substantially related to a legitimate governmental interest. Accordingly, Grimm is not able to demonstrate an Equal Protection violation.

IV. Neither Title IX nor the Equal Protection Clause compels the School Board to cooperate with Grimm’s medical treatment plan.

Grimm’s entire case is built around his “medically necessary treatment for gender dysphoria.” ECF Doc. 177, ¶ 1. “There is a medical and scientific consensus that the treatment for gender dysphoria is for boys who are transgender to live as boys and for girls who are transgender to live as girls.” *Id.*, ¶ 22. “With the help of his medical providers, Gavin transitioned to living in accordance with his male identity as part of medically necessary treatment for gender dysphoria.” *Id.*, ¶ 39. The School Board “disregarded Gavin’s medical treatment and ... prohibit[ed] its administrators from allowing Gavin to use the boys’ restrooms.” *Id.*, ¶ 79.

Grimm’s unspoken premise is that Title IX and/or the Equal Protection Clause compel the School Board to cooperate and assist with the implementation of his medical treatment. The premise is flawed. Title IX prohibits exclusion of any person from participation in, denial of the benefits of, or discrimination under “any education program or activity receiving Federal financial assistance” **on the basis of sex**. 20 U.S.C. § 1681(a). It is simply silent on issues relating to medical treatment. The Department of Education’s regulations are nearly so, and nothing in those regulations supports Grimm’s case. The regulations do address medical issues to a limited extent, however, and the inclusion of those limited provisions implies the exclusion of other matters. *E.g.*, United States v. Wheeler, 886 F.3d 415, 428 (4th Cir. 2018), quoting Russello v. United States, 464 U.S. 16, 23 (1983). *See* 34 C.F.R. § 106.40 (Marital or parental status), subsection (b) (Pregnancy and related conditions), subsections (4) and (5):

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers,

or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

Another example is 34 C.F.R. § 106.41 (Athletics), which provides that in determining whether equal opportunities are available for members of "both sexes" in interscholastic, intercollegiate, club or intramural athletics, the Director will consider, among other factors, provision of medical and training facilities and services.¹⁷

The Equal Protection issue is likewise easily disposed of. See, e.g., Harris v. McRae, 448 U.S. 297, 321-22 (1980) (holding that the "Hyde Amendment" does not violate the equal protection component of the Fifth Amendment Due Process Clause by withholding public funding for certain medically necessary abortions while providing funding for other medically necessary health services). "The guarantee of equal protection under the Fifth Amendment is not a source of substantive rights or liberties, but rather a right to be free from invidious discrimination in statutory classifications and other governmental activity." Id. at 322. The same analysis applies to the Fourteenth Amendment's Equal Protection Clause. Adarand Constructors, Inc. v. Pena, 515 U.S. 200, 217 (1995). That Clause therefore does not give Grimm a "substantive" right to governmental assistance with his medical treatment, however "necessary" that treatment may be from a medical standpoint.

¹⁷ See also 34 C.F.R. § 106.39 (Health and insurance benefits and services): "In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex"); 34 C.F.R. § 106.56 (Fringe benefits).

Furthermore, Grimm is not able to present evidence that using the male restroom at school is “medically necessary.” Gender affirming care or social transitioning care is purportedly part of an overall mental health treatment plan to address gender dysphoria. Using the male restroom at school is just one component of an overall social transitioning care plan. Thus, even where a transgender student is not permitted to use the restroom consistent with his expressed gender identity, there are other methods of social transition that can be used to help treat gender dysphoria. Penn., 70:18-71:4. Indeed, the School Board accommodated Grimm in the other aspects of Grimm’s social transition, including referring to him by his new name and using male pronouns. Moreover, Grimm has not designated a mental health expert, treating or retained, to offer testimony that the use of the boys’ restroom was a medical necessity for Grimm that somehow could rise to a substantive right protected by the Equal Protection clause of the Constitution. Simply put, Grimm’s desire to use the boys’ restroom at school is not a right protected by the Equal Protection clause.

IV. Issuance of a new birth certificate does not compel revision of Grimm’s school records.

A. The School Board is under no obligation to conform Grimm’s school records to a new birth certificate that was not issued consistently with Virginia law.

Grimm asks the Court to declare that by declining to “update” his official school transcript “to match the ‘male’ designation on his updated birth certificate,” the School Board “violated—and continues to violate—[his] rights under the Fourteenth Amendment ... and Title IX.” ECF Doc. 177, page 18. That request should be denied for all of the reasons discussed in previous sections of this Brief and for the additional reason that Grimm’s new birth certificate and its issuance do not comply with Virginia law and therefore are ineffective and void.

Va. Code § 32.1-269 governs amendments of vital records, including “change of sex.” It provides, in part, that “[a] vital record registered under this chapter, with the exception of a death

certificate, may be amended only in accordance with this section and such regulations as may be adopted by the [State Board of Health] to protect the integrity and accuracy of such vital records.” (Subsection A.) Subsection B provides (with an exception that applies only to children born out of wedlock) that “a vital record that is amended under this section **shall be marked ‘amended’** and the date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the vital record.” See also id., Subsection E: “Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating that the sex of an individual has been changed by medical procedure and upon request of such person, the State Registrar shall **amend** such person’s certificate of birth to show the change of sex” (Emphasis added.)

12 VAC 5-550-460 (Methods of correcting or altering certificates) also applies to amendments of birth certificates. It provides in part that “**corrections or alterations shall be made by drawing a single line through the incorrect item, if listed, and by inserting the correct or missing data immediately above it or to the side of it**, or by completing the blank item, as the case may be.” And similarly to Subsection B of Va. Code § 32.1-269, it provides that “there shall be inserted on the certificate a statement identifying the affidavit and documentary evidence used as proof of the correct facts and the date the correction was made.”

Grimm’s new birth certificate is deficient in four respects: (1) it is not marked “amended”; (2) it indicates a “date issued” but does not indicate in any way that that is a date of an amendment; (3) it provides no description of evidence submitted in support of the

amendment; and (4) the “correction” or “alteration” is not indicated by a line drawn through the “incorrect item.” See Exhibit N.¹⁸

No person reviewing that certificate would perceive the slightest indication that it is an amended, altered, or “corrected” certificate, which is contrary to the manifest legislative policy as well as the letter of the law. The certificate, therefore, was not issued in compliance with Virginia law, which controls.

Moreover, the underlying basis for the amended birth certificate does not comply with Virginia law. An amended birth certificate can be sought when an individual’s sex has been changed by “surgical gender reassignment procedure.” 12 VAC 5-550-320. Yet, the evidence is undisputed that Grimm only had chest reconstructive surgery, not a “surgical gender reassignment procedure.” Indeed, surgical gender reassignment surgery could not be performed until Grimm was at least 18 years old, and Grimm still had female genitalia and reproductive organs in place. Penn, 78:19-79:15; 79:19-80:1.

As such, under either circumstance, the School Board has no duty to “update” Grimm’s transcript “to match the ‘male’ designation on his updated birth certificate,” as demanded by his Second Amended Complaint.

B. Grimm’s school records claim should be rejected for failure to exhaust available administrative remedies.

The Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g, provides that “[n]o funds shall be made available ... to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution ... the right to inspect

¹⁸ The certificate that Grimm or his mother presented to Gloucester High School was marked “void.” Exhibit O.

and review the education records of their children.” The Department of Education’s implementing regulations, at 34 C.F.R. Part 99, Subpart C, provide a procedure by which a parent or student may request an amendment to such records. Under 34 C.F.R. § 99.20(a), “[i]f a parent or eligible student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student’s rights of privacy, he or she may ask the educational agency or institution to amend the record.” *Id.* Then, “[t]he educational agency or institution shall decide whether to amend the record as requested within a reasonable time after the agency or institution receives the request.” 34 C.F.R. § 99.20(b). “If the educational agency or institution decides not to amend the record as requested, it shall inform the parent or eligible student of its decision and of his or her right to a hearing under § 99.21.” 34 C.F.R. § 99.20(c). Finally, “[i]f, as a result of the hearing, the educational agency or institution decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the agency or institution, or both.” 34 C.F.R. § 99.21(b)(1)(ii)(2). A federal court may review a refusal to amend education records pursuant to § 99.21. *See Lewin v. Medical College of Hampton Roads*, 931 F.Supp. 443, 444 (E.D. Va. 1996), *aff’d*, 1997 WL 436168 (4th Cir. 1997).¹⁹

FERPA thus provides a framework by which a student may request an amendment to his education records. The School Board met FERPA’s requirements by informing Grimm of his

¹⁹ *Lewin* holds that FERPA does not “permit disappointed students to federalize disputes over the academic accuracy of their professors’ grading methods and substantive test answers.” 931 F. Supp. at 445, citing *Tarka v. Cunningham*, 917 F.2d 890, 892 (5th Cir. 1990). No similar issues are presented here.

right to a hearing on the issue. See Andersen Declaration. Grimm has not requested a hearing (or otherwise sought relief under that Act). His school records claim therefore must be dismissed for failure to exhaust an available administrative remedy. See e.g., Johnston, 97 F. Supp. 3d at 671–72 (dismissing Equal Protection claim for not updating school records because the plaintiff did not comply school policy in requesting the change); See e.g., Cavalier Telephone v. Virginia Elec. and Power, 303 F.3d 316 (4th Cir. 2002). See id. at 322:

It is a “long-settled rule of judicial administration that no one is entitled to judicial relief for a supposed or threatened injury until the prescribed administrative remedy has been exhausted.” Myers v. Bethlehem Shipbldg. Corp., 303 U.S. 41, 50-51, 58 S.Ct. 459, 82 L.Ed. 638 (1938). In other words, “[w]here relief is available from an administrative agency, the plaintiff is ordinarily required to pursue that avenue of redress before proceeding to the courts; and until that recourse is exhausted, suit is premature and must be dismissed.” Reiter v. Cooper, 507 U.S. 258, 269, 113 S.Ct. 1213, 122 L.Ed.2d 604 (1993).

V. Grimm’s claims against the School Board are moot.

It is the School Board’s position that Grimm’s claims against it are moot. In August of this year, the Eleventh Circuit thoroughly analyzed this issue and held that a claim for nominal damages only does not save a claim from mootness when accompanying claims for declaratory and injunctive relief are moot. Flanigan’s Enterprises, Inc. of Georgia v. City of Sandy Springs, Georgia, 868 F.3d 1248, 1263 (11th Cir. 2017). The cases in this Circuit have not undertaken a similarly thorough analysis. The School Board set forth its position in its Brief in Opposition to Motion to Vacate Order for Supplemental Briefing (ECF Doc.129), which it incorporates by reference.²⁰

²⁰ The School Board acknowledges this Court’s December 12, 2017 Order (ECF Doc. 132), which holds that Grimm’s claims are not moot. The School Board hereby preserves all of its appellate rights.

CONCLUSION

For all of the foregoing reasons, the Gloucester County School Board respectfully requests that the Court grant the Motion for Summary Judgment, and dismiss Plaintiff's Second Amended Complaint in its entirety and with prejudice.

**GLOUCESTER COUNTY SCHOOL
BOARD**

By Counsel

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CERTIFICATE

I hereby certify that on the 26th day of March 2019, I filed a copy of the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send a Notice of Electronic Filing to all counsel of record.

/s/

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-54

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

**INDEX OF EXHIBITS TO BRIEF IN SUPPORT OF GLOUCESTER COUNTY
SCHOOL BOARD'S MOTION FOR SUMMARY JUDGMENT**

NO.	EXHIBIT DESCRIPTION
A.	Gavin Grimm Deposition Excerpts
B.	Melinda Penn, M.D. Deposition Excerpts
C.	Quentin Van Meter, M.D. Deposition Excerpts
D.	Quentin Van Meter Expert Report
E.	Troy Andersen Declaration
F.	Gloucester County School Board Documents GCSB – 1086, 1117-1118, 1127, 1151-1154, 1261, 1267, 1272, 2630, 3541, 4165- 4166, 4189-4190, 4247, 4286
G.	Nathan Collins Deposition Excerpts
H.	Troy Andersen Deposition Excerpts
I.	Gloucester County School Board's Supplemental Answer to Interrogatory No. 1
J.	Gloucester County School Board's November 11, 2014 Meeting Minutes
K.	Gloucester County School Board's December 9, 2014 Meeting Minutes
L.	Diagnostic and Statistical Manual of Mental Disorders – DMS-5

NO.	EXHIBIT DESCRIPTION
M.	Matt Lord Deposition Excerpts
N.	Department of Vital Statistics Birth Certificate – Not marked Void
O.	Department of Vital Statistics Birth Certificate – marked Void

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION

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GAVIN GRIMM, :

Plaintiff, :

v. : Case No.

GLOUCESTER COUNTY SCHOOL : 4:15-cv-54

BOARD, :

Defendant. :

----- x

Deposition of GAVIN GRIMM
Richmond, Virginia
Friday, October 19, 2018
9:40 a.m.

Job No.: 207940
Pages: 1 - 177
Reported By: Leslie D. Etheredge, RMR, CCR



Transcript of Gavin Grimm
Conducted on October 19, 2018

9

1 Q And how long did y'all live at that
2 particular address?

3 A From birth until moving to California.

4 Q What is your date of birth?

5 A **REDACTED**

6 Q Are you currently employed?

7 A I am not on an official payroll, I do some
8 freelance activism.

9 Q So what does that mean? What is freelance
10 activism?

11 A I may be invited to speak at a college or
12 at a conference, and sometimes there is monetary
13 compensation.

14 Q What determines whether there is monetary
15 compensation?

16 A The ability of the requester.

17 Q So give me an example of what you are
18 talking about.

19 A For example, should a middle school invite
20 me to talk to their GSA, I would never ask for
21 financial compensation, but should I go to a more
22 professional event, which would probably have a

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 A I don't recall. I recall having spoken to
2 him but not about what or why.

3 Q How about your senior year, did anybody
4 talk to you about going to college or where you
5 were going to college or, you know, any type of
6 counseling-type role like that?

7 A I really -- I don't recall.

8 Q With respect to Miss Durr, what do you
9 recall in terms of any interactions you had with
10 her?

11 A I really don't. I just recall that we had
12 spoken at various points. Oh, may I correct
13 myself?

14 Q Yes.

15 A Miss --

16 Q You can always correct yourself, just so
17 you know.

18 A Miss Durr was the person that my mother
19 and I contacted ahead of beginning sophomore year.

20 Q Right. I was going to talk to you about
21 that, and we will talk in detail about that.
22 Other than that, do you remember you and her

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 having conversations, her being supportive,
2 nonsupportive, helpful, not helpful, or how did
3 you perceive things between you and her during
4 that sophomore year, when she was, according to
5 her, assigned to you?

6 A I don't ever recall her being malicious;
7 however, I also cannot recall any individual
8 conversations that we had.

9 Q So would you say it was neutral, or would
10 you say it was unhelpful or just kind of just
11 really nothing?

12 A I would say that I don't recall.

13 Q Okay. Let's go to the specific
14 conversation at the start of sophomore year, which
15 you mentioned you and your mom and Miss Durr.
16 What do you recall about that?

17 A I recall that my mother and I approached
18 her and informed her that I am a boy and my name
19 is Gavin and had a discussion about what that
20 meant for starting the school year.

21 Q What do you recall about the discussion,
22 what was said?

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 A I really don't recall anything else.

2 Q And did you speak?

3 A I don't recall.

4 Q How was the meeting arranged, if you
5 recall?

6 A I don't. I'm sorry.

7 Q What was the result of the meeting, at
8 least your understanding of the result of the
9 meeting?

10 A I cannot recall clearly.

11 Q Any aspect that you recall?

12 A No. I am sorry, I can't.

13 Q At some point, you were -- it was agreed
14 that you would go to school as Gavin.

15 A Yes.

16 Q Is that correct?

17 A Yes.

18 Q And that you would be called by male
19 pronouns?

20 A Yes.

21 Q What else is your understanding
22 eventually, when school started, in terms of what

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 wrong gender?

2 A Yes.

3 Q How about any staff or faculty?

4 A I don't recall any intentional examples.

5 Q Do you recall any accidental examples? I
6 mean the thing that was mentioned previously was
7 that maybe your name was still another name on a
8 piece of paper and someone said that name, not
9 knowing, and then -- but that would not be
10 intentional.

11 A Right. I recall that there were a few
12 instances of what I assumed to be unintentional
13 misgendering or deadnaming; however, I do not
14 recall who or in what year that those things
15 occurred.

16 Q Deadnaming?

17 A For example, referring to me with the name
18 that was given to me at birth.

19 Q That's called deadnaming?

20 A Yes, sir.

21 Q So just to make sure we are clear, to your
22 recollection, there was no staff or faculty who

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 MR. CORRIGAN: We have been going a while.
2 Why don't we take a minute.

3 (Recess from 10:28 a.m. to 10:45 a.m.)

4 A Sir, I have recalled a few different
5 details to share with you.

6 Q Sure.

7 A The first being that, when I did meet with
8 Tiffany Durr, I do not think it is accurate that I
9 requested the use of the nurse's restroom, I --
10 more accurately, I believe it was an option
11 offered to me, which I then accepted.

12 Additionally, I have a few antidotes from,
13 you know, growing up, which follows the line of
14 inquiry about, you know, male expressions.

15 The first being in middle school -- I
16 expressed that I didn't really have friends in
17 middle school, and the group of friends I
18 mentioned in high school, we met in middle school;
19 however, at that point they had not become my core
20 groups of friends, which was why I phrased that
21 the way I did; however, at some point in --
22 actually, pardon me. Do you -- does --

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 homebound status, so it was before that is the
2 last time you think you used the girls' restroom?

3 A Yes. I began avoiding it before that
4 point, which -- in -- contributed to the overall,
5 you know, complication of remaining at school.

6 Q Because you didn't want to use the girls'
7 restroom?

8 A Right. However, it was not something I
9 could vocalize to others at that time because I
10 was not out, out being that I had not announced
11 myself as a boy to others yet.

12 Q And since then, you have not used the
13 girls' restroom at Gloucester High School?

14 A No.

15 Q Not at all in the 11th grade, not at all
16 in the 12th grade?

17 A No.

18 Q Correct?

19 A Correct.

20 Q Do you recall an incident in your art
21 class, Miss Bergh, where you and the student got
22 into an argument, it would have been in that

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 sometime in October of 2014?

2 A 2014?

3 Q I have a record I can show you, but the
4 person's name is blacked out, so I don't know who
5 it was.

6 A Okay.

7 Q And the allegation is something along the
8 lines of the student was saying something like,
9 you know, there is a girl going in the boys' room
10 and you said that's me and then it elevated
11 into -- does that ring a bell?

12 A It does. The conversation that I had
13 overheard was actually that the child was speaking
14 in explicit and highly, highly sexually
15 inappropriate detail about my genitals, talking
16 about what I had, what -- you know, how disgusting
17 I was, how freaky I was, other explicit, you know,
18 assumptions or observations or whatever about, you
19 know, possible genital situations and that kind of
20 thing.

21 At that time, I had walked over and I said
22 you really should stop saying things like this,

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 because he had identified me as my brother's
2 sister, and he -- I was in that class with him,
3 and he was aware that I was that person, and so I
4 was like this is disgusting, you need to stop.

5 At that point actually he stood up, who do
6 you think you are talking to. You know, my
7 position initially was to kind of ask him to like
8 please stop, and then his position was to yell and
9 escalate and continue to insult and berate me,
10 which resulted in disciplinary action for both of
11 us.

12 Q When was that, do you remember?

13 A No, not other than what you have, what you
14 have identified.

15 MR. CORRIGAN: Okay. I will go ahead and
16 get this marked.

17 (G. Grimm Deposition Exhibit 1 was marked
18 for identification and is attached to the
19 transcript.)

20 Q Okay. Take a minute and read that. That
21 has been marked as Exhibit 1. I am asking you, as
22 best you can recall, whether this is the incident

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 we were just discussing or describes the incident
2 we were just discussing.

3 A So reading this did remind me of a detail.
4 The statement that Miss Bergh had said to me at
5 the time, where she was recommending disciplinary
6 action, was that she was positive that it was
7 going to be a physical fight. I absolutely
8 dispute that, I had had no intentions of
9 physically fighting with anybody. I -- my only
10 position was to say like you -- like stop saying
11 these things, and his position was to escalate.

12 And also importantly, we were on other
13 sides of the table, and neither of us ever moved
14 to get closer to each other as well, so I contest
15 that there was a possibility of physical fight.

16 But I believe that was the grounds under
17 which she recommended disciplinary action.

18 Q Okay. Do you remember what the
19 disciplinary action was?

20 A I -- I don't -- I don't recall if I was
21 suspended in or out of school or for how many days
22 or if it was just detention or something, I really

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 of course, the function is that it presses the
2 tissue down against your lungs, and so that does
3 restrict some movement, and then, on top of that,
4 that garment did not pair very well with the gym
5 uniform because the garment was slick and so were
6 the pants and the shirt, and so with the garment
7 on, the pants would not stay up and that kind of
8 thing.

9 Q Where did the garment -- describe the
10 garment for me.

11 A A tank top but that is of a somewhat
12 stretchy material but that is nonelastic enough
13 that it forces tissue to compress.

14 Q So did you request to do your PE class
15 online?

16 A I did.

17 Q Okay. Was there ever any discussion about
18 doing it any other way?

19 A What I recall of the conversation was that
20 I don't recall who I approached truthfully, but I
21 approached someone and said this is just not going
22 to be possible for me, what are my options, and

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 they at that time had offered the virtual program.

2 Q Was it the PE teacher or was it your
3 guidance people or was it someone else, as best
4 you can recall?

5 A I don't recall.

6 Q So there was no time in 10th grade you
7 actually attended a physical PE class at school;
8 is that correct?

9 A Not that I can recall.

10 Q Okay. What do you personally know about
11 any complaints that were received by teachers,
12 administrators or the Superintendent or the School
13 Board with respect to you using the boys'
14 restroom?

15 A Well, that question actually prompted me
16 of a detail that I had previously failed to
17 mention. Do you mind if I --

18 Q Sure.

19 A It is somewhat connected. When you asked
20 about, you know, if I received any adult ridicule
21 or was it peer ridicule and that sort of thing, at
22 both of the School Board meetings, which I

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 without someone telling my side of the story and
2 there would be no one to do that but us.

3 Q So you and your mother decided that the
4 two of you would show up at the School Board
5 meeting to discuss this restroom use issue?

6 A Yes, and I independently decided that I
7 specifically wanted to make a comment.

8 Q What was your thinking on deciding that
9 you wanted to make a comment?

10 A Well, I had already been identified as the
11 student in question, people that had spoken before
12 me had already turned to look directly at me, and,
13 you know, it was not a secret, it was not as if we
14 could pretend like we didn't know who the student
15 was, and so my thought process was that people
16 already have identified me as the transgender
17 child in question, and a decision about my future
18 should not be made without myself at least
19 expressing my input.

20 Q Before you went to the School Board
21 meeting, what information did you have that anyone
22 knew who you were, I mean specifically that this

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 like, you know, that is -- that is David's sister
2 or I know that chick or, you know, that kind of
3 thing, so it was understood fairly generally that
4 I was known to be the child.

5 Q Are you aware of any member of the School
6 Board who identified you before this meeting, in
7 other words, said this is who we are talking
8 about, this person?

9 A During the meeting?

10 Q No. Before the meeting.

11 A I didn't have any conversations with any
12 of them before the meeting.

13 Q I understand. My question, though, is are
14 you aware of any -- of any information that any
15 School Board member identified you before the
16 meeting as the person about whom this discussion
17 was occurring?

18 A No. However, one of the members of the
19 School Board, Kevin Smith, was previously a close
20 family friend, who had spoken to my mother, and I
21 don't know about what, but ahead of the School
22 Board meeting, and he assured her at that time

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 that he would recuse himself from the vote because
2 it was improper for him to make a distinction
3 because he knew us.

4 He then did not do that and, in fact,
5 voted against us instead. He voted, to be clear,
6 vowed to ban me from the boys' restroom instead.

7 Q He voted in favor of the resolution?

8 A Of the proposal that Miss Hook had brought
9 forward, yes. So there was at least one School
10 Board member who was aware of the identity of the
11 child.

12 Q You don't have any information that
13 Mr. Smith told anyone else that you were the
14 child?

15 A I don't have any information that that
16 happened, no. But I -- I also have nothing to,
17 you know, present that ensures that it was not
18 something that happened as well.

19 Q You just don't know?

20 A I don't know.

21 (Discussion held off the record.)

22 Q When did you first see the policy, the

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 at any point.

2 Q Do you have any recollection of how many
3 people spoke at either occasion?

4 A No.

5 Q In your lawsuit, on paragraph 53, it says
6 the policy does not define biological gender and
7 the term has no common or accepted meaning. There
8 are many biological components of sex, including
9 chromosomal, anatomical, hormonal and reproductive
10 elements, some of which could be ambiguous or in
11 conflict within an individual, either because that
12 individual has intersex traits or because that
13 individual has undergone medical care for gender
14 dysphoria.

15 That's what the paragraph says. So I have
16 some questions that I want to ask you, just to
17 make sure I am clear and that the record is clear
18 on this.

19 Do you have intersex traits?

20 A I have never been diagnosed as intersex.

21 Q The terms that are used here, chromosomal,
22 anatomical, hormonal and reproductive elements,

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 what is your understanding of your chromosomal
2 elements?

3 A I -- well, I was assigned female at birth,
4 so I would assume that there are two X
5 chromosomes; however, differences in that are very
6 common, and often you go your whole life without
7 knowing them, so, to my knowledge, XX; however, I
8 don't know that that's ever been formally tested.

9 Q How about anatomical elements. What is
10 your understanding of your anatomical elements?

11 A With respect to what, sir?

12 Q With respect to the many biological
13 components of sex.

14 A Do you mind rephrasing the question?

15 Q Again, the allegation is there are many
16 biological components of sex including
17 chromosomal, anatomical, hormonal and reproductive
18 elements, some of which could be ambiguous or in
19 conflict within an individual, either because that
20 individual has intersex traits or because that
21 individual has undergone medical care for gender
22 dysphoria.

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 know, you are not supposed to be in here, that
2 happened a few times in public, where women would
3 say that I was in the wrong place and I needed to
4 leave.

5 Q All right. How about specific -- your
6 specific -- I guess that goes over to reproductive
7 elements.

8 Same question. What are the -- your
9 reproductive elements.

10 A If I may clarify, are you asking what
11 procedures I may or may not have had?

12 Q Sure.

13 A Okay. I do not have breasts, and I do not
14 have the ability to bear children because of
15 hormone replacement therapy, basically making that
16 not something that I can do.

17 Q Let's go back to on November 11, 2014 and
18 December 9, 2014, in terms of your reproductive
19 elements, what was the status then?

20 A In 2014 you said?

21 Q Yes, sir.

22 A That would have been that I had present

Transcript of Gavin Grimm
Conducted on October 19, 2018

1 breasts and was by -- I had yet to go through
2 hormone replacement therapy; however, I -- again,
3 I used a chest-binding garment every single
4 solitary time I stepped out of the house, so the
5 appearance to pretty much everyone was that I did
6 not have breasts.

7 Q Okay. What about the actual reproductive
8 elements at that time?

9 A Well, I had gone -- at that point I had
10 gone through female puberty and had done nothing
11 to disrupt the functions of those organs, so those
12 were fully functioning.

13 Q Okay. Then the last one is hormonal is
14 the other term that is used in the description of
15 the many biological components of sex.

16 What are the hormonal elements in December
17 or November 11th and December 9th of 2014?

18 A Well, the hormonal elements would be that
19 I was yet to -- I was not yet receiving
20 testosterone injections and that my body was
21 producing estrogen; however, that my free
22 testosterone levels were elevated enough for a

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 Q My question is when did you become aware
2 they were going to do that.

3 A Yes, sir. I misunderstood. Press release
4 wise, I thought you were referring to what was
5 said at the meeting, I apologize.

6 When I became aware that those bathrooms
7 were being constructed was I suppose when they --
8 when the construction began, which was before the
9 second School Board meeting, as far as I can
10 recall.

11 Q Okay. When you became aware that they
12 were, in fact, going to create single stall,
13 unisex restrooms for all students, not designated
14 Gavin's restroom, but the statement is for all
15 students, did you consider that as whether that
16 would meet your needs?

17 A Absolutely not.

18 Q And what did you consider? What did you
19 decide, who did you speak with about that?

20 A I -- I don't recall who I approached or if
21 I approached anyone from school at that point. I
22 believe somewhere in that time period was when I

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 Q And did anyone accompany you?

2 A My mother.

3 Q Chest reconstruction surgery in June 2016;
4 is that correct?

5 A Yes.

6 Q Who performed?

7 A Dr. Hope Sherie.

8 Q How do you spell Sherie?

9 A S-H-E-R-I-E.

10 Q Was that at VCU?

11 A No. That was not at VCU.

12 Q Where was that?

13 A That was in either Charlotte or
14 Charlottesville, I don't recall -- I have the
15 names mixed up, but it was in North Carolina.

16 Q Okay. Was that a double mastectomy
17 essentially?

18 A Yes.

19 Q What documentation or other information
20 did Dr. Sherie require before she performed that
21 surgery?

22 A As I was a -- I believe, if I am recalling

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, LESLIE D. ETHEREDGE, Registered Merit
3 Reporter, Certified Court Reporter and Notary
4 Public, the officer before whom the foregoing
5 deposition of GAVIN GRIMM was taken, do hereby
6 certify that the foregoing transcript of the
7 deposition is true and correct to the best of my
8 ability; that said testimony was taken by me
9 stenographically and thereafter reduced to
10 typewriting under my direction; that reading and
11 signing was requested; and that I am neither
12 counsel for, related to, nor employed by any of
13 the parties to this case and have no interest,
14 financial or otherwise, in its outcome.

15 IN WITNESS WHEREOF, I have hereunto set my
16 hand this 5th day of November, 2018.

17 

18 _____
19 LESLIE D. ETHEREDGE, Notary Public in
20 and for the Commonwealth of Virginia
21 Registration No: 116406
22 My commission expires February 28, 2019

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION

-----X

GAVIN GRIMM,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CASE NO.:
	:	
GLOUCESTER COUNTY SCHOOL	:	4:15-cv-54
BOARD,	:	
	:	
Defendant.	:	

-----X

Deposition of MELINDA PENN, M.D.

Richmond, Virginia

Thursday, March 14, 2019

10:15 a.m.

Job No.: 234511

Pages 1 - 92

Reported by: Helen B. Yarbrough, RPR, CCR

EXHIBIT

B

Transcript of Melinda Penn, M.D.
Conducted on March 14, 2019

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1 A As a pediatrician, yes; but in
2 pediatric endocrinology I typically am not
3 involved in that unless there's questions.

4 Q So when you were a pediatrician, did
5 you recognize the sex of an infant at birth based
6 upon the appearance of external genitalia?

7 A Yes. We would examine patients and
8 describe the appearance of the genitalia.

9 Q And then you would designate the
10 infant's sex based on that external genitalia,
11 correct?

12 A Yes.

13 Q If there is a question concerning the
14 sex of an infant at birth, can medical providers
15 perform a chromosomal testing?

16 A Yes, you can perform that. There's a
17 number of different tests that we'll do if there's
18 question about the appearance of the genitalia.

19 Q And what are those tests?

20 A We'll perform chromosomes; we'll do
21 investigations to look at the internal anatomy in
22 genitalia; we'll perform hormone levels.

Transcript of Melinda Penn, M.D.
Conducted on March 14, 2019

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1 Q And when you say "looking at the
2 internal anatomy," does that mean the reproductive
3 organs?

4 A Yes.

5 Q And the chromosomal testing, that would
6 be the XX chromosome or the XY chromosome?

7 A Yes.

8 Q And if the infant has an XX chromosome,
9 that's recognized as a biological basis for a
10 female?

11 A Not always.

12 Q In what cases would it not be?

13 A There are times when you can have a
14 portion of the Y be present in an XX individual.
15 There are times that you have an XY individual who
16 won't respond to testosterone and therefore would
17 look very feminine on the outside. So it's not
18 always clear.

19 Q And if there is an XX chromosome
20 without a portion of a Y, does -- is that the
21 biological basis for a female?

22 A In general, yes.

Transcript of Melinda Penn, M.D.
Conducted on March 14, 2019

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1 they're not responding to the testosterone, so
2 their external genitalia is very feminine, but
3 they wouldn't have the internal female uterus or
4 ovaries.

5 Q And what would the medical diagnosis
6 for that be?

7 A Androgen insensitivity.

8 Q And how often does that occur?

9 A I would have to review for
10 specifically -- specific numbers.

11 Q How often did you see it in your
12 practice?

13 A I've seen it about three times.

14 Q You agree that choosing a gender
15 identity does not cause any chromosomal changes in
16 the body, correct?

17 A Yes.

18 Q And a person's innate sense of
19 belonging to a particular gender does not cause
20 any biological changes in the body?

21 A That's correct.

22 Q In paragraph 20 of your report, you

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 state that, "Gender identity is deeply rooted
2 early in life."

3 Do you see that?

4 A Yes.

5 Q What is that opinion based on?

6 A There's -- many pediatric patients have
7 very distinct gender identity and identify with a
8 specific gender at a young age as a normal part of
9 pediatric development.

10 Q And when you say it's rooted early in
11 life, does that mean in both gender identity that
12 is consistent with the sex recognized at birth and
13 inconsistent with the sex recognized at birth?

14 A It can be, yes.

15 Q Have there been any empirical studies
16 or data that identify when a child has a sense of
17 gender identity?

18 A I'm not aware. There has been research
19 describing it, but I'm not sure of the specifics.

20 Q DSM-V --

21 A Yes.

22 Q -- describes gender dysphoria; is that

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 correct?

2 A Yes.

3 Q And what, to your understanding, is
4 gender dysphoria?

5 A That's the distress that a patient or a
6 person experiences when their gender identity
7 doesn't align with the sex assigned at birth.

8 Q Okay. And you're aware that the DSM-V
9 defines sex as it refers to the biological
10 indicators of male and female such as in sex
11 chromosomes, gonads, sex hormones, and
12 nonambiguous internal or external genitalia?

13 A Yes.

14 Q And you agree with that, correct?

15 A Yes.

16 Q So the treatment that you provide as a
17 pediatric endocrinologist, is that to treat gender
18 dysphoria, or is it to treat a transgender
19 individual?

20 A Yes, it's to treat the gender dysphoria
21 that occurs in transgender individuals.

22 Q So your practice, medical practice,

Transcript of Melinda Penn, M.D.
Conducted on March 14, 2019

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1 seeks to medically treat a transgender
2 individual's distress?

3 A Yes. We're helping to decrease the
4 distress and the dysphoria.

5 Q Do you need a break?

6 A Yes.

7 (A recess was taken.)

8 BY MR. CAPPS: (Continuing)

9 Q In your practice, do you diagnose
10 gender dysphoria?

11 A I rely on the mental health providers
12 that I work with to do the official diagnosis, but
13 I review with the patients why they're seeking
14 hormone therapy.

15 Q Is there any objective test that can
16 diagnose gender dysphoria?

17 A Not that I'm aware of.

18 Q So a diagnosis would be based on a
19 conversation with the transgender individual?

20 A There are guidelines and criteria that
21 you have to meet for the diagnosis of gender
22 dysphoria, and that's with discussion by the

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 patient.

2 Q But it's based upon the subjective
3 information that the patient gives you; is that
4 correct?

5 A Yes.

6 Q Do you agree that not all transgender
7 individuals express distress in their gender
8 identity choice?

9 A Yes.

10 Q Do you dispute the DSM-V statement that
11 for natal adult males, the prevalence ranges for
12 gender dysphoria range between .005 percent to
13 .014 percent of natal adult males?

14 A It sounds appropriate. I'm not sure
15 exactly what they are referring to for this data.

16 Q How about the prevalence ranges for
17 natal females range from .002 percent to
18 .003 percent? Do you dispute that data?

19 A Again, I don't know where it comes from
20 and how that research is done, but it sounds
21 appropriate.

22 MR. BLOCK: Could she be provided a

Transcript of Melinda Penn, M.D.
Conducted on March 14, 2019

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1 give hormones that stop the production of pubertal
2 hormones in the body. And then I can also provide
3 hormones that would promote the development of
4 secondary sex characteristics that align with the
5 person's gender identity.

6 Q Do you provide any medical treatment
7 related to any transgender individual's social
8 transition?

9 A Can you restate it?

10 Q Do you, in your treatment of
11 transgender individuals, provide a treatment plan
12 that includes social transition?

13 A Not directly. We discuss the social
14 transition and what they've done with their social
15 transition, but I don't directly.

16 Q So you're not involved in creating
17 treatment plans related to a transgender
18 individual's social transition related to their
19 gender identity?

20 A No. I do assist with some of the
21 paperwork that they require to do name change and
22 gender change, and some of the legal documents

Transcript of Melinda Penn, M.D.
Conducted on March 14, 2019

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1 require a medical provider to sign off, and I
2 assist with that.

3 Q But on a day-to-day basis, do you
4 outline a treatment plan that relates to a
5 transgender individual's social transition?

6 A No.

7 Q Do you document a patient's
8 participation in social transition as a part of
9 your medical treatment of transgender individuals?

10 A I typically discuss with the patients
11 what social transitions have occurred, and we
12 discuss family support, school support, and
13 friends' support, and that sort of information.

14 Q Do you agree that transgender patients
15 also have an alternative medical plan that would
16 involve just counseling?

17 A The treatment for transgender
18 individuals varies greatly, and some of my
19 patients ultimately have done well with counseling
20 and just social transition.

21 Q Have you had any patients participate
22 in just counseling without engaging in social

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 sex-separated facilities in line with their gender
2 identity. Do you see that?

3 A Yes.

4 Q The social transition that you're
5 talking about, is that part of a medical treatment
6 plan?

7 A It's not typically a part that I'm
8 involved in, because most of the patients are
9 coming to see me at the onset of puberty.

10 Q And whose plan, if anybody's, would
11 that be -- that social transition be a part of?

12 A It's oftentimes something that's
13 discussed with the mental health provider and the
14 families.

15 Q And the social transition plan is used
16 to address the treatment of gender dysphoria; is
17 that correct?

18 A Yes.

19 Q And you would agree, then, that the use
20 of restrooms that are in line with a transgender
21 patient's gender identity instead of the sex
22 designated at birth is one component of the social

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 transition plan?

2 A Yes, it can be a part of that.

3 Q And that there are other components of
4 the social transition plan that can be provided or
5 recommended by a mental health provider to treat
6 gender dysphoria?

7 A Yes.

8 Q I looked at Exhibit 1B, the WPATH
9 standard of care guidelines, and I don't see in
10 those guidelines where the standard of care refers
11 to the use of restrooms in line with a transgender
12 patient's gender identity instead of the sex
13 recognized at birth. Can you tell me if the WPATH
14 standards of care provide any guidance on the use
15 of restrooms to treat gender dysphoria in
16 transgender individuals?

17 A I'd have to review it again to look if
18 there's specific mention about restroom use.

19 Q I'm going to give you that opportunity.

20 A (Witness reviewing document.)

21 MR. BLOCK: Jeremy, since it's a long
22 document, can I help?

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 single user restroom at school instead of the
2 restroom that is consistent with their gender
3 identity, is that medically appropriate?

4 A If that's the patient's choice, yes.

5 Q Are you aware of whether there have
6 been any studies or research into how many
7 transgender students would prefer to use a single
8 user restroom instead of the restroom that is
9 consistent with their gender identity?

10 A I'm not aware of any studies.

11 Q Are you aware of any scientific or
12 medical research studies into the effect of not
13 permitting a transgender student to use the
14 bathroom consistent with his gender identity in
15 school?

16 A Not specifically looking at the
17 bathroom.

18 Q You would agree that if a student,
19 transgender student, is not permitted to use the
20 bathroom consistent with his gender identity in
21 school, there are other methods of social
22 transition that can be used to help treat that

Transcript of Melinda Penn, M.D.
Conducted on March 14, 2019

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1 student's gender dysphoria?

2 A There are a number of components that
3 go into the social transition, and what's required
4 is individual for each person.

5 Q Are you aware of any medical research
6 or studies into the effect of implementing a plan
7 of gender-affirming care that allows a transgender
8 student to wear the clothing that he wants, to
9 change his name to be consistent with his gender
10 identity, and to be referred to with pronouns
11 consistent with his gender identity but not be
12 permitted to use a restroom consistent with his
13 gender identity at school?

14 A I don't think that any of the studies
15 have looked at that precise situation. There are
16 studies that have looked at the effect of social
17 transition on transgender health, but I don't know
18 which specific components they addressed.

19 Q Have you ever treated a transgender
20 student that was not permitted to use the restroom
21 that corresponded with the student's gender
22 identity at school?

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 Q So what is chest reconstructive
2 surgery?

3 A So, that can either be in transgender
4 males where they have a mastectomy and all the
5 breast tissue is removed and reconstructed to
6 appear more masculine, or in transgender females
7 it can include breast augmentation.

8 Q Okay. In the situation where there is
9 a mastectomy for a transgender male, is there --
10 does that procedure create any biological changes
11 in the transgender individual?

12 A It's just physical changes.

13 Q And is that treatment part of a medical
14 treatment plan to address the gender dysphoria or
15 distress associated with gender identity?

16 A It can be, but it is all determined by
17 the individual, whether that's something that they
18 desire.

19 Q And then you state in paragraph 33 that
20 under the WPATH standards of care there can be
21 genital surgery once they reach the age of
22 majority?

Transcript of Melinda Penn, M.D.
Conducted on March 14, 2019

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1 A Yes.

2 Q What does that mean?

3 A There are genital surgeries that can be
4 performed to make the external genitalia more
5 similar to the gender identity, and then there are
6 surgeries that can remove the internal genitalia,
7 or the gonads, the testes or the ovaries, to
8 prevent production of those hormones.

9 Q And so under the WPATH standards of
10 care, surgical gender reassignment procedures
11 cannot be completed until the transgender
12 individual is at least 18 years of age, correct?

13 A Yes. In general, any surgical
14 procedure that would affect the fertility is held
15 off until 18.

16 Q I assume as part of your practice you
17 don't perform surgery; is that correct?

18 A Yes. I don't.

19 Q So make sure I've got it clear. So if
20 you have -- if a transgender boy has chest
21 reconstructive surgery, they still have the female
22 genitalia in place; is that correct?

Transcript of Melinda Penn, M.D.
Conducted on March 14, 2019

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1 A Yes.

2 Q I think you told me that in the five
3 years that you've been treating transgender
4 patients you have had some patients reach the age
5 of majority?

6 A Yes.

7 Q And have any of those patients elected
8 to undergo genital surgery?

9 A Yes.

10 Q How many?

11 A I can think of two.

12 Q And did you continue to see them after
13 the surgical genital procedure?

14 A Yes.

15 Q What was your role?

16 A Continuing to provide hormone . . .

17 Q And at that time was the hormone
18 therapy that you provided, providing for gender
19 dysphoria, or was it for some other purpose?

20 A With one of the patients, her gonads
21 were removed; and you, therefore, have to receive
22 sex hormones of some sort to maintain good bone

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Helen B. Yarbrough, Registered

3 Professional Reporter, Certified Court Reporter,

4 and Notary Public, the officer before whom the

5 foregoing deposition was taken, do hereby certify

6 that the foregoing transcript is a true and

7 correct record of the testimony given, to the best

8 of my ability; that said testimony was taken by me

9 stenographically and thereafter reduced to

10 typewriting under my supervision; that reading and

11 signing was requested; and that I am neither

12 counsel for, nor related to, nor employed by any

13 of the parties to this case and have no interest,

14 financial or otherwise, in its outcome.

15 IN WITNESS WHEREOF, I have hereunto set my

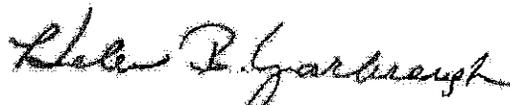
16 hand and affixed my notarial seal this 17th day of

17 March 2019.

18

19

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Helen B. Yarbrough, RPR, CCR
VCRA Certification #0313016

21 My Commission Expires:

July 31, 2021

22 Notary Registration Number: 158897

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION

-----x
GAVIN GRIMM, :CASE NO. 4:15-cv-54
Plaintiff, :
v. :
GLOUCESTER COUNTY SCHOOL :
BOARD, :
Defendant. :

Deposition of Dr. Quentin Van Meter
Atlanta, Georgia
Monday, March 18, 2019
10:03 a.m.

Job No.: 233197
Pages 1 - 219
Reported by: Robyn Bosworth, RPR, CRR, CRC, CCR

EXHIBIT
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Transcript of Dr. Quentin Van Meter
Conducted on March 18, 2019

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1 answering, and I will wait for you to finish
2 answering before I ask the next question. Agreed?

3 A Agreed.

4 Q Second, because the court reporter is
5 writing things down, and because the video is a
6 little fuzzy, it's important that you don't respond
7 with visual cues like nodding your head or saying
8 "uh-huh." All your answers need to be verbal so
9 they can appear on the transcript. Okay?

10 A Okay.

11 Q And third is it's my job to ask questions
12 that you can understand, so if I say anything that
13 is unclear or you would like me to repeat or
14 rephrase the question, please let me know. And if
15 you do answer my question, I'm going to take that to
16 mean that you understood it. Okay?

17 A Okay.

18 Q Great. So let's start with the document
19 that's been marked by the court reporter as Exhibit
20 Number 1.

21 (Exhibit 1 was marked for identification
22 and is attached to the transcript.)

Transcript of Dr. Quentin Van Meter
Conducted on March 18, 2019

8

1 BY MR. BLOCK:

2 Q If you turn to -- a couple pages into the
3 document there's a photocopy with your letterhead on
4 it. Let me know if you found that page.

5 A I have it here.

6 Q Great. Do you recognize this letter?

7 A I do.

8 Q What is it?

9 A This is a statement of my opinion
10 regarding information that I gleaned from reviewing
11 records on the Gavin Grimm case.

12 Q Great. And if you flip to the end of the
13 letter and look at the next page, there's a document
14 that appears to be your CV; is that right?

15 A That is correct.

16 Q Okay. So I'll be asking some questions
17 both about the letter and about your CV here.

18 So let's go back to the beginning of your
19 letter. If you look at paragraph 9.

20 A Okay.

21 Q The second sentence says: I have
22 testified at Georgia state legislative committee

Transcript of Dr. Quentin Van Meter
Conducted on March 18, 2019

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1 affirmed and those that are sent through counseling,
2 and I am not given a clear answer, but I have the
3 sense that the patients go in the door, and they're
4 affirmed.

5 Q By "affirmed" you mean provided hormone
6 therapy, cross-sex hormone therapy?

7 A Initially they are affirmed with
8 counseling to the family to allow the patient to
9 live in the role they wish to assume, trying to get
10 the family to adjust to that and accept that, and
11 then to work with the school systems to be sure that
12 the child is called by the pronouns they wish to be
13 called and the name that they wish to be called by,
14 and then when they -- they show the first signs of
15 puberty to have puberty blocked, and then at some
16 point in time after that, now as young as age 13 or
17 14, to receive cross-sex hormones, to have
18 mastectomies if they are a female wishing to trans
19 to a male identity, and then to wait, at least so
20 far in this country, to age 18 before they have any
21 additional surgical procedures done.

22 Q And these gender identity clinics are all

Transcript of Dr. Quentin Van Meter
Conducted on March 18, 2019

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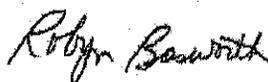
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CERTIFICATE

I, Robyn Bosworth, RPR, CRR, CRC, CCR-B-2138, do hereby certify that the witness was first duly sworn by me pursuant to stipulation of counsel and that I was authorized to and did report said proceedings.

I further certify that the foregoing transcript is a true and correct record of the proceedings; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; that review was not waived; and that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken; and that I have no interest, financial or otherwise, in this case.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of March, 2019.



ROBYN BOSWORTH, RPR, CRR, CRC, CCR-B-2138

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-54

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

GLOUCESTER COUNTY SCHOOL BOARD'S
RULE 26(a)(2) DISCLOSURE

NOW COMES the Defendant Gloucester County School Board ("School Board"), by counsel, and hereby discloses the following expert in accordance with Rule 26(a)(2) of the Federal Rules of Civil Procedure.

The School Board submits this disclosure without conceding that expert testimony is appropriate or needed with regard to the claims against the School Board, and without prejudice to or waiving the School Board's right to summary judgment and/or a judgment as a matter of law at the conclusion of plaintiff's evidence.

The following information is offered only as a summary of the respective expert's opinions and the grounds underlying those opinions. The School Board reserves the right to supplement, modify and/or change this expert disclosure as the expert continues to review this matter on behalf of the School Board and as additional discovery is conducted. The expert opinion is based on the expert's training, education and experience, as well as his review of the documents and other relevant materials noted in the reports. All opinions expressed will be offered to a reasonable degree of certainty in the witness' field of expertise unless stated

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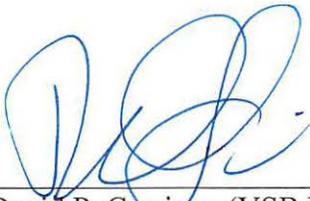
otherwise. The expert witness may render additional opinions or expound on the opinions listed in the reports at his depositions. The report and opinion testimony of the expert is incorporated in this Disclosure by reference.

Quentin L. Van Meter, M.D.
1800 Howell Mill Road NW
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Atlanta, GA 30318

The School Board reserves the right to call as a witness, Dr. Quentin L. Van Meter, an expert in the field of pediatric endocrinology. Dr. Van Meter's expert report and CV are attached to this Disclosure and incorporated by reference as if fully set forth herein. (Exhibit 1).

**GLOUCESTER COUNTY SCHOOL
BOARD**

By Counsel



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CERTIFICATE

I hereby certify that a true copy of the foregoing was emailed and mailed this 26th day of February, 2019 to:

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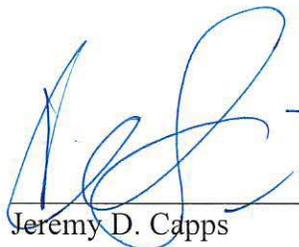
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26 February, 2019

1. I have been retained by counsel for the Gloucester County School Board as an expert in connection with the above-captioned litigation. I have actual knowledge of the matters stated in this report. My professional background, experience, and publications are detailed in my curriculum vitae, which is attached as Exhibit A.

2. I received my B.A. in Science at the College of William and Mary, and my M.D. from the Medical College of Virginia, Virginia Commonwealth University.

3. I am currently a pediatric endocrinologist in private practice in Atlanta Georgia. I am the President of Van Meter Pediatric Endocrinology, P.C. I am on the clinical faculties of Emory University School of Medicine and Morehouse College of Medicine, in the role of adjunct Associate Professor of Pediatrics.

4. I am board certified in Pediatrics and Pediatric Endocrinology. I have been licensed to practice medicine in Georgia since 1991. I have been previously licensed to practice medicine in California, Louisiana, and Maryland.

5. I did my Pediatric Endocrine fellowship at Johns Hopkins Hospital from 1978-1980. The faculty present at that time had carried on the tradition of excellence established by Lawson Wilkins, M.D. Because of the reputation of the endocrine program as a center for exceptional care for children with disorders of sexual differentiation, I had well-above average exposure to such patients. As a Pediatric Fellow, I was also exposed to adults with Gender Identity Disorder, then called Trans-Sexuality, and received training from John Money, Ph.D., in his Psychohormonal Division.

6. I have maintained a continued interest in gender discordance since my fellowship years and have read extensively the literature in scientific peer-reviewed journals and have attended national and international pediatric endocrine conferences where this subject is presented and discussed. I am also familiar with the wide array of commentary on the subject.

7. My professional memberships include The Pediatric Endocrine Society, the Endocrine Society, the American Association of Clinical Endocrinologists where I held a position on the Pediatric Scientific Committee until it was disbanded one year ago, the American Diabetes Association, and I am a fellow of the American College of Pediatricians, currently serving on the Board of Directors as President. I am on the Advisory Board of Camp Kudzu, a non-profit organization which provides diabetes camp experience in Georgia.

8. My opinions expressed in this report are based upon my education, training, and experience in the subject matters discussed. The materials that I have relied upon are the same types of materials that

EXHIBIT

1

other experts in my field rely upon when forming opinions. Specific sources upon which I rely in this report are footnoted.

9. Over my career, I have served as an expert witness in medical malpractice cases for both plaintiff and defense. I have testified at Georgia State Legislative Committee hearings. In the past six years, I have testified by deposition in *Harlen Schneider v. J. Enrique Lujan, M.D. et al.*, in the circuit court of the first judicial circuit of Okaloosa County, FL, Civil Division, on 7 Feb 2014; and in the case of plaintiff Kimora Gilmer, represented by attorneys at the Birmingham, AL, firm of Pittman Dutton on 22 May 2014.

10. I provided an expert declaration in the case of *Carcano v McCoy* and *US vs North Carolina* on 12 August 2016. I testified in Springfield, Illinois as a plaintiff's expert witness in the case of *Cooley v. Paul* for the firm of Kanoski Bresney, 3 Nov 2017. I testified in court in Hamilton County Ohio in February 2018 in regard to Jessica Siefert, a transgender teen who had been removed from the custody of her biologic parents. I testified via skype in Alberta Province, Canada on 14 June 2018 in regard to the matter of parents suing the school systems there for withholding information about transgender-promoting programs in the public schools from the parents. My publications include a textbook chapter, case studies, and articles generated by clinical research studies. I serve on the speaker's bureau of major pharmaceutical companies.

11. I am being compensated at an hourly rate for actual time devoted, at the rate of \$350 per hour. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

Sexual Differentiation in the Fetus

12. From the moment of conception, a fetus is determined to be either a male (XY), female (XX), or in rare cases, to have a combination of sex-determining chromosomes, many of which are not compatible with life, and some of which are the cause of identifiable clinical syndromes. The presence of a Y chromosome in the developing fetus directs the developing gonadal tissue to develop as a testicle. The absence of a functional Y chromosome allows the gonadal tissue to develop as an ovary. Under the influence of the mother's placental hormones, the testicle will produce testosterone which directs the genital tissue to form a penis and a scrotum. Simultaneously, the testicle produces anti-Müllerian Hormone (AMH) which regresses development of the tissue that would otherwise develop into the uterus, fallopian tubes, and upper third of the vagina.

13. This combination of actions in early fetal development is responsible for what we subsequently see on fetal sonograms, and what we observe at birth as male or female genitalia. It is only when the genital structures are ambiguous in appearance that sex assignment is withheld until a thorough expert team evaluation has occurred.

14. For reasons most often occurring as random events, there are malfunctions of the normal differentiation. These aberrations of normal development are responsible for what we classify as Disorders of Sexual Differentiation (DSD) and they represent a very small fraction of the human population. The incidence of such circumstances occurs in 1:4500 to 1:5500 births¹

1 Lee PA et al, Global Disorders of Sex Development Update since 2006: Perceptions, Approach and Care, 2016 *Horm Res Paediatr*

15. Sex is binary, male or female, and is determined by chromosomal complement and corresponding reproductive role. The exceedingly rare DSDs are all medically identifiable deviations from the human binary sexual norm. The 2006 consensus statement of the Intersex Society of North America and the 2015 revision of the Statement does not endorse DSD as a third sex.²

16. DSD outcomes range from appearance of female external genitalia in an XY male (complete androgen insensitivity syndrome) to appearance of male external genitalia in an XX female (severe congenital adrenal hyperplasia). As one would expect, there are variations of the degree of hormonally driven changes that create ambiguous genital development that prevent assigning of a specific classification as either male or female at birth.

17. DSD patients are not "transgender"; they have an objective, physical, medically verifiable, physiologic condition. Transgender people generally do not have intersex conditions or any other verifiable physical anomaly. People who identify as "feeling like the opposite sex" or "somewhere in between" do not comprise a third sex. They remain biological men or biological women.

18. "Gender" is a term that refers to the psychological and cultural characteristics associated with biological sex. It is a psychological concept and sociological term, not a biological one. The term gender possessed solely a linguistic meaning prior to the 1950s. This changed when sexologists of the 1950s and 1960s manipulated the term to conceptualize cross-dressing and transsexualism in their psychological practice.

19. "Gender identity" is a term coined by my former endocrine faculty member John Money in the 1970s and has come to refer to an individual's mental and emotional sense of being male or female. The norm is for individuals to have a gender identity that aligns with one's biological sex.

20. Gender discordance (formerly Gender Identity Disorder) is used to describe a psychological condition in which a person experiences marked incongruence between his experienced gender and the gender associated with his biological sex. He will often express the belief that he is the opposite sex.

21. Gender discordance occurs in 0.001% of biological females and in 0.0033% of biological males.³ Exact numbers are hard to document since reporting is often anecdotal. Gender discordance is not considered a normal developmental variation.

22. "Gender Dysphoria" is a diagnostic term to describe the emotional distress caused by gender incongruity.⁴

² Lee PA et al, Consensus Statement on Management of Intersex Disorders, Pediatrics 2006; 118 e488-e500.

³ Seaborg E, About Face, Endocrine News 2014 (May) 16-19.

⁴ American Psychiatric Association. Diagnostic and Statistical Manual of Mental Disorders. 5th ed; 2013:451-459.

Etiology of Gender Disorders

23. Transgender affirming professionals claim transgender individuals have a "feminized brain" trapped in a male body at birth and vice versa based upon various brain studies. Diffusion-weighted MRI scans have demonstrated that the pubertal testosterone surge in boys increases white matter volume. A study by Rametti and colleagues found that the white matter microstructure of the brains of female-to-male (FtM) transsexual adults, who had not begun testosterone treatment, more closely resembled that of men than that of women.⁵ Other diffusion-weighted MRI studies have concluded that the white matter microstructure in both FtM and male-to-female (MtF) transsexuals falls halfway between that of genetic females and males.⁶ These studies, however, are of limited clinical significance due to the small number of subjects and failure to account for neuroplasticity.

24. Neuroplasticity is the well-established phenomenon in which long-term behavior alters brain microstructure. For example, the MRI scans of experienced cab drivers in London are distinctly different from those of non-cab drivers, and the changes noted are dependent on the years of experience.⁷ There is no evidence that people are born with brain microstructures that are forever unalterable, but there is significant evidence that experience changes brain microstructure.^{8,9} Therefore, any transgender brain differences would more likely be the result of transgender behavior than its cause.

25. Furthermore, infants' brains are imprinted prenatally by their own endogenous sex hormones, which are secreted from their gonads beginning at approximately eight weeks' gestation.^{10,11,12} There are no published studies documenting MRI-verified differences in the brains of gender-disordered children or adolescents. The DSD guidelines also specifically state that current MRI technology cannot be used to identify those patients who should be raised as males or raised as females.¹³

5 Rametti G, Carrillo B, Gomez-Gil E, et al. White matter microstructure in female to male transsexuals before cross-sex hormonal treatment. A diffusion tensor imaging study. *J Psychiatr Res* 2011;45:199-204.

6 Kranz GS, Hahn A, Kaufmann U, et al. White matter microstructure in transsexuals and controls investigated by diffusion tensor imaging. *J Neurosci* 2014;34(46):15466-15475.

7 Maguire EA et al, Navigation-related structural change in the hippocampi of taxi drivers, *PNAS* 2000;97:4398- 4403.

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10 Reyes FI, Winter JS, Faiman C. Studies on human sexual development fetal gonadal and adrenal sex steroids. *J Clin Endocrinol Metab* 1973; 37(1):74-78.

11 Lombardo M. Fetal testosterone influences sexually dimorphic gray matter in the human brain. *J Neurosci* 2012; 32:674-680.

12 Campano A. [ed]. Geneva Foundation for Medical Education and Research. Human Sexual Differentiation;2016 Available at: www.gfmer.ch/Books/Reproductive_health/Human_sexual_differentiation.html. Accessed May 11, 2016.

13 Lee PA et al, Consensus Statement on Management of Intersex Disorders, *Pediatrics* 2006; 118 e488-e500.

26. Behavior geneticists have known for decades that while genes and hormones influence behavior, they do not hard-wire a person to think, feel, or behave in a particular way. The science of epigenetics has established that genes are not analogous to rigid "blueprints" for behavior. Rather, humans "develop traits through the dynamic process of gene-environment interaction. ... [genes alone] don't determine who we are."¹⁴

27. Regarding transgenderism, twin studies of adults prove definitively that prenatal genetic and hormone influence is minimal. The largest twin study of transgender adults found that only 10 percent of identical twins were both transgender-identified.¹⁵ Since identical twins contain 100 percent of the same DNA from conception and develop in exactly the same prenatal environment exposed to the same prenatal hormones, if genes and/or prenatal hormones contributed to a significant degree to transgenderism, the concordance rates would be close to 100 percent. Instead, 80 percent of identical twin pairs were discordant. This would indicate that at least 80 percent of what contributes to transgenderism as an adult in one co-twin consists of one or more non-shared post-natal experiences including but not limited to non-shared family experiences.

28. These findings also mean that persistent GD is due predominately to the impact of nonshared environmental influences. These studies provide compelling evidence that discordant gender is not hard-wired genetically.

Gender Dysphoria vs. Gender Identity Disorder

29. Up until the recent revision of the DSM-IV criteria, the American Psychological Association (APA) held that Gender Identity Disorder (GID) was the mental disorder described as a discordance between the natal sex and the gender identity of the patient.

30. Dr. Kenneth Zucker, who is a highly respected clinician and researcher from Toronto carried on evaluation and treatment of GID patients for forty years. His works, widely published, found that the vast majority of boys and girls with GID identify with their biological sex by the time they emerge from puberty to adulthood, through either watchful waiting or family and individual counseling.¹⁷ His results were mirrored in studies from Europe.^{18,19} When the DSM-V revision of the diagnosis of GID was proposed by the APA committee responsible for revision, Dr. Zucker insisted that there be a medical term to replace Gender Identity Disorder, removing gender discordance as a mental disorder apart from the presence of significant emotional distress. With this revision, Gender Dysphoria describes the mental anguish which is experienced by the gender discordant patient.

14 Shenk, D. *The Genius in All of Us: Why everything you've been told about genetics, talent, and IQ is wrong.* (2010) New York, NY: Doubleday; p. 18.

15 Diamond, M. "Transsexuality Among Twins: identity concordance, transition, rearing, and orientation." *International Journal of Transgenderism*, 14(1), 24-38.

17 Zucker KJ, Gender Identity Disorder, in Rutter M, Taylor EA, editors. *Child and Adolescent psychiatry*, 4th ed, Malden Mass: Blackwell, 2006: 737-753.

18 Wallieri MS, Cohen-Kettenis PT. Psychosexual outcome of gender-dysphoric children. *J AM Academy Child Adolescent Psychiatry* 2008; 47:1413-1423.

19 Schechner T. Gender Identity Disorder: A Literature Review from a Developmental Perspective. *Isr J Psychiatry Related Sci* 2010; 47:42-48.

31. The theory that societal rejection is the root cause of Gender dysphoria was validly questioned by a study from Sweden which showed that the dysphoria was not eliminated by hormones and sex reassignment surgery even with widespread societal acceptance.²⁰

Treatment of Gender Dysphoria

32. The treatment of the child and adolescent with gender discordance and accompanying gender dysphoria should include an in-depth evaluation of the child and family dynamics. This provides a basis on which to proceed with psychologic therapy. The entire biologic and social family should be involved in psychological therapy designed to assist the patient, if at all possible, to align gender identity with natal sex. Psychological support by competent counselors with an intent of resolving the gender conflict should be provided as long as the patient continues to suffer emotionally. Given the high degree of eventual desistance of gender discordance/dysphoria by the end of puberty, it would be ethical and logical to counsel the patient and family to rear the child in conformity with natal sex.

33. Erikson described the stage of adolescence as "Identity versus Role Confusion" during which the teen works at developing a sense of self by testing roles then integrating them into a single identity.²¹ This process is often unpleasant regardless of the presence or absence of gender identity conflicts. The major benefit of enduring puberty in a GD patient is that it provides a strong likelihood of alignment of his gender identity with his natal sex. There is no doubt that these patients need compassionate care to get them through their innate pubertal changes. Scientific evidence shows that 80%-95% of pre-pubertal children with GD will come to identify with their biological sex by late adolescence. Some will require lifelong supportive counseling, and others will not.²²

Science vs. Pseudoscience

34. The advent of "centers of excellence" for gender-disordered patients²³ combined with sociologic agenda in academia has created the impression that there is scientific validity to gender discordance as a variation of normal. There has been a flurry of non-peer-reviewed articles in journals and newsletters circulated to general pediatricians that promote the ideology of transgenderism without scientific support.^{24,25,26,27} Mainstream clinicians and scientists who consider gender discordance to be a mental disorder have been deliberately excluded in the makeup of the steering committees of academic and medical professional societies which are promulgating guidelines that were previously unheard of.

20 Dhejne, Cecilia et al. Long-term Follow-up of transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden *PLoS One* February 2011 Vol 6 Issue 2, e16885

21 Erikson, E. H. (1993). *Childhood and society*. WW Norton & Company. Erikson, E. H. (1993). *Childhood and society*. WW Norton & Company.

22 Zucker KJ, Gender Identity Disorder, in Rutter M, Taylor EA, editors. *Child and Adolescent psychiatry*, 4th ed, Malden Mass: Blackwell, 2006: 737-753.

23 Hsieh S and Leninger J, Resource List: Clinical Care Programs for Gender-Nonconforming Children and Adolescents, *Pediatr Ann* 2014;43:238-244.

24 Prager, LM, A boy who wants to be a girl, *Contemporary Pediatrics* 2008; 25:56-58.

25 Garafolo R Tipping points in caring for the gender-non-conforming child and adolescent, *Pediatr Ann* 2014;43:227-229.

26 Steever J, Cross-gender Hormone therapy in adolescents, *Pediatr Ann* 2014;43: e-138-e-144.

27 Simons LK et al, Understanding gender variance in Children and Adolescents, *Pediatr Ann* 2014;43:e-126-e131.

35. The Endocrine Society published such a document in 2009.²⁸ Its recommendations promoted the use of psychological evaluation, counseling, blocking of pubertal maturation at the onset of puberty, the subsequent use of cross-sex hormones, and possible surgical intervention at the age of consent. Of the 22 recommendations contained in the document, only three were supported by scientific proof. These three warned of potential adverse effects of hormonal manipulation. The remaining 19 recommendations were nearly evenly split into a group that was based on very limited scientific evidence and a group that was based on no scientific evidence at all. The response to these guidelines was a burgeoning of Gender Identity Clinics in the United States from three to over forty-five in a period of seven years. Subsequently, the Endocrine Society revised the guidelines and the modifications were more permissive with the younger ages at which cross-sex hormones and surgical treatment could be recommended. They did add a concern that counseling regarding induced infertility should be included.²⁹

The Pediatric Endocrine Society created their own guidelines³⁰ as did the American Academy of Pediatrics.³¹ Each of these subsequent guidelines were more lenient and the AAP actually suggested that initial evaluation for undercurrent psychological issues be abandoned altogether.

36. WPATH is an agenda-driven advocacy organization whose membership consists of anyone who has an interest in the transgender social and political agenda. There are no requirements for specialty training or certification. Its guidelines and standards of care are not scientifically supported.

37. WPATH promotes "expert witnesses" and provides them with a bibliography replete with self-confirming references to opinion pieces and anecdotal case reports along with clinical case reviews with inherent selection bias.

38. WPATH's "peer-reviewed" journal is not reviewed by anyone with an opinion that is not in keeping with the philosophy of the organization itself.

39. I reviewed the legal complaint filed on behalf of the plaintiff, Gavin Grimm as well as the deposition of Gavin Grimm and the declaration by expert witness, Dr. Melinda Penn. I direct my strongest criticism at the information that was presented to support the affirmation of the gender incongruence through counseling, medical and surgical intervention. Statements were made that such action is clearly the only scientifically valid way to proceed, when the breadth of medical literature does not support this concept.

28 Hembree WC et al, Endocrine Treatment of Transsexual Persons: an Endocrine Society Clinical Practice Guideline, *J Clin Endo Metab* 2009; 94:3132-3154.

29. Hembree WC et al, Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: an Endocrine Society Clinical Practice Guideline, *J Clin Endo Metab* 2017 ;102:3869-3903.

30. https://www.pedsendo.org.../TG_SIG_%20Statement_10_220_15.pdf

31. Rafferty J, Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents, *Pediatrics* 2018;142:320182161

40. There are no scientifically validated gender incongruence training programs at universities in the United States. Under the guise of compassion for the bullied, endocrinologists are promoting chemical treatment that forever creates medical suffering, introducing complications such as sterility, increased stroke and cancer risk all to supposedly save the gender-incongruent person from taking his/her life to end the suffering imposed upon them by society. The suicide risk is hyper-inflated to as high as 50% when in reality it is actually 5%, as reported by the Williams Institute.³² The mantra of “insistent, persistent and consistent” as a means to diagnose the entity of gender incongruence is not scientifically supported. The Nuremburg Guidelines are an established framework that have been overlooked by WPATH, the Endocrine Society, the Pediatric Endocrine Society and the American Academy of Pediatrics.

41. The requirement that society at large, and school systems in particular, should grant special regulatory privileges to a gender-incongruent person which is intended to further a student's belief that they are born into the body of the wrong sex is an endorsement of a form of medical “treatment” which has no scientific basis. Allowing a biologic female to use a male-designated bathroom facility is one of several “gender affirming” care options, but it is creating harm to at least two parties. The harm to the gender incongruent person is that it promotes a pathway to inevitable long-term medical and psychological morbidity. The premise of gender affirming care can be managed through other methods without requiring school systems to permit transgender students to use the restroom associated with their new gender identity. The second party harmed is the student without gender incongruence who must suffer emotionally while being told they must tolerate the presence of an opposite sex individual in a sexually segregated space and embrace the regulation which gives the gender incongruent person special privileges as if they were based on a civil right founded on immutable biology.



Quentin L. Van Meter, M.D.
Pediatric Endocrinologist

32. Wilson BDM et al, Characteristics and Mental Health of Gender Nonconforming Adolescents in California, Health Policy Fact Sheet, The Williams Institute UCLA School of Law December 2017

QUENTIN L. VAN METER, M.D.
1800 Howell Mill Road NW, Suite 475
Atlanta, Georgia 30318

updated 7 January 2019
(678) 961-2100

PERSONAL

Home Address: 1080 Peachtree St. NE #3507, Atlanta, GA 30309
Home Phone: (404) 963-5618
Date of Birth: September 13, 1947
Place of Birth: Laramie, Wyoming
Citizenship: USA

EDUCATION:

Undergraduate: College of William & Mary, 1969
B.S. – 1969
Medical School: Medical College of Virginia, 1973
M.D. – 1973

CLINICAL TRAINING:

Institution: The University of California, San Francisco
Hospital: Naval Regional Medical Center, Oakland
Position: Pediatric Intern – 1973 – 1974
Pediatric Resident – 1974 – 1976

Institution: Johns Hopkins University
Hospital: Johns Hopkins Hospital
Position: Fellow, Pediatric Endocrinology 1978 – 1980
Fellowship Program Director: Claude Migeon, M.D.

Current Position: Pediatric Endocrinologist
Van Meter Pediatric Endocrinology, P.C.
1800 Howell Mill Road, Suite 475
Atlanta, Georgia 30318

PROFESSIONAL CERTIFICATION & SOCIETIES:

Diplomate, National Board of Medical Examiners, 1974

American Board of Pediatrics, certified in general pediatrics, 1978, sub-board certified
in Pediatric Endocrinology, 1983



- Fellow: American Academy of Pediatrics, Georgia Chapter 1975 -present
President, Uniformed Services West Chapter, 1987 – 1990
District VIII member, AAP Committee on Awards for
Excellence in Research, 1990-1994
Editor, The Georgia Pediatrician, 1994 – 1998

Chairman, Georgia Chapter Legislative Committee, 1996 – 2006
- Fellow: The American College of Pediatricians, 2007 – present
Member of the Board of Directors, 2008- present
Vice President/President, 2015-present
- Member: Pediatric Endocrine Society, 1989 – present
- Member: American Diabetes Association Professional Section, 1988 – present
- Member: Endocrine Society, 1994-present
- Member: Southern Pediatric Endocrine Society, 1992 – Present
- Member: American Association of Clinical Endocrinologists, 2005 – present
- Licensure: Georgia, #34734

FACULTY POSITIONS:

- Institution: Morehouse School of Medicine
Position: Associate Clinical Professor, Pediatrics, 2004 – present
- Institution: Emory University School of Medicine
Position: Associate Clinical Professor, Pediatrics, 1991 – present
- Institution: University of California, San Francisco
Position: Associate Clinical Professor, Pediatrics, 1989 – 1991
- Institution: University of California, San Diego, School of Medicine
Position: Assistant Clinical Professor, Pediatrics, 1980 – 1986
- Institution: LSU School of Medicine, Clinical Instructor, Pediatrics, 1977 – 1978

MILITARY SERVICE:

- Commission: Medical Corps, United States Navy, August 1971
Rank: Captain, retired
Duty Stations: Health Professional Scholarship Student, 1971 – 1974

Intern and Resident, Pediatrics, Naval Regional Medical Center,
Oakland, 1973 – 1976

Staff Pediatrician, Naval Regional Medical Center,
Oakland, 1976

Staff Pediatrician, Naval Regional Medical Center,
New Orleans, 1976 – 1978

Full time out-service fellow in Pediatric Endocrinology,
Johns Hopkins Hospital, 1978 – 1980

Staff Pediatric Endocrinologist, Naval Hospital San Diego,
1980 – 1986

Chairman and Director, Residency Training, Department of Pediatrics
Naval Hospital Oakland, 1986 – 1991

OTHER PROFESSIONAL ACTIVITIES:

Consultant, Pediatric Endocrinology,
Nellis Air Force Base Hospital, Las Vegas, Nevada
1981 – 1991

Consultant, Pediatric Endocrinology,
Naval Hospital Lemoore, CA
1986 – 1991

Consultant, Pediatric Endocrinology,
Letterman Army Medical Center, Presidio of San Francisco, CA
1990 – 1991

Consulting Endocrinologist,
Columbus Regional Medical Center, Columbus, GA
1991 – 1994

Pediatrician and Pediatric Endocrinologist, partner
Fayette Medical Clinic
Peachtree City, Georgia 30269
September 1991 – October 2003

Pediatric Endocrinologist Peer Reviewer 2006 – present
MCMC, LLC, Boston, MA
IMEDECS, Lansdale PA

Speaker's Bureau
Novo Nordisk, Pfizer, Endo, Abbvie
AAP Eqipp course on Growth- development committee- 2012

PUBLICATIONS: (Articles in Peer Reviewed Journals)

Riddick, JR, Flora R., Van Meter, QL:
"Computerized Preparation of Two-Way Analysis of Variance
Control Charts for Clinical Chemistry," Clinical Chemistry,
18:250, March 1972.

Van Meter, QL, Gareis FJ, Hayes, JW, Wilson, CB:
"Galactorrhea in a 12 Year Old Boy with Chromophobe Adenoma,"
J. Pediatrics 90:756, May 1977.

Plotnick, LP, Van Meter, QL, Kowarski, AA, "Human Growth Hormone
Treatment of Children with Growth Failure and Normal Growth
Hormone Levels by Immunoassay: Lack of Correlation with
Somatomedin Generation: Pediatrics 71:324, March 1983.

Brawley, RW, Van Meter, QL, "Mebendazole Ascaris Migration," W.J.
Med, 145:514015, October 1986.

Van Meter, QL, "The Role of the Primary Care Physician in Caring for
Patients with Type-1 Diabetes," Comp Ther 1998; 24(2):93-101

Midyett LK, Rogol AD, Van Meter QL, Frane J, and Bright GM,
"Recombinant Insulin-Like Growth factor (IGF)-I Treatment in Short
Children with Low IGF-I Levels: First-Year Results from a Randomized
Clinical Trial," J Clin Endocrinol Metab, 2010;95:611-619.

ABSTRACTS:

Van Meter, Q L, & Lee, PA: "Evaluation of Puberty in Male and Female
Patients with Noonan Syndrome," Pediatric Research 14:485, 1980.

Van Meter, QL, et al: "Characterization of Pituitary Function in
Double Bolus GnRH Infusion as a Diagnostic Tool," Pediatric Research
32:111, 1984.

Van Meter, QL, Felix, SD, Lin, FL: "Evaluation of the Pituitary-Adrenal
Axis in Patients Treated with nasal Beclomethasone," (Presented at the
1991 Annual Meeting of the Endocrine Society and the 6th Annual Naval
Academic Research Competition, Bethesda, MD, 17 May, 1991).

Rogol AD Midyett LK Van Meter Q, Frane J, Baily J, and Bright GM,
Recombinant Human IGF-1 for Children with Primary IGF-1 Deficiency
(IGFD): Safety Data from Ongoing Clinical Trials (presented at the PAS
2007, Toronto).

Van Meter Q, Midyett LK, Deeb L et al, Prevalence of primary IGFD among untreated children with short stature in a prospective, multicenter study (Poster POO715) ICE Rio de Janeiro, Brazil 2008.

G.M. Bright¹, W.V.Moore², J.Nguyen³, G. Kletter⁴, B. S. Miller⁵, Q. L. Van Meter⁶, E. Humphriss¹, J.A. Moore⁷ and J.L. Cleland¹ Results of a Phase 1b Study of a new long-acting human growth hormone (VRS-317) in pediatric growth hormone deficiency (PGHD). PAS 2014 May 2014

Van Meter Q, Welstead B and Low J, Characteristics of a Population of Obese Children and Adolescents: Suggesting a New Paradigm, presented at ESPE meeting, Dublin 2014.

Wayne V. Moore¹, Patricia Y. Fechner², Huong Jil Nguyen³, Quentin L. Van Meter⁴, John S. Fuqua⁵, Bradley S. Miller⁶, David Ng⁷, Eric Humphriss⁸, R. W. Charlton⁸, George M. Bright⁸: Safety and Efficacy of Somavaratan (VRS-317), a Long-Acting rhGH, in Children with Growth Hormone Deficiency (GHD): 3-Year Update of the VERTICAL & VISTA Trials, presented at the 2017 Endocrine Society meeting in Orlando FL

Bradley S. Miller¹, Wayne V. Moore², Patricia Y. Fechner³, Huong Jil Nguyen⁴, Quentin L. Van Meter⁵, John S. Fuqua⁶, David Ng⁷, Eric Humphriss⁸, R. W. Charlton⁸, George M. Bright⁸, 3-Year Update of the Phase 2a and Long-term Safety Studies (VERTICAL and VISTA) of Somavaratan (VRS-317), a Long-acting rhGH for the Treatment of Pediatric Growth Hormone Deficiency, presented at the 2017 IMPE meeting in Washington D.C.

Laidlaw MK, Van Meter QL, Hruz PW, Von Mol A, and Malone WJ, Letter to the Editor: "Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline," J CLin Endo Metab 2019;104: 1-2.

ADDITIONAL PRESENTATIONS/LECTURES:

Pediatrics Update, CME Associates, San Diego – Orlando Annual Conferences: Lectures on Pediatric Endocrine Subjects – 1986 – 2001. Course Moderator, 1997, 1998, 1999, 2000, 2001

Endocrine and Gastroenterology Update, CME Associates, Maui HI Nov 2001, Lecturer and Course Moderator

Lecture on Panhypopituitarism, Pharmacia Conference, Nashville TN April 2002.

Family Medicine Review Course, Orlando, FL, 1992 – 2001

Pediatric Grand Rounds, Tanner Medical Center, October 1997

Pediatric Grand Rounds, Hughes Spaulding Children's Hospital, September, 2003

Pediatrics in the Park, Fall CME meeting for the Georgia Chapter of the American Academy of Pediatrics, November 2003

Pediatric Grand Rounds, Columbus Regional Medical Center, January 2004

Frontiers in Pediatrics CME Course, sponsored by the Atlanta Children's Health Network, Atlanta, March 2004.

Pediatric Grand Rounds, Eggleston Children's Hospital, May 2004.

Sue Schley Matthews Pediatric Conference, Columbus Regional Medical Center, September 2004

56th Annual Scientific Assembly and Exhibition of the Georgia Academy of Family Physicians, Nov 2004

Program Co-Chairman: Southern Pediatric Endocrine Society Annual meeting, Nov 2004, November 2014

Presentations on Diabetes, Growth Failure, and Thyroid Disease to the Postgraduate Pediatric Nurse Practitioner Program, Georgia State University, Nov 2005, June 2006, May 2007

Issues in Medicine, US Medical Congress Conference and Exhibition, Las Vegas, meeting planner and speaker, June, 2006

CME Presentations for the Georgia Chapter of the American Academy of Pediatrics Spring and Fall Meetings 2004-present

Pediatric Grand Rounds, Columbus Regional Medical Center, Columbus, GA, 2011-present

Human Growth Foundation Regional CME Conference, Atlanta GA
March 2013, February 2014 Columbus Georgia

International Federation of Therapeutic Counseling Choice: Transgender Medicine, IFTCC Launch, October 15, 2018 London, Third International Congress, October 25 2018 Budapest.

Audio Digest Pediatrics - ① v. 41, no. 4; ② v. 41, no. 20; ③ v. 43, no. 17

Audio Digest Family Practice - ① v. 42, no. 5; ② v. 44, no. 11; ③ v. 44, no. 44; ④ v. 45, no 15

Audio Digest Otolaryngology - ① v. 32, no. 14

CURRENT HOSPITAL APPOINTMENTS:

Eggleston/Scottish Rite Children's Hospitals, active staff, Pediatric Endocrinology

PAST AND CURRENT CLINICAL RESEARCH:

2006	Sanofi-Aventis HMR1964D/3001	study completed 2007
2006	Tercica MS301-	study completed 2008
2007	Tercica MS310-	study completed 2008
2007	Tercica MS306-	study completed 2010
2007	Tercica MS316-	study completed 2012
2008	EMD Serono 28358	study completed 2009
2012	Versartis 12VR2	study completed 2014
2012	Debiopharm 8206-CPP-301	study started July 2012
2013	Versartis 13 VR3	study started Dec 2013
2014	Novo-Nordisk Elipse	study started 2014
2015	Versartis 14 VR4	study completed 2017
2017	Mannkind MKC-TI-155	study started 2017

LEGAL EXPERT WITNESS:

- 2017 North Carolina Legislature- transgender bathroom bill
- 2018 Jessica Siefert transgender case, Cincinnati, OH
- 2018 Alberta, Canada school system transgender case
- 2018 Decatur GA School Board transgender case

Customary charges for medical legal review, deposition and court testimony for
Quentin L. Van Meter, M.D.

Retainer- \$1500

Record review- \$350/h

Deposition and Testimony- \$450/h

If testimony requires travel, lodging, and meals- reimbursement for full receipted cost

If testimony requires days away from the medical practice, flat fee of \$3500 per day involved.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-54

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

DECLARATION OF TROY ANDERSEN

On this 25th day of March, 2019, I, Troy Andersen, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am over the age of eighteen, suffer no legal disabilities, have personal knowledge of the facts set forth below, and am competent to testify.
2. This affidavit fairly and accurately sets forth information within my personal knowledge and is true and accurate to the best of my recollection.
3. I am currently a member of the Gloucester County School Board and have been since I was appointed in 2012.
4. Gavin Grimm was enrolled with the Gloucester County School System in 2004. A true and correct copy of Gavin Grimm's enrollment records with the Gloucester County School System is attached as Exhibit 1. Gavin Grimm's freshman Report Card for the School Year 2013-2014 is attached as Exhibit 2.
5. On December 16, 2014, there were three unisex single stall bathrooms available for use for all students in the Gloucester County High School.

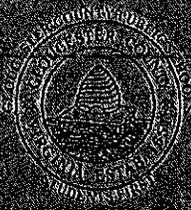
6. Gavin Grimm was offered the opportunity to have a hearing with the School Board on his request to change his school records on January 18, 2017 attached as Exhibit 3. Gavin Grimm did not request a hearing with the School Board while he was a student at Gloucester High School or after his graduation in 2017.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

Executed on: 3/25/2019 (date)



Troy Andersen



BETHEL ELEMENTARY School Name

STUDENT REGISTRATION FORM

Student ID # [REDACTED]
Entry Date
YOC
Condition of Enrollment
Entry Code
Home Room #
Counselor/Teacher
Room

Former Student of Gloucester County Public Schools: YES/NO If yes, School ID #

Student's Name

[REDACTED]

[REDACTED]

Student's Social Security #

[REDACTED]

Is English the primary language spoken at home? YES/NO If no, specify

[REDACTED]

Gender (Circle) Male Female

Female

Grade 1

Date of Birth

1/1/99

Place of Birth

N.W.

City/County

State

Country

Birth Certificate #

[REDACTED]

Ethnic Group (Circle One) Unspecified American Indian Asian Black Hispanic White Native Hawaiian

Mailing Address

[REDACTED]

City/State/Zip

[REDACTED]

Home Phone #

[REDACTED]

Cell Address

(If different from Mailing Address)

Child Resides With (Circle) (Both Parents) (One Parent) (Legal Guardian(s))

Circle One: Mother (Father) Stepparent Guardian/Custodian

Name

[REDACTED]

Address (if different than student)

Place of Employment

Work Phone #

Cell Phone/Pager #

[REDACTED]

E-Mail Address

Education

[REDACTED]

Circle One: Mother (Father) Stepparent Guardian/Custodian

Name

[REDACTED]

Address (if different than student)

Place of Employment

Work Phone #

Cell Phone/Pager #

[REDACTED]

E-Mail Address

Education

[REDACTED]

EMERGENCY CONTACT INFORMATION

Contact Person 1

(Other than parent/guardian)

Phone #

Relationship to Student

Contact Person 2

(Other than parent/guardian)

Phone #

Relationship to Student

Family Physician

Phone #

Please copy any medical information concerning your child that school personnel should know (Allergies, Asthma, etc.)

Previous School

Mailing Address

City/State/Zip

Phone #

Fax #



PLEASE COMPLETE THE BACK OF THIS FORM

CONFIDENTIAL

Other Children in the Family

REDACTED

Living In Home

Date of Birth

Grade

Age

YES / NO

REDACTED

6

6.5

YES / NO

6

6.5

YES / NO

YES / NO

Others in the Home

Name

Relationship to Student

Place of Employment

Is your child receiving any specialized service(s)? (Special Education including Speech, 504, Gifted, etc.) YES / NO

If yes, specify which service(s)

Directions to Home

(Please give the location of your home. Include the route number, neighborhood, landmarks, or any information that will be helpful)

Before enrolling your child in Gloucester County Public Schools, you must provide the following:

- 1. Certified Copy of Birth Certificate
- 2. Social Security Card
- 3. Updated Immunization Records
- 4. Physical Exam Report
- 5. Transcript from Former School - Can Be Unofficial (HIGH SCHOOL ONLY)
- 6. IEP and/or 504 (if applicable)
- 7. Court Orders Referencing Student (if applicable)

I have willfully and knowingly provided you the correct information. I will provide you any new information concerning my child as it occurs.

Dorinda A. [Signature]
Parent / Legal Guardian Signature

05/21/04
Date

No student can be prevented from participation in any program solely because of his/her race, color, national origin, sex, age, religion, or disability. A procedure for resolving complaints alleging discrimination on the basis of race, color, national origin, sex, age, religion, or disability may be found in the manual of Policies and Regulations of the Gloucester County Public Schools. The Section 504 and Title IX Coordinator for the Gloucester County Public Schools is: Mr. William W. Fox, Coordinator - Section 504 and Title IX - Gloucester County Public Schools - 6489 Main Street - Building Two, Suite B - Gloucester, VA 23061 - (804) 643-7866

REDACTED

CONFIDENTIAL

Name of Child

CCCSB

STUDENT REGISTRATION FORM (Continued)

New Federal Legislation, the No Child Left Behind Act, requires that all school divisions report student information regarding the areas listed below. Please read each statement, or have the registrar read the statements for you, and answer each question as requested.

Your child is considered to be Neglected/Delinquent if one of the following is true:

In order to be eligible to be counted as neglected/delinquent, a child age 5 through 17 must live in an "institution for neglected children and youth," which means a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who (a) have been committed to the institution or voluntarily placed in the institution under applicable State law due to abandonment, neglect, or death of their parents or guardians, and (b) have had an average length of stay in the institution of at least 30 days.

or must live in an "institution for delinquent children and youth," which means a public or private residential facility that is operated for the care of children and youth who (a) have been adjudicated to be delinquent or in need of supervision and (b) have had an average length of stay in the institution of at least 30 days.

Is your child Neglected/Delinquent? Yes No

Your child is considered to be Homeless if one of the following is true:

- Shares the housing of others due to loss of housing, economic hardship or similar reason.
- Lives in motels, hotels, trailer parks or camping grounds due to lack of alternative adequate accommodations.
- Lives in emergency or transitional shelters.
- Abandoned in hospitals.
- Awaits foster care placement.
- Has a primary residence that is a public place or a place not designed for or ordinarily used as regular accommodation.
- Lives in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations or similar settings.

Is your child Homeless? Yes No

Name of Child:

Your child is considered to be a Migratory Child if one of the following is true:

The term "migratory child" means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain temporary or seasonal employment in agricultural or fishing work—

- (A) has moved from one school district to another;
- (B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or
- (C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

Is your child a Migratory Child? Yes No

Your child is considered to be a Refugee if the following is true:

An individual who is outside his/her country and is unable or unwilling to return to that country because of a well-founded fear that she/he will be persecuted because of race, religion, nationality, political opinion, or membership in a particular social group. This does not include persons displaced by natural disasters or persons who, although displaced, have not crossed an international border or persons commonly known as "economic migrants," whose primary reason for flight has been a desire for personal betterment rather than persecution.

Is your child a Refugee? Yes No

Your child is considered to be an Immigrant if all of the following are true:

The term "immigrant children and youth" means individuals who—

- (A) are aged 3 through 21;
- (B) were not born in any State; and
- (C) have not been attending one or more schools in any one or more States for more than 3 full academic years.

Is your child an Immigrant? Yes No

I have willfully and knowingly provided you with the correct information. It will provide you any new information concerning my child as it occurs.

Dwight Gammek
Parental or Guardian Signature

05-21-04
Date

No student can be prevented from participation in any program solely because of his/her race, color, national origin, sex, age, religion, or disability. A procedure for resolving complaints alleging discrimination on the basis of race, color, national origin, sex, age, religion, or disability may be found in the manual for Policies and Regulations of the Gloucester County Public Schools. The Section 504 and Title IX Coordinator of the Gloucester County Public Schools is: Mr. William W. Fox, Coordinator, Section 504 and Title IX, Gloucester County Public Schools, 6489 Main Street, Building Two, Suite E, Gloucester, VA 23061, (804) 847-6169.



WELCOME TO
GLOUCESTER COUNTY PUBLIC SCHOOLS

Student Registration Form

School's Name: Bethel Elementary School

CONFIDENTIAL

FOR OFFICE USE ONLY

Student ID# _____
 Entry Date: _____
 YOG: _____
 Birth Code: _____ PE Code: _____ PE Time: _____
 Allotment # _____
 Counselor/Teacher: _____
 Term: _____
 Bus # _____

PLEASE PRINT ALL INFORMATION

Are you a resident of Gloucester County? Yes No Items accepted as proof of residency: lease/rent and current utility bill

Has your student ever attended a Gloucester County Public School? Yes No If yes, which school did your child attend?

Abingdon Ashlles Bethel Botetourt Patsworth T. C. Walker Pass Middle Passer Middle High School

Student's Legal Name: Grimm **REDACTED**

Gender: Male Female

Student's Ethnicity: American Indian Asian Black Hispanic Native Hawaiian White Unspecified

Student's Birth D: REDACTED Place of Birth: Newport News, VA Birth Certificate # _____

Student's Grade Level: 5 If kindergarten, did your child have any pre-kindergarten education? Yes No
 If yes, please provide brief description (i.e., licensed daycare provider, head start)

Primary language spoken by student: English Spanish French Russian Chinese Vietnamese Other

Primary language spoken at home: English Spanish French Russian Chinese Vietnamese Other

Student's Mailing Address: **REDACTED**

Student's Home Phone Num: _____

Student's 911 Address required: _____
 (If different than mailing): Number _____ Street Name _____ City _____ Zip Code _____

Does your child currently receive special services? YES NO If yes, please check all that apply:
 Speech Special Education 504 Gifted ESL Occupational Therapy/Physical Therapy Other

Student Resides With: Mother & Father Mother only Father only Grandparents Foster Parent(s)
 Mother & Stepfather Father & Stepmother Guardian/Custodian Other

Name: <u>David & Dondre Grimm</u>	Name: _____
Address (if different from student): <u>same</u>	Address (if different from student): _____
Place of Employment: <u>NOTICE: NAME SHOULD BE MAILED</u>	Place of Employment: _____
Work Phone #: REDACTED	Work Phone #: _____
Cell Phone #: _____	Cell Phone #: <u>REDACTED</u>
Email address: <u>dgrimm@com.net</u>	Email address: _____

If the student is NOT residing with BOTH biological/adoptive parents, please list other parent's information (i.e., name, address, etc.)

EMERGENCY CONTACT INFORMATION

(Our schools attempt to contact the parent/guardian first -- the following information is for OTHER than parent/guardian)

Contact Person 1: **REDACTED** Phone #: **REDACTED** Relationship to Student: friend

Contact Person 2: _____ Phone #: (red) Relationship to Student: older sister

CONFIDENTIAL

REDACTED

Name of Student

Garmon

STUDENT REGISTRATION FORM (continued)

New Federal legislation, the No Child Left Behind Act, requires that all school districts report student information regarding the areas listed below. Please read each statement, or have the registrar read the statements for you, and answer each question as requested.

Your child is considered to be Neglected/Delinquent if one of the following is true:

In order to be eligible to be counted as neglected/delinquent, a child age 5 through 17 must live in an "institution for neglected children and youth," which means a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who (a) have been committed to the institution or voluntarily placed in the institution under applicable State law due to abandonment, neglect, or death of their parents or guardians; and (b) have had an average length of stay in the institution of at least 30 days;

OR

Must live in an "institution for delinquent children and youth," which means a public or private residential facility that is operated for the care of children and youth who (a) have been adjudicated to be delinquent or in need of supervision and (b) have had an average length of stay in the institution of at least 30 days.

Is your child Neglected/Delinquent? Yes No [checked]

Your child is considered to be Homeless if one of the following is true:

- 1) Shares the housing of others due to loss of housing, economic hardship or similar reason;
- 2) Lives in motels, hotels, trailer parks or camping grounds due to lack of alternative adequate accommodations;
- 3) Lives in emergency or transitional shelters;
- 4) Abandoned in hospitals;
- 5) Awaits foster care placement;
- 6) Has a primary residence that is a public place or a place not designed for or ordinarily used as regular accommodation;
- 7) Lives in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations or similar settings.

Is your child Homeless? Yes No [checked] If yes, which item above applies to your situation?

Your child is considered to be a Migratory Child if one of the following is true:

The term "migratory child" means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain temporary or season employment in agricultural or fishing work:

- (a) has moved from one school district to another;
- (b) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or
- (c) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

Is your child a Migratory Child? Yes No [checked]

CONFIDENTIAL

Gloucester County Public Schools
Report Card

Gloucester High School
6680 Short Lane
Gloucester, VA 23061

Report Card Printed on June 17, 2014

School Year: 2013-2014

Reporting Period: Q4

REDACTED GRIMM -

REDACTED

Grade: 9
Counselor: HARRIS
Homeroom: HOMEBOUND

Course	Teacher	Q1	Q2	Q3	Q4	S2	SA	ABS	TAR	Comment
HOMEBOUND	STAFF, GHS							0	0	
VLA HEALTH 9	WYATT, WENDY S							0	0	
VLA PE 9	WYATT, WENDY S							0	0	
VLC ALGEBRA I	WYATT, WENDY S							0	0	
VLC WORLD I	WYATT, WENDY S							0	0	
VLC ENGLISH 9	WYATT, WENDY S							0	0	
VLC EARTH SCI	WYATT, WENDY S							0	0	

Total Daily Absences Q4: 0.000

This is the Final report card of the 2013 - 2014 school year.

SUMMER SCHOOL RECOMMENDED ___ YES ___ NO (if yes, form enclosed)

SUMMER SCHOOL CLASS RECOMMENDED

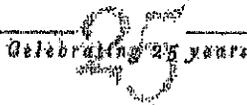
Summer school registration deadline is July 1, 2014 at 3 p.m. Summer school will begin July 7 and end August 7, 2014. Gloucester High School summer hours are 7:00 am to 4:30 pm Monday through Thursday (closed on Friday). Visit the Gloucester High School website for updated information: gets.gr.k12.va.us



GCSB - 1117



harman claytor corrigan wellman
THE CIVIL LITIGATION FIRM



DAVID P. CORRIGAN
804.742.8017
dcorrigan@hcew.com

January 18, 2017

VIA EMAIL

Joshua A. Block, Esq.
American Civil Liberties Union
125 Broad Street
18th Floor
New York, NY 10004

RE School Records for G.G.

Dear Josh:

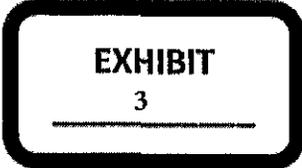
I am writing in response to your December 23, 2016 letter with respect to school records for G.G. I apologize for taking so long to get back to you, but I was waiting for a School Board meeting, and one finally occurred on January 17, 2017. The previous meeting was snowed out.

In considering your request that "G.G.'s school records be updated so that any school records submitted in connection with G.G.'s college applications identify him as a male, in accordance with his amended birth certificate," the School Board considered the following:

- (1) The copy of the birth certificate that you provided, (attached);
- (2) The relevant school policy JO, (attached);
- (3) Virginia Code §32.1-269, (attached); and
- (4) Virginia Administrative Codes §12VAC5-550-320, §12VAC5-550-450 and §12VAC5-550-460, (attached).

Based on the School Board's review of these materials, the School Board declines to change the official school records.

Please feel free to submit additional materials, and, of course, your client has the right under school policy JO, see page B Correction of Education Records, to a hearing



Case 4:15-cv-00054-AWA-RJK Document 171-1 Filed 12/21/18 Page 2 of 2 PageID# 1663

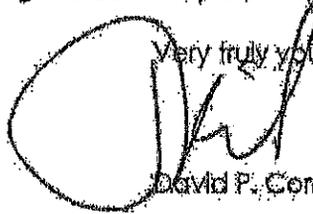
January 18, 2017

Page 2

to challenge the information believed to be "inaccurate, misleading or in violation of the student's rights."

I look forward to hearing further from you,

Very truly yours,

A handwritten signature in black ink, appearing to read "DPC", written over the typed name "David P. Corrigan".

David P. Corrigan

DPC/kns
Enclosures

CONFIDENTIAL

Gloucester County Public Schools
Report Card

Gloucester High School
6680 Short Lane
Gloucester, VA 23061

Report Card Printed on June 17, 2014

School Year: 2013-2014

Reporting Period: Q4

REDACTED GRIMM -

REDACTED

Grade: 9
Counselor: HARRIS
Homeroom: HOMEBOUND

Course	Teacher	Q1	Q2	Q3	Q4	Sz	SL	ABS	TAR	Comment
HOMEBOUND	STAFF, GHS								0	
VLA HEALTH 9	WYATT, WENDY S								0	
VLA PE 9	WYATT, WENDY S								0	
VLC ALGEBRA I	WYATT, WENDY S								0	
VLC WORLD I	WYATT, WENDY S								0	
VLC ENGLISH 9	WYATT, WENDY S								0	
VLC EARTH SCI	WYATT, WENDY S								0	

Total Daily Absences Q4: 0.000

This is the Final report card of the 2013 - 2014 school year

SUMMER SCHOOL RECOMMENDED ___ YES ___ NO (if yes, form enclosed)

SUMMER SCHOOL CLASS RECOMMENDED

Summer school registration deadline is July 1, 2014 at 3 p.m. Summer school will begin July 7 and end August 7, 2014. Gloucester High School summer hours are 7:00 am to 4:30 pm Monday through Thursday (closed on Friday). Visit the Gloucester High School website for updated information: gets.gc.k12.va.us

GCSB - 1117

CONFIDENTIAL

Gloucester County Public Schools
Report Card

Page Middle School
6636 Short Lane
Gloucester, VA 23061

Report Card Printed on June 11, 2013

School Year: 2012-2013

Reporting Period: Q4

REDACTED GRIMM - REDACTED

REDACTED

Grade: 8
Counselor: CROTTY
Homeroom: 201

Course	Teacher	Q1	Q2	Q3	Q4	S2	Y1	ABS	TAR	Comment
ROBOTICS	WEST, ROSSER B							9	0	
MATH 8	COLLAZO, LUCY							8	2	
INQUIRY/HR	PICKETT, MURIEL K							0	0	
SCIENCE	BOND, ELIZABETH S							3	0	
ADV LANG ARTS	DRAKE, PATRICIA A							3	0	IS A PLEASURE TO HAVE IN CLASS
CIVICS AND ECON	STEWART, GLEN DOUGLAS							2	0	
GRAPHIC LITERATURE	FREYBERGER, THERESA M							0	0	
ART	EMDE, RACHEL J							3	0	

Total Daily Absences Q4: 1,000
Quarter 4 GPA: 4.9000

Have a wonderful summer!

PROMOTED

GCSB - 1118

CONFIDENTIAL

Standards of Learning Assessment Data
End-of-Course Reports

Student's Name: GRIMM, REDACTED
 Date of Birth: REDACTED 1999
 County/School System: Gloucester County

Grade: 11

ID Number

GRIMM, GAVIN E.		Grade: 11	
DOB: REDAC 899	School: 0260 - GLOUCESTER HS	Scaled Score	
Gender: Female	Division: 036 - GLOUCESTER COUNTY	REDACTED	
STI: 1012736050	Admin: Writing 2015-2016	Performance Level	Pass/Proficient
Test	EOC-Writing (2010 SOL)	Scaled Score	
		REDACTED	

REDACTED		Grade: 9	
DOB: REDAC 899	School: 0260 - GLOUCESTER HS	Scaled Score	
Gender: Female	Division: 036 - GLOUCESTER COUNTY	REDACTED	
STI: 1012736050	Admin: Spring 2014	Performance Level	Fail
Test	Algebra I (2009) Earth Science (2010) World History I (2008)	Scaled Score	
		REDACTED	

GRIMM, GAVIN E.		Grade: 10	
DOB: REDA 1999	School: 0260 - GLOUCESTER HS	Scaled Score	
Gender: Female	Division: 036 - GLOUCESTER COUNTY	REDACTED	
STI: 1012736050	Admin: Spring 2015	Performance Level	Pass/Proficient
Test	Algebra I (2009 SOL) Biology (2010 SOL) World History II (2008 SOL)	Scaled Score	
		REDACTED	

GRIMM, GAVIN E.		Grade: 11	
DOB: REDA 1999	School: 0260 - GLOUCESTER HS	Scaled Score	
Gender: Female	Division: 036 - GLOUCESTER COUNTY	REDACTED	
STI: 1012736050	Admin: Spring 2016	Performance Level	Advanced/College Path
Test	EOC Reading (2010 SOL) Geometry (2009 SOL) VA & US History (2008 SOL)	Scaled Score	
		REDACTED	

GCSB - 1127



WELCOME TO
GLOUCESTER COUNTY PUBLIC SCHOOLS

Student Registration Form

School's Name: Bethel Elementary School

CONFIDENTIAL

FOR OFFICE USE ONLY

Student ID#	_____
Entry Date	_____
YOE#	_____
Entry Code	PK Code _____ PK Time _____
Roomroom #	_____
Classroom Teacher	_____
Team	_____
Bus #	_____

PLEASE PRINT ALL INFORMATION

Are you a resident of Gloucester County? Yes No Items accepted as proof of residency: lease deed and current utility bill

Has your student ever attended a Gloucester County Public School? Yes No If yes, which school did your child attend?

Abingdon Achilles Bethel Boietourt Patsworth T. C. Walker Page Middle Hunter Middle High School

Student's Legal Name: Grimm

REDACTED

Gender: Male Female

Student's Ethnicity: American Indian Asian Black Hispanic Native Hawaiian White Unspecified

Student's Birth D REDACTED 1997 Place of Birth: Newport News, VA Birth Certificate # _____

Student's Grade Level: 5 If kindergarten, did your child have any pre-kindergarten education? Yes No
If yes, please provide brief description (i.e., licensed daycare provider, head start)

Primary language spoken by student: English Spanish French Russian Chinese Vietnamese Other _____

Primary language spoken at home: English Spanish French Russian Chinese Vietnamese Other _____

Student's Mailing Address: _____

REDACTED

Student's Home Phone Number _____

Student's 911 Address - required (if different than mailing):
Number _____ Street Name _____ City _____ Zip Code _____

Does your child currently receive special services? YES NO If yes, please check all that apply:
 Speech Special Education 504 Gifted ESL Occupational Therapy/Physical Therapy Other _____

Student Resides With: Mother & Father Mother only Father only Grandparents Foster Parent(s)
 Mother & Stepfather Father & Stepmother Guardian/Custodian Other _____

Name: <u>David & Dwayne Grimm</u>	Name: _____
Address (if different from student): <u>same</u>	Address (if different from student): _____
Place of Empl: <u>Norfolk County School Center</u>	Place of Empl: _____
Work Phone #: <u>REDACTED</u>	Work Phone #: _____
Cell Phone #: _____	Cell Phone #: <u>REDACTED</u>
Email address: <u>dgrimm@cps.net</u>	Email address: _____

If the student is NOT residing with BOTH biological/adoptive parents, please list other parent's information (i.e., name, address, etc.)

EMERGENCY CONTACT INFORMATION

(Our schools attempt to contact the parent/guardian first - the following information is for OTHER than parent/guardian)

Contact Person 1: REDACTED Phone #: REDACTED Relationship to Student: Friend

Contact Person 2: REDACTED Phone #: REDACTED Relationship to Student: older sister

REDACTED

CONFIDENTIAL

Name of Student

Enman

STUDENT REGISTRATION FORM (continued)

New Federal legislation, the No Child Left Behind Act, requires that all school divisions report student information regarding the areas listed below. Please read each statement, or have the registrar read the statements for you, and answer each question as requested.

Your child is considered to be Neglected/Delinquent if one of the following is true:

In order to be eligible to be counted as neglected/delinquent, a child age 5 through 17 must live in an "institution for neglected children and youth," which means a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who (a) have been committed to the institution or voluntarily placed in the institution under applicable State law due to abandonment, neglect, or death of their parents or guardians; and (b) have had an average length of stay in the institution of at least 30 days;

OR

Must live in an "institution for delinquent children and youth," which means a public or private residential facility that is operated for the care of children and youth who (a) have been adjudicated to be delinquent or in need of supervision and (b) have had an average length of stay in the institution of at least 30 days.

Is your child Neglected/Delinquent? Yes No

Your child is considered to be Homeless if one of the following is true:

- 1) Shares the housing of others due to loss of housing, economic hardship or similar reason;
- 2) Lives in motels, hotels, trailer parks or camping grounds due to lack of alternative adequate accommodations;
- 3) Lives in emergency or transitional shelters;
- 4) Abandoned in hospitals;
- 5) Awaits foster care placement;
- 6) Has a primary residence that is a public place or a place not designed for or ordinarily used as regular accommodation;
- 7) Lives in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations or similar settings.

Is your child Homeless? Yes No If yes, which item above applies to your situation? _____

Your child is considered to be a Migratory Child if one of the following is true:

The term "migratory child" means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain temporary or season employment in agricultural or fishing work;

- (a) has moved from one school district to another;
- (b) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or
- (c) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

Is your child a Migratory Child? Yes No

Student ID# [REDACTED] Page ID# 2
Entry Date:
YOC:
Conditional Enrollment:
Entry Code:
Flu Shot/Immunization:
Counselor/Teacher:
Team:

BETHEL ELEMENTARY
School Name

STUDENT REGISTRATION FORM



Former Student of Gloucester County Public Schools YES/NO If yes, School No. [REDACTED]

Student's Name:

[REDACTED]

Social Security #:

[REDACTED]

Is English the primary language spoken at home? YES/NO If no, specify:

Gender (Circle) Male Female

Grade: 1

Date of Birth: [REDACTED]

Place of Birth:

N.J.
City/County

VA
State

USA
Country

Birth Certificate #:

[REDACTED]

Ethnic Group (Circle One)

Unspecified American Indian Asian Black Hispanic White Native Hawaiian

Mailing Address:

[REDACTED]

City/State/Zip:

[REDACTED]

Home Phone #:

[REDACTED]

911 Address:

(Different from Mailing Address)

Child Resides With (Circle): (Both Parents) One Parent Legal Guardian(s)

(Circle One) Mother (Father Stepparent Guardian/Custodian

Name: Doris [REDACTED]

Address (if different than student):

Place of Employment: N.J. [REDACTED]

Work Phone #:

[REDACTED]

Cell Phone/Pager #:

E-Mail Address:

Education:

[REDACTED]

(Circle One) Mother (Father Stepparent Guardian/Custodian

Name: Doris [REDACTED]

Address (if different than student):

Place of Employment: [REDACTED]

Work Phone #:

[REDACTED]

Cell Phone/Pager #:

E-Mail Address:

Education:

[REDACTED]

EMERGENCY CONTACT INFORMATION

Contact Person 1:

Phone #:

Relationship to Student:

(Other than parent/guardian)

Contact Person 2:

Phone #:

Relationship to Student:

(Other than parent/guardian)

Family Physician:

Phone #:

Please list any medical information concerning your child that school personnel should know. (Allergies, Asthma, etc.)

Previous School:

Mailing Address:

City/State/Zip:

Phone #:

Fax #:

PLEASE COMPLETE THE BACK OF THIS FORM

REDACTED

REDACTED

YES / NO
 YES / NO
 YES / NO
 YES / NO

Others in the Home:

Name	Relationship to Student	Place of Employment

Is your child receiving any specialized services? (Special Education including Speech, 504, Cited, etc.) YES/NO

If yes, specify which service(s)

Directions to Home:

(Please give the location of your home. Include the route number, neighborhood, landmarks, or any information that will be helpful.)

Before enrolling your child in Gloucester County Public Schools, you must provide the following:

1. Certified Copy of Birth Certificate
2. Social Security Card
3. Updated Immunization Records
4. Physical Exam Report
5. Transcript from Former School - Carver Unified (HIGH SCHOOL ONLY)
6. IEP and/or 504 (if applicable)
7. Court Orders Referencing Student (if applicable)

I have willfully and knowingly provided you the correct information. I will provide you any new information concerning my child as it occurs.

Quanda Q. Quanna
 Parent/Legal Guardian Signature

02/01/04
 Date

No student can be prevented from participation in any program solely because of race or color, national origin, sex, age, religion, or disability. A procedure for resolving complaints of alleged discrimination on the basis of race, color, national origin, sex, religion, or disability may be found in the Manual of Policies and Regulations of the Gloucester County Public Schools. The Section 504 and Title IX Coordinator for the Gloucester County Public Schools is: Mr. William W. Cox, Coordinator, Section 504 and Title IX, Gloucester County Public Schools, 6000 Delta Street, Building Two, Suite B, Gloucester, VA 23061. (804) 643-7346

REDACTED

CONFIDENTIAL

Name of Child: _____

STUDENT REGISTRATION FORM (Continued)

New Federal Legislation, the No Child Left Behind Act, requires that all school divisions report student information regarding the areas listed below. Please read each statement, or have the registrar read the statements for you, and answer each question as requested.

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or
must live in an "institution for delinquent children and youth," which means a public or private residential facility that is operated for the care of children and youth who (a) have been adjudicated to be delinquent or in need of supervision and (b) have had an average length of stay in the institution of at least 30 days.

Is your child Neglected/Delinquent? Yes No

Your child is considered to be Homeless if one of the following is true:

- Shares the housing of others due to loss of housing, economic hardship or similar reason
- Lives in motels, hotels, trailer parks or camping grounds due to lack of alternative adequate accommodations
- Lives in emergency or transitional shelters
- Abandoned in hospitals
- Awaits foster care placement
- Has a primary residence that is a public place or a place not designed for or ordinarily used as regular accommodation
- Lives in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations or similar settings

Is your child Homeless? Yes No

Form continues on next page

©CSB 11/54

Name of child _____

Your child is considered to be a Migratory Child if one of the following is true:

The term "migratory child" means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—

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- (B) in a State that is composed of a single school district, has moved from one administrative area to another within such district; or
- (C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

Is your child a Migratory Child? Yes _____ No

Your child is considered to be a Refugee if the following is true:

An individual who is outside his/her country and is unable or unwilling to return to that country because of a well-founded fear that she/he will be persecuted because of race, religion, nationality, political opinion, or membership in a particular social group. This does not include persons displaced by natural disasters or persons who, although displaced, have not crossed an international border or persons commonly known as "economic migrants," whose primary reason for flight has been a desire for personal betterment rather than persecution.

Is your child a Refugee? Yes _____ No

Your child is considered to be an Immigrant if all of the following are true:

The term "immigrant children and youth" means individuals who—

- (A) are aged 3 through 21;
- (B) were not born in any State; and
- (C) have not been attending one or more schools in any one or more States for more than 3 full academic years.

Is your child an Immigrant? Yes _____ No

I have willfully and knowingly provided you with the correct information. I will provide you any new information concerning my child as it occurs.

Durdu Akumak
Parent/guardian signature

05-21-04
Date

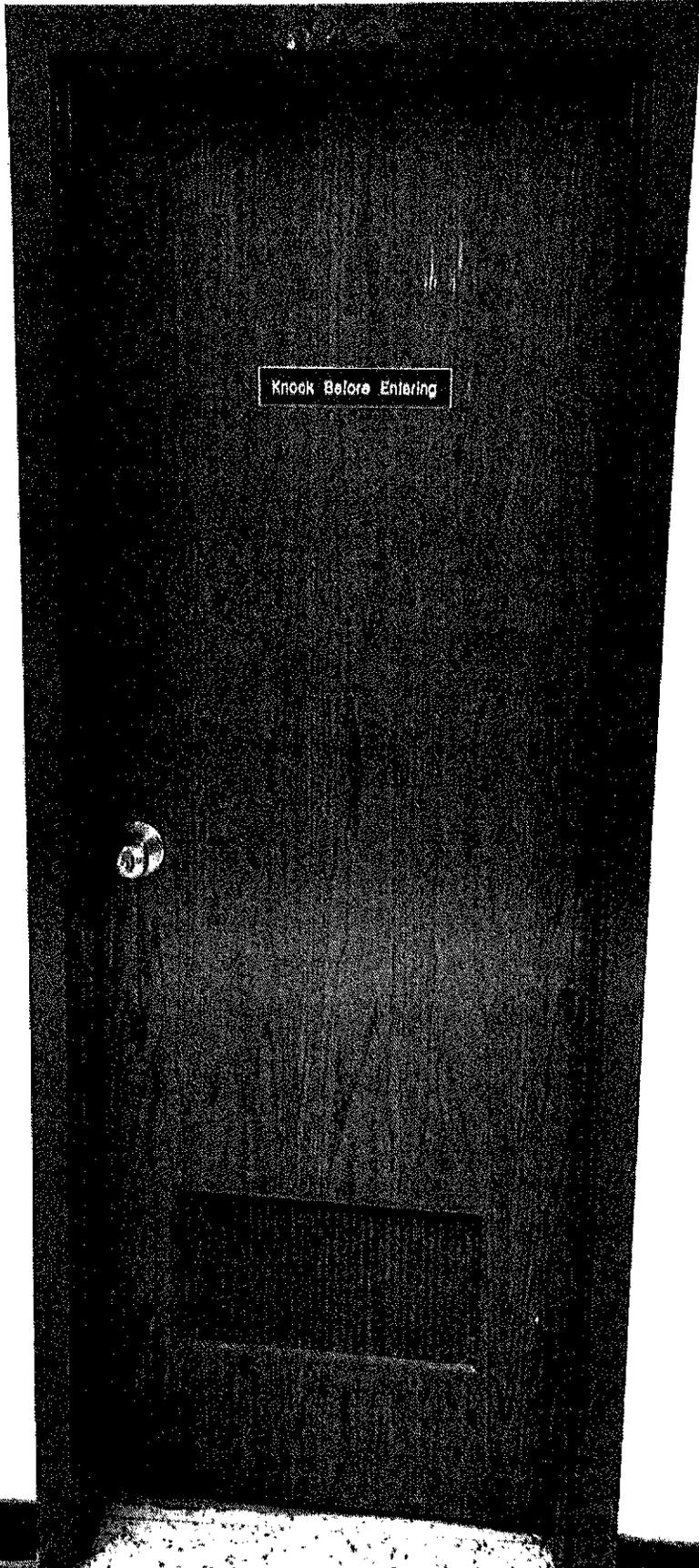
No student can be prevented from participation in any program solely because of his/her race, color, national origin, sex, age, religion, or disability. A procedure for resolving complaints alleging discrimination on the basis of race, color, national origin, sex, age, religion, or disability may be found in the manual for Policies and Regulations of the Gloucester County Public Schools. The Section 504 and Title IX Coordinator for the Gloucester County Public Schools is: Mr. William Wilcox, Coordinator, Section 504 and Title IX, Gloucester County Public Schools, 6489 Main Street, Building Two, Suite B, Gloucester, VA 23061 - (804) 643-7856

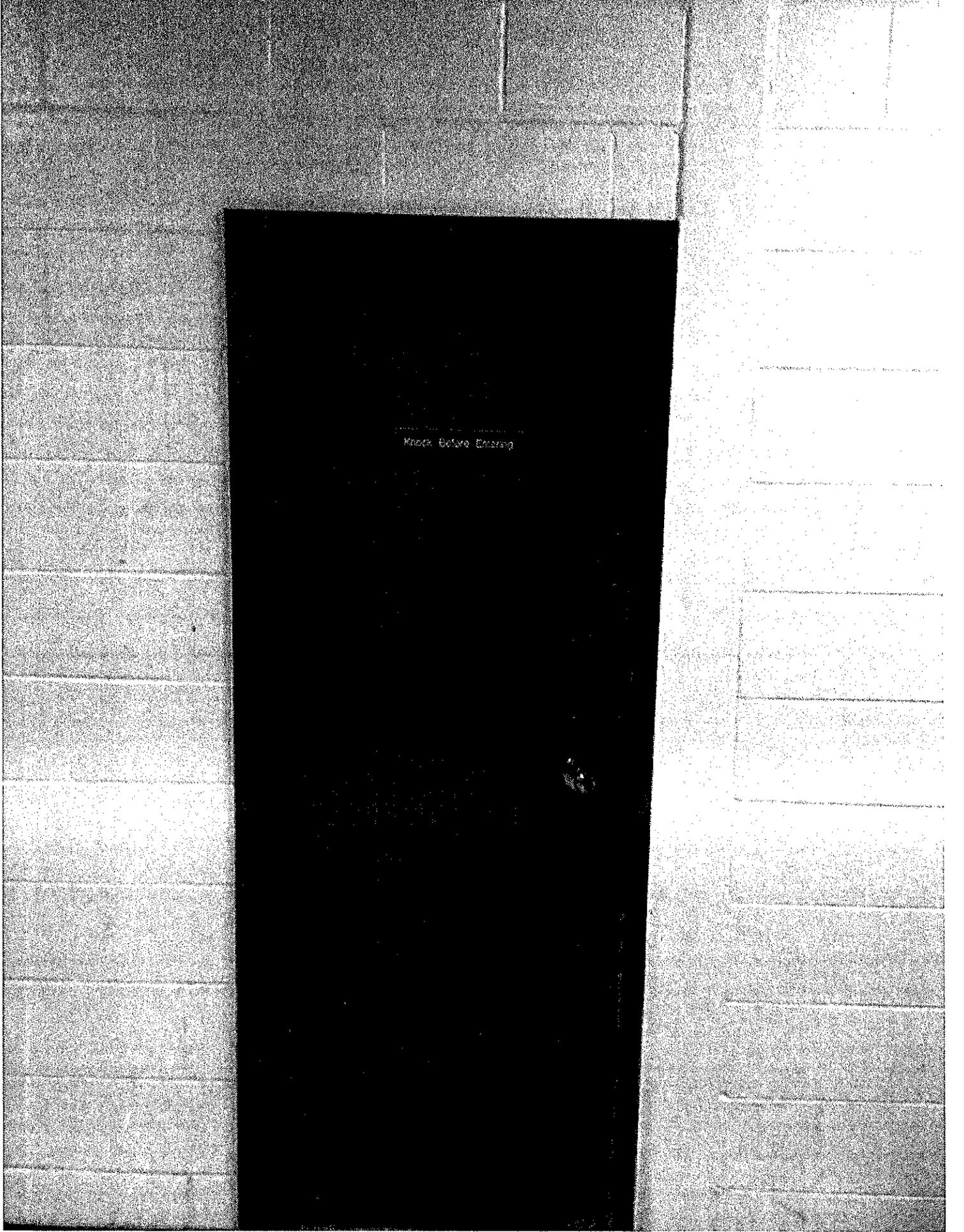
From Sales Dining





Knock Before Entering





Whereas the GCSB recognizes that some students question their gender identities, and

Whereas the GCSB encourages such students to seek support and advice from parents, professionals and other trusted adults, and

Whereas the GCSB seeks to provide a safe learning environment for all students and to protect the privacy of all students, therefore

It shall be the practice of the GCSB to provide male and female restroom and locker room facilities in its schools, and the use of said facilities shall be limited to the corresponding biological genders, and students with sincere gender identity issues shall be provided an alternative private facility;

From: [REDACTED]
Date: December 08, 2014 3:01:13 PM
To: "georgeburak@cox.net" <georgeburak@cox.net>; "kevinsmith914@gmail.com" <kevinsmith914@gmail.com>; "troyandersengp@cox.net" <troyandersengp@cox.net>; "kimberlyehensley@gmail.com" <kimberlyehensley@gmail.com>; "hookc@cox.net" <hookc@cox.net>; "anita.parker@gc.k12.va.us" <anita.parker@gc.k12.va.us>; "chalres.record@gc.k12.va.us" <chalres.record@gc.k12.va.us>; "SchoolBoard@gc.k12.va.us" <SchoolBoard@gc.k12.va.us>
Subject: **Transgender Student Policy**

Attachments:

Members of the School Board:

I have been following the story of the transgender student and the request to use male facilities. I respectfully ask that you act to protect the rights and privacy of students who are not transgender. I was greatly disturbed that the decision was made by the Gloucester High School principal to allow the transgender student to utilize male bathrooms. I have a son who attends [REDACTED] School, and cannot imagine how he would feel if a transgender student began to utilize the boys restroom. All students, not just one, should have their privacy upheld. Regardless of how a student "identifies" them self, reasonable accommodations were made allowing the student to utilize the nurse's restroom. Please act on behalf of the entire student population, not just one student. This is not a discrimination issue, it is a privacy issue.

Thank you for your service to Gloucester citizens.

Sincerely,

[REDACTED]

Sent from my iPhone=

From: "Amy Bergh" <abergh@gc.k12.va.us>
Date: October 28, 2014 7:18:05 PM
To: "Nate Collins" <ncollins@gc.k12.va.us>
Subject: Gavin and [REDACTED]

Attachments:

Today at the end of B4 Gavin Grimm and [REDACTED] stood up and began yelling at each other across their tables. They were mutually clearly ready to physically fight. As near as I could tell it had something to do with Gavin using the boys restroom today. Both students were visibly upset and cursing at each other stating they didn't have to put up with this "fucking shit" and other similar comments. I don't remember exact comments but something to the effect that [REDACTED] didn't believe that Gavin should use the boys room because he we a girl and Gavin stating that he didn't have to put up with people saying negative things. They were equal partners in escalating the situation.

I yelled at them to stop several times and then sent Gavin to Clark Barkley's class to wait for me and took [REDACTED] to my office hallway.

I asked [REDACTED] what had happened. He stated that he had anger issues. He said something to the effect that he had asked Gavin's brother about seeing his sister going into the boys restroom. [REDACTED] swore he did not know that Gavin was transgender.

I then asked Gavin what had happened and Gavin said that [REDACTED] knew all about it and was just saying things to upset him.

Other students sitting around them include:

[REDACTED] - NJROTC student and probably reliable

[REDACTED] - Probably reliable

[REDACTED] - NOT reliable

-Amy Bergh

Subject: Interesting also - Bold lettering is mine not theirs

From: REDACTED

To: crecords@zandler-dev.com;

Date: Tuesday, December 9, 2014 12:48 PM

This is direct from an ACLU website! - Let me know if you want me to get the whole article to you.

“Bathroom and Locker Room Issues

Many LGBTQIA students find bathrooms and locker rooms a war zone fraught with anti-LGBTQIA slurs and physical abuse. If you are having difficulties using the restroom or locker room, report the troublemakers to your school administrator and request an increase in security in the problematic areas reminding them you are the target, are not breaking any school rules, and this behavior is creating an unsafe learning environment. **Although students have the legal right to access bathrooms and locker rooms, some school administrators seek alternatives to providing increased security. As a result, some school administrations offer LGBTQIA students the use of the employee single stall restroom. “**

Resource

“ACLU: Transgender resources

(back to top)”

Odd ACLU calls it “bathroom” - but notice you have already done what ACLU says about making an appropriate accommodation – the nurse’s rest room i.e. to avoid harassment

-
-

This is why they offer the accommodation to single stall rest room.

School Harassment

Schools are legally obligated to provide a safe school environment to all students. Students can't learn if they worry about taunts, name-calling, or physical violence by their classmates or teachers. Most school administrators and teachers will help students who are being teased or bullied, but you must first tell them of the harassment. If you feel uncomfortable talking to school officials alone, there are other possibilities. You may e-mail school officials, for example. Also, Safe Schools NC board members are willing to go with you or speak for you. School administrators are legally obligated to protect students. If you feel that your requests for help are being ignored, there are organizations, such as the American Civil Liberties Union (ACLU) of North Carolina or Lambda Legal Defense, that can back you up in court.

ISSUES ACKNOWLEDGED BY ACLU

SAFE SCHOOL ENVIRONMENT

TAUNTS, NAME -CALLING, PHYSICAL VIOLENCE

HARASSMENT

November 13, 2014

Dear Gloucester County School Board Members,

Our family is writing to you in regard to REDACTED and the media attention the Grimm family is seeking to further their cause. We have signed a petition presented to us and feel the need to voice our concerns to you in writing.

We are tolerant people who accept that every individual has the right to live their own life. Working for REDACTED for 30 years and supporting "gay rights" long before it was popular is the example our grandmother set. She encouraged her children and grandchildren to do the same. REDACTED

REDACTED We are the family that provides a safe place and listening ears for other teens who are either not ready to come out to their families or who are rejected by their families due to their choices.

Quite frankly, Gloucester High seems to have a disproportionately large number of students who identify themselves as lesbian, gay, and bisexual. Transgender is not as widely seen as of yet. The issue at hand should not be viewed as an attack on one child, as bullying, or as discrimination. The decision regarding any transgender student using the restroom they assign to themselves should be considered based on the needs and privacy of ALL STUDENTS in the school. REDACTED is not an anonymous person in a mall or theme park that just walks into a restroom of his/her choice.

REDACTED

REDACTED It is unfair to our children and our community for the Grimms to attempt to turn a privacy and safety issue into an act of bullying to gain additional attention. The request to be allowed in the men's bathroom should be examined separately from any claims of bullying.

We did not know that you were considering allowing an individual with female anatomy in the school's men's bathrooms until our sons who attend the school came home and told us. Our boys, gay or straight, are mortified by the idea that any female, including their mother or sister, would be in a bathroom with them while they are using it. Our daughter is concerned that a decision to allow Gavin Grimm into the men's restrooms will lead to a male student assigning himself as a female and being allowed in the women's restrooms. Furthermore, the men's restrooms do not all have working stall doors and urinal dividers or proper trash receptacles for soiled female items. REDACTED is physically a girl with female anatomy who wants to be allowed to use a men's bathroom in a public school. REDACTED has been known to Gloucester High's students as a girl for a long time and is making many students uncomfortable.

REDACTED should have a safe place to use the restroom. Gloucester High is a very large building so REDACTED should have access to more than one restroom; however, it should NOT be in the men's restrooms. The nurse's office is the universally accepted alternative for students with many different needs. We feel strongly that Gavin, as well as any other student who chooses to, should also have access to a second bathroom within the school, but not the men's restrooms. *Surely there is a place somewhere in the school that can be remodeled to include two to three stalls and designated as a unisex bathroom and used by anyone who feels the need. Alternatively, if you cannot put the rights of the whole population ahead of the rights of one student, the least you can do is designate no less than half of the school's bathrooms as "male only" and "female only" so that the student body retains its rights as well.*

Safety should also be a concern, especially if we all accept the Grimm family's statements that ^{REDACTED} is being bullied by Gloucester's school system and residents. Unfortunately, there is going to be someone ^{REDACTED} who feels threatened or wants ^{REDACTED} to leave the bathroom so they have the privacy to use it. There are already incidents of bullying that occur in isolated and unmonitored areas of the school. How long will it be until there is a problem? Is the school able to provide a security person or staff member to monitor any restroom that Gavin may choose to use?

This is an issue that is dividing our school and our community. Please consider the rights of ALL of the students in Gloucester's schools as you make this decision.

Sincerely,

A Concerned Family*

*Name withheld due to our relationship with this family and involvement in the Gloucester community.

GCSB - 04190

820329-modified

CERTIFICATE OF VITAL RECORD
VERIFY PRESENCE OF WATERMARK - HOLD TO LIGHT TO VIEW

180852 **COMMONWEALTH OF VIRGINIA**
 DEPARTMENT OF HEALTH - DIVISION OF VITAL RECORDS
CERTIFICATE OF LIVE BIRTH

STATE FILE NUMBER: REDACTED

NAME OF REGISTRANT: GAVIN ELLIOT GRIMM

DATE OF BIRTH: Redacted 1999 **SEX:** MALE

PLACE OF BIRTH: NEWPORT NEWS, VIRGINIA

MAIDEN NAME OF MOTHER: DEBBIE ANNE GRIMM

AGE OF MOTHER: 34

MOTHER'S PLACE OF BIRTH: VIRGINIA

NAME OF FATHER: DAVID WAYNE GRIMM

AGE OF FATHER: 38

FATHER'S PLACE OF BIRTH: PENNSYLVANIA

DATE RECORD FILED: MAY 17, 1999

This is to certify that this is a true and correct reproduction or abstract of the original record filed with the Virginia Department of Health, Richmond, Virginia.

DATE ISSUED: October 27, 2016

Janet M. Rainey
 Janet M. Rainey, State Registrar

Do not accept unless on security paper with the seal of Virginia Department of Health, Vital Statistics in the lower left hand corner.
 Section 32.1-272, Code of Virginia, as amended. VS-158

VOID WITHOUT WATERMARK OR IT ALTERED OR FALSIFIED

Date:12/16/2014 9:42 AM (GMT-05:00)
To: "Dr. Walter R. Clemons" <wclemons@gc.k12.va.us>
Subject: Re: RR

Just left high school. Restroom floors were painted things look pretty good. Custodians are venting out and putting in new ceiling tiles. Nate is playing it by ear he may open today or tomorrow morning. The hall bathroom is open.

Sent from my iPhone

On Dec 15, 2014, at 5:05 PM, Dr. Walter R. Clemons <wclemons@gc.k12.va.us> wrote:

Thanks!

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: John Hutchinson <hutch@gc.k12.va.us>
Date:12/15/2014 4:25 PM (GMT-05:00)
To: "Dr. Walter R. Clemons" <wclemons@gc.k12.va.us>
Subject: Re: RR

Just talked with Nate. The restrooms are/were ready to open. The signs that didn't arrive were to indicate knock before entering and lock door behind you.

The unisex signs have been posted for a week, but were covered. There are some minor touch ups to be done, but nothing to stop the bathrooms and being open.

Nate will open the bathrooms tomorrow and put paper signs up until the official signs regarding entering and locking door arrive.
I'll touch base with Nate tomorrow a.m.

Sent from my iPhone

On Dec 15, 2014, at 3:43 PM, Dr. Walter R. Clemons <wclemons@gc.k12.va.us> wrote:

Give me an update on the signs. Thanks!

Sent from my Verizon Wireless 4G LTE smartphone

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

----- x

GAVIN GRIMM :

Plaintiff :

v. : CASE NO.

4:15-CV-54

GLOUCESTER COUNTY SCHOOL BOARD :

Defendant :

----- x

Deposition of NATHAN COLLINS

Glen Allen

Friday, September 21, 2018

9:32 a.m.

Job No.: 207622

Pages 1 - 177

Reported by: Lisa M. Blair, RMR

EXHIBIT
G

Transcript of Nathan Collins
Conducted on September 21, 2018

24

1 (Collins Exhibit Number 2 was marked for
2 identification)

3 Q. When was the first time you
4 personally heard about Gavin Grimm?

5 A. In late August or September of 2014,
6 sometime around the beginning of that school year.

7 Q. How did he come to your attention?

8 A. One of my school counselors told me
9 about him.

10 Q. And was that Tiffany Durr?

11 A. I believe it was, yes.

12 Q. And what did she say?

13 A. Ms. Durr told me that we had a
14 student who was transitioning from female to male,
15 and that the family had provided some information
16 to her regarding that transition.

17 Q. And did she say anything else?

18 A. I believe when Ms. Durr initially
19 discussed Gavin with me, we discussed his desire
20 to be referred to with male pronouns. I believe
21 we discussed a plan for him to use an alternative
22 restroom at Gloucester High School.

Transcript of Nathan Collins
Conducted on September 21, 2018

59

1 time." What does this refer to?

2 A. I think that was a general -- we
3 asked generally in the meeting did Gavin have any
4 other needs regarding this issue or others in
5 using male restrooms at Gloucester High School.
6 So I just wanted to reflect that we had discussed
7 that, and there were no other needs.

8 Q. Did you discuss locker rooms during
9 your meeting with him?

10 A. No.

11 Q. Did you discuss sports teams?

12 A. Not that I recall.

13 Q. Did you make any promises about how
14 any other request related to him being transgender
15 would be resolved?

16 A. Not that I recall.

17 Q. Why does the memo say the decision
18 doesn't go into effect until October 20th?

19 A. That was agreed upon with Gavin's
20 mother and Gavin and I. I can't remember the days
21 of the week. I believe -- I can't recall why that
22 date was specifically selected.

Transcript of Nathan Collins
Conducted on September 21, 2018

67

1 BY MR. BLOCK:

2 Q. So when I was reading the earlier
3 quote, it was a question mark, not an exclamation
4 point.

5 So do you recall receiving an e-mail
6 like this and forwarding it to Dr. Clemons?

7 A. I do recall that, yes.

8 Q. Now, had you received any complaints
9 before Wednesday, October 22nd?

10 A. I don't recall the chronology. I
11 remember at least two parent concerns expressed to
12 me. In the e-mail I wrote to Dr. Clemons I said
13 "the second one today." So I don't recall that I
14 had any prior to that day necessarily.

15 Q. Now, did you personally receive any
16 complaints from anyone that wasn't a parent?

17 A. From a student.

18 Q. Okay. So a student personally
19 complained to you?

20 A. A student requested to meet with me
21 in my office regarding transgender use of the
22 restroom, yes.

Transcript of Nathan Collins
Conducted on September 21, 2018

177

1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC
2 I,
3 LISA BLAIR, the officer before whom the foregoing
4 deposition was taken, do hereby certify that the
5 foregoing transcript is a true and correct record
6 of the testimony given; that said testimony was
7 taken by me stenographically and thereafter
8 reduced to typewriting under my direction; that
9 reading and signing was requested; and that I am
10 neither counsel for, related to, nor employed by
11 any of the parties to this case and have no
12 interest, financial or otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto
14 set my hand and affixed my notarial seal this 22nd
15 day of September 2018.

16 My commission expires October 31, 2020.

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Lisa Blair, RMR

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

- - - - - x
GAVIN GRIMM, :
Plaintiff, :
v. : Civil Action No.
GLOUCESTER COUNTY : 4:15-cv-00054-AWA-DEM
SCHOOL BOARD, :
Defendant. :

- - - - - x

Deposition of TROY ANDERSEN
Glen Allen, Virginia
Tuesday, March 12, 2019
10:00 a.m.

Job No.: 232148
Pages: 1 - 98
Reported By: Scott D. Gregg, RPR

EXHIBIT
H

Transcript of Troy Andersen
Conducted on March 12, 2019

22

1 Q So what are the government -- what are the
2 governmental interests served by the Board's
3 restroom policy?

4 A So that would be entirely focused on the
5 privacy of all students in Gloucester County
6 Public Schools system.

7 Q So privacy is the only governmental
8 interest the Board is relying on; is that correct?

9 A That's what our policy is focused on,
10 privacy of all students in the Gloucester County
11 Public Schools system.

12 Q And is there any other governmental
13 interest that the policy advances?

14 A No.

15 Q Does the policy -- is the policy designed
16 to serve a governmental interest in student
17 safety?

18 A I would say there's a secondary --
19 potentially secondary depending on how you look at
20 it. That's more of a subjective thing that each
21 individual board member may feel differently
22 about. But from a policy perspective, it was

Transcript of Troy Andersen
Conducted on March 12, 2019

25

1 our updated attendance policy.

2 Q What is your updated attendance policy?

3 A I mean, that's a long -- I would have to
4 get out my policy manual, but this changed the
5 number of days a person can be absent before they
6 are not able to pass the class regardless of what
7 their grade is.

8 Q So let's talk about the governmental
9 interest in protecting student privacy.

10 So what are they being protected from? Is
11 it from being seen naked?

12 MR. CORRIGAN: Object to form.

13 Go ahead.

14 THE WITNESS: It's -- in short, it's to
15 ensure their privacy of not having to share a
16 restroom with someone from an opposite
17 physiological sex.

18 BY MR. BLOCK:

19 Q So it doesn't matter whether or not
20 there's any risk of anyone being in a state of
21 undress; is that right?

22 MR. CORRIGAN: Object to form.

Transcript of Troy Andersen
Conducted on March 12, 2019

26

1 THE WITNESS: I would say that's a part of
2 it.

3 BY MR. BLOCK:

4 Q Okay. So in terms of protecting their
5 privacy, is it privacy from being seen naked? Is
6 that one of the things the policy is supposed to
7 protect?

8 A Correct.

9 Q And is it privacy from seeing someone else
10 naked? Is that something else that the policy is
11 supposed to protect?

12 A Correct, maintain privacy of all involved.

13 Q Okay. So if everyone is fully clothed at
14 all times and there's no risk of anyone being
15 naked, are there any other privacy interests that
16 the policy is designed to protect?

17 MR. CORRIGAN: Object to form, foundation,
18 legal conclusion.

19 Go ahead.

20 THE WITNESS: No. What I described and
21 what we described together was the primary focus
22 of the privacy.

Transcript of Troy Andersen
Conducted on March 12, 2019

27

1 BY MR. BLOCK:

2 Q So it's exclusively privacy interest
3 related to either being seen naked or seeing
4 someone else naked?

5 A Correct.

6 Q So if there's no state of undress
7 involved, then there's no privacy interest for the
8 policy to serve; is that right?

9 MR. CORRIGAN: Object to form.

10 THE WITNESS: If that were to be true,
11 yes, but I don't -- using the restroom while
12 not -- I guess depends on how you define the word
13 "undress." There's partial undress when you use a
14 restroom.

15 BY MR. BLOCK:

16 Q So is simply being in the same restroom
17 with someone of a different biological gender an
18 invasion of someone's privacy?

19 A It could be viewed that way. And, again,
20 I say it, the policy is protecting the privacy of
21 all students.

22 Q So the privacy that the policy is designed

Transcript of Troy Andersen
Conducted on March 12, 2019

28

1 to protect, is that a privacy from being in the
2 same restroom as someone with a different
3 biological gender?

4 A Yes, it's from having to share a restroom
5 with someone from the opposite physiological sex.

6 Q So when you said that in the restrooms
7 there's a state of partial undress, are you
8 talking about in front of a urinal or in front of
9 a toilet? Is that the partial state of undress
10 you're referring to?

11 A Correct, both.

12 Q Is there any other partial state of
13 undress that you're referring to?

14 A I would say I tuck my shirt in a weird way
15 when I was a kid, so outside of the stall I was in
16 a state of partial undress, so that would be
17 another one that popped into my head.

18 Q You would -- you would open your pants in
19 order to tuck in your shirt and then button up
20 your pants?

21 A You got it.

22 Q Is that what you're --

Transcript of Troy Andersen
Conducted on March 12, 2019

44

1 because that person is a transgender boy; is that
2 right?

3 MR. CORRIGAN: Object to form, foundation,
4 speculation, inadequate opinion testimony.

5 Go ahead.

6 THE WITNESS: I'm not sure -- the
7 hypotheticals are kind of getting me a little
8 flustered.

9 BY MR. BLOCK:

10 Q Sorry. So the policy doesn't provide any
11 protection for a girl who does not want to share a
12 restroom with someone who is a transgender boy,
13 meaning that they were assigned a female sex at
14 birth but live as a boy and have facial hair and
15 a lot of muscles?

16 MR. CORRIGAN: Object to form, foundation.
17 Go ahead.

18 THE WITNESS: Let's take it back since the
19 focus of this is at the high school. Yes, the
20 policy -- well, the implications of the policy do
21 allow an alternate which is the single-stall
22 restrooms we added, so that's the relief there.

Transcript of Troy Andersen
Conducted on March 12, 2019

45

1 So they can be used by anybody. Those
2 single-stall unisex restrooms are available for
3 all students use.

4 BY MR. BLOCK:

5 Q So the girl who is uncomfortable using the
6 girls restroom with a transgender boy has the
7 option of using one of those single-stall
8 restrooms instead; is that right?

9 A Absolutely.

10 Q And so a boy who is uncomfortable using
11 the boys restroom with a transgender girl who has
12 fully developed breasts can use the single-user
13 restrooms instead; is that right?

14 A Correct.

15 Q And those single-user restrooms provide,
16 you know, adequate protection for students in that
17 situation; is that right?

18 MR. CORRIGAN: Object to form, foundation,
19 vague.

20 Go ahead.

21 THE WITNESS: Can you further define
22 "adequate protection"? You walk in, you're the

Transcript of Troy Andersen
Conducted on March 12, 2019

49

1 let me rephrase that question.

2 So what if she says that she doesn't want
3 to use the single-stall restroom because that just
4 draws attention to her and it's going to raise
5 questions in people's minds about why she is using
6 a different restroom than everyone else?

7 MR. CORRIGAN: Object to form, foundation,
8 incomplete hypothetical, calls for speculation.

9 Go ahead.

10 THE WITNESS: I don't understand the
11 question. The single-stall restrooms are open to
12 any student at Gloucester High School who wants to
13 use them. It's not just for transgender students.

14 BY MR. BLOCK:

15 Q What restroom is she supposed to use if
16 she's attending a football game and there aren't
17 any single-user restrooms available?

18 A Not a scenario I've considered or we
19 considered as a board.

20 Q So now that you're considering it now
21 under the policy, what restroom should she be
22 using at a football game?

Transcript of Troy Andersen
Conducted on March 12, 2019

65

1 administrative person for the school, consulted
2 with legal counsel, reviewed the documentation
3 provided, and made the decision.

4 Q But the superintendent had authority on
5 behalf of the Board to make that decision; is that
6 right?

7 A Correct.

8 Q So why did Gloucester County Public
9 Schools not update the gender marker on Gavin's
10 school records to update his birth certificate?

11 MR. CORRIGAN: To the extent the question
12 has anything to do with anything not provided as
13 legal counsel, he can answer.

14 THE WITNESS: Sure. So that was going to
15 be my first one, input from legal counsel. The
16 second was the information provided seemed to be
17 at odds with the process and procedures outlined
18 in Virginia law and the Virginia Administrative
19 Code as far as what an amended birth certificate
20 looks like. And also because the birth
21 certificate provided as part of the request was
22 stamped void, so it was those three reasons that

Transcript of Troy Andersen
Conducted on March 12, 2019

66

1 resulted in the denial of the change.

2 BY MR. BLOCK:

3 Q How was the process apparently at odds
4 with Virginia Code and regulations?

5 A I would have to pull out the Code, but my
6 recollection is if you look in the Code, it says
7 that amended birth certificates will have the
8 issue scratched out with the correct one written
9 next to it. And also somewhere on the document
10 the word "amended" is added to it.

11 Q So the Board -- so the concern is that
12 this could not -- could be a non authentic birth
13 certificate?

14 A Correct.

15 Q Have you seen the copy of the birth
16 certificate that was filed in this litigation?

17 A I've seen a version in a packet somewhere,
18 yes.

19 Q And does that copy have the same features
20 that you think call into question its
21 authenticity?

22 A I would have to look at it again. It's

Transcript of Troy Andersen
Conducted on March 12, 2019

76

1 birth certificate can use the women's restroom; is
2 that right?

3 A Correct.

4 MR. CORRIGAN: Object to form, foundation,
5 legal conclusion.

6 Go ahead.

7 THE WITNESS: Correct.

8 BY MR. BLOCK:

9 Q Even though their bodies are identical?

10 A Going back to what we spent the majority
11 of the morning talking about, it's tied back to
12 the gender marker on their records. So in the
13 hypothetical you just described, one matches and
14 one doesn't.

15 Q Do you know if the photocopy of the birth
16 certificate that was delivered to the school by
17 hand was produced in discovery in this case?

18 A I don't know.

19 Q What governmental interest is served by
20 the Board's refusal to update Gavin's birth
21 certificate?

22 MR. CORRIGAN: Object to form.

Transcript of Troy Andersen
Conducted on March 12, 2019

77

1 Go ahead.

2 THE WITNESS: It's our -- the policy JO is
3 in place to ensure that any changes to a student's
4 educational records are done in accordance with
5 all applicable federal and state laws.

6 BY MR. BLOCK:

7 Q And the Board despite now being aware of
8 the Virginia court order still takes the position
9 that the Gavin's sex was not changed in accordance
10 with Virginia law?

11 MR. CORRIGAN: Object to form, foundation,
12 and legal conclusion.

13 Go ahead.

14 THE WITNESS: I don't recall stating that.
15 We have to bring back in -- the question is have
16 the changes been made to the gender marker, and
17 the answer is no.

18 And then in addition to the state and
19 federal, there's input from legal counsel.

20 BY MR. BLOCK:

21 Q Does not updating the gender marker on his
22 birth certificate advance any interest in

Transcript of Troy Andersen
Conducted on March 12, 2019

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1 certificate -- do that again.

2 Has there ever been a previous request to
3 update the student's gender marker on their school
4 records?

5 A Not to my knowledge.

6 Q Have there been previous requests to
7 update school records based on any type of change
8 to a student's birth certificate?

9 A Not to my knowledge.

10 Q And the only communication given to the
11 Grimms about the reasons for denying their request
12 to update the birth certificate was -- I keep
13 making that mistake. I'll say it again.

14 The only reason given to the Grimms -- say
15 it one more time.

16 The only communication to the Grimms
17 giving the reasons why the school did not update
18 his school records was the letter sent by the
19 Board's counsel to me; is that correct?

20 A Correct, to my knowledge.

21 Q So at school, the school board and school
22 administrators refer -- have honored Gavin's

Transcript of Troy Andersen
Conducted on March 12, 2019

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1 request to refer to him by his name Gavin; is that
2 right?

3 A Correct.

4 Q And the school administrators also honored
5 his request to refer to him with male pronouns; is
6 that right?

7 A Correct.

8 Q Okay. Now, why have they done this?

9 A My understanding is the -- let's start
10 with pronouns because that's not hard. Pronouns
11 aren't a legal change to some sort of student
12 records. There's no student record associated
13 with pronoun for the name. My recollection is
14 that the name was changed based on the process of
15 the same policy JO.

16 Q Does the school board think that it's
17 harmful to refer to Gavin with male pronouns?

18 A Harmful to refer to Gavin with male
19 pronouns, no.

20 Q I'm going to show you a document that's
21 marked -- that the title of is Gloucester County
22 School Board's Rule 26(a) (2) disclosure.

Transcript of Troy Andersen
Conducted on March 12, 2019

1 CERTIFICATE OF SHORT HAND REPORTER - NOTARY PUBLIC

2 I, Scott D. Gregg, RPR, a Notary Public,
3 the officer before whom the foregoing deposition
4 was taken, do hereby certify that the foregoing
5 transcript is a true and correct record of the
6 testimony given; that said testimony was taken by
7 me stenographically and thereafter reduced to
8 typewriting under my supervision; that reading and
9 signing was requested; and that I am neither
10 counsel for or related to, nor employed by any of
11 the parties to this case and have no interest,
12 financial or otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my notarial seal this day of
15 2019.

16 My commission expires July 31, 2020.

17 *Scott D. Gregg / RPR*
18

19
20 _____
21 NOTARY PUBLIC IN AND FOR THE
22 COMMONWEALTH OF VIRGINIA
Notary Registration No. 215323

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-00054

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

**DEFENDANT'S SUPPLEMENTAL ANSWER TO
PLAINTIFF'S INTERROGATORY NO. 1**

Comes now the defendant, Gloucester County School Board ("School Board"), and for its Supplemental Answer to Plaintiff's Interrogatory, states as follows:

GENERAL OBJECTIONS

- A. Defendant objects to the Instructions contained in Plaintiff's interrogatories to the extent they alter, amend, or exceed the scope of the Federal Rules of Civil Procedure.
- B. The information supplied in these answers is not based solely on the knowledge of the executing party but includes knowledge of the party, its agents, representatives, and attorneys, unless privileged. Such knowledge may or may not be known to the Defendant other than as provided.
- C. The word usage and sentence structure may be that of the attorney and staff assisting in the preparation of these answers and thus do not necessarily purport to be the precise language of the executing party.

EXHIBIT

I

D. These answers will be supplemented in accordance with the Rule 33 of the Federal Rules of Civil Procedure, the Local Rules of the Eastern District of Virginia, and any Orders regarding discovery.

E. Defendant objects to interrogatories, etc., that invade or attempt to invade the attorney/client, work product, or any other applicable privilege.

ANSWERS TO INTERROGATORIES

1. Identify all complaints received by Gloucester County School Board (“the Board”) or its employees related to transgender students’ use of restrooms during the 2014-2015 school year, and for each complaint identify the date of the complaint, the recipient of the complaint, the content of the complaint, how the complaint was communicated or transmitted, whether the complainant was from a Gloucester High School student or parent of a Gloucester High School student, and whether the complaint related to any incident in which a student reported being in the restroom at the same time as Plaintiff.

OBJECTION: The School Board objects on the grounds that this Interrogatory is overly broad and unduly burdensome. Further, the School Board objects on the grounds that the use of the term “complaint” is vague and ambiguous. Finally, the School Board objects to the extent that this Interrogatory seeks the discovery of information protected pursuant to the Agreed Confidentiality Protective Order (ECF Doc. 85) entered in this matter.

ANSWER: Without waiving and subject to the foregoing objection,¹ Gloucester County High School Principal Nate Collins gave Grimm permission to use the male restroom on October 20, 2014. Two to three days later, Superintendent Dr. Walter Clemons received two complaints from parents regarding a transgender student using the restroom inconsistent with that student's biological sex. Dr. Clemons does not recall the identity of those parents. The parents indicated that they did not approve of a biologically female student using the male restroom. Additionally, a male student met with Collins in person and expressed concern about a biologically female student using the male restroom and a lack of privacy. Collins does not recall the specific identity of this student.

Moreover, after Grimm began to use the male restroom, Dr. Clemons, Collins and the individual members of the School Board received numerous complaints via email, which are listed below.

Emails sent to all members of the School Board

- On October 23, 2014, **REDACTED**, a parent of student(s) enrolled in Gloucester County Public Schools, including Gloucester High School, sent the School board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On October 23, 2014, **REDACTED** parents of student(s) enrolled in Gloucester County Public Schools, including Gloucester High School, sent the School Board an email regarding their opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

¹ The School Board specifically reasserts its objection that Plaintiff's use of the term "complaint" in this Interrogatory is vague and ambiguous. The School Board has included in its Answer communications with individuals who generally opposed a transgender student using a restroom inconsistent with that student's biological sex. The School Board's Answer includes communications with individuals who did not agree with Gloucester High School allowing a transgender student to use a restroom inconsistent with that student's biological sex and communications with individuals who supported the School Board's December 9, 2014 resolution and the School Board's litigation of this matter.

- On October 27, 2014, **REDACTED** sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On October 27, 2014, **REDACTED** a parent of student(s) enrolled in Gloucester County Public Schools, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On October 28, 2014, **REDACTED** upon information and belief a parent of student(s) enrolled in Gloucester County Public Schools, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On November 10, 2014, **REDACTED** a parent of student(s) enrolled in Gloucester County Public Schools, including Gloucester High School, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On November 10/11, 2014, **REDACTED** parents of student(s) enrolled in Gloucester High School, sent the School Board an email regarding their opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On November 11, 2014, **REDACTED** upon information and belief a resident of Gloucester County, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On November 11, 2014, **REDACTED** sent the School Board an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On November 12, 2014, **REDACTED**, a parent of student(s) enrolled in Gloucester County Public Schools, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On November 12, 2014, **REDACTED** a parent of student(s) enrolled in Gloucester County Public Schools, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On November 13, 2014, **REDACTED** a parent of student(s) enrolled in Gloucester County Public Schools, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On November 17, 2014, **REDACTED** a parent of student(s) enrolled in Gloucester High School, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

- On December 7, 2014, **REDACTED** a parent of student(s) enrolled in Gloucester County Public Schools, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On December 8, 2014, **REDACTED** a parent of student(s) enrolled in Gloucester High School, sent the School Board an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On December 8, 2014, **REDACTED** a parent of student(s) enrolled in the Gloucester County Public School System, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On December 10, 2014, **REDACTED** a resident of Gloucester County, sent the School Board an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On December 10, 2014, **REDACTED** a parent of student(s) enrolled in Gloucester High School, sent the School Board an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On December 20, 2014, **REDACTED** a resident of Gloucester County, sent the School Board an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On December 20, 2014, **REDACTED** sent the School Board an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On January 2, 2015, an individual named **REDACTED** sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On July 10, 2015, **REDACTED** sent the School Board an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On April 21, 2016, **REDACTED** a parent of students(s) enrolled in Gloucester County Public Schools, including Gloucester High School, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On April 21, 2016, **REDACTED** parent of student(s) enrolled in Gloucester County Public Schools, including Gloucester High School, sent the School Board an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

- On May 12, 2016, **REDACTED** sent the School Board an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

Emails sent to Troy Anderson

In addition to receiving emails sent to the entire School Board, Mr. Anderson received the following communications:

- On December 7, 2014, **REDACTED** parent of student(s) enrolled in Gloucester High School, sent Mr. Anderson an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On July 27, 2015, **REDACTED** a resident of Kentucky, sent Mr. Anderson an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On July 14, 2016, **REDACTED** a resident of New York, sent Mr. Anderson an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

Emails sent to Randy Burak

In addition to receiving emails sent to the entire School Board, Mr. Burak received the following communications:

- On November 12, 2014, **REDACTED** a parent of student(s) enrolled in Gloucester High School, sent Mr. Burak an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On December 3, 2014, **REDACTED** a resident of the Abingdon District, sent the School Board an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On December 7, 2014 **REDACTED** a parent of student(s) who attended Gloucester High School, sent the Mr. Burak an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On December 8, 2014, a resident of Gloucester County named **REDACTED** emailed Mr. Burak regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

- On December 11, 2014, **REDACTED** a resident of Washington D.C., emailed Mr. Burak regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

Emails sent to Kimberly Hensley

In addition to receiving emails sent to the entire School Board, Ms. Hensley received the following communications:

- On November 19, 2014, **REDACTED** a parent of student(s) at Gloucester High School, emailed Ms. Hensley regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.
- On December 13, 2014, **REDACTED** parents of student(s) enrolled in Gloucester County Public Schools, including Gloucester High School, emailed Ms. Hensley regarding their opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

Emails sent to Carla Hook

In addition to receiving emails sent to the entire School Board, Ms. Hook received the following communications:

- On December 7, 2014, **REDACTED** a parent of high school student(s) in the York District, sent an email to Ms. Hook regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

Emails sent to Charles Records

In addition to receiving emails sent to the entire School Board, Mr. Records received the following communications:

- On April 21, 2016, **REDACTED** sent an email to Mr. Records regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

Emails sent to Dr. Clemons

In addition to receiving some of the emails sent to the entire Board, Dr. Clemons received the following communications:

- On October 22, 2016 **REDACTED** upon information and belief a parent of student(s) enrolled in Gloucester County Public Schools, sent Dr. Clemons an email regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

- On November 7, 2016, **REDACTED** sent Dr. Clemons an email regarding his opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

Additionally, the following School Board members received complaints via telephone, which are listed below.

Telephone Complaints made to Carla Hook

- Upon information and belief, before October 28, 2014, Ms. Hook spoke with **REDACTED** **REDACTED** whose children were enrolled in Gloucester County Public Schools, regarding their opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

Additionally, the issue of transgender bathroom use was discussed at public School Board meetings on November 11, 2014 and December 9, 2014. Video links to those meetings are available at: <http://www.gloucesterva.info/640/Meeting-Portal>.

The following individuals spoke regarding their opposition to a transgender student using the bathroom inconsistent with that student's biological sex during the November 11, 2014 meeting:

- Ralph Van Ness (parent of student(s) enrolled in Gloucester County Public Schools)
- Eddie Aliff
- Savannah Williams (student at Gloucester High School)
- Terry Brennan
- Joy Sampson (parent of student(s) enrolled in Gloucester County Public Schools)
- Kelly Williams (parent of student(s) enrolled in Gloucester County Public Schools)
- Marc Jenkins (parent of student(s) enrolled in Gloucester County Public Schools)

- **Drew Palas (parent of student(s) enrolled in Gloucester County Public Schools)**
- **Kathryn Lindsay (parent of student(s) enrolled in Gloucester County Public Schools)**
- **Brian Byrd (parent of student(s) enrolled in Gloucester County Public Schools)**
- **Tricia Ray**
- **Kim Ward (parent of student(s) enrolled in Gloucester County Public Schools)**
- **Melissa Wamsley (parent of student(s) enrolled in Gloucester County Public Schools)**
- **Ray Wamsley (parent of student(s) enrolled in Gloucester County Public Schools)**
- **Season Palas (parent of student(s) enrolled in Gloucester County Public Schools)**

The following individuals spoke regarding their opposition to a transgender student using the bathroom inconsistent with that student's biological sex during the December 9, 2014 meeting:

- **Ralph Van Ness (parent of student(s) enrolled in Gloucester County Public Schools)**
- **Scott Williams (student at Gloucester High School)**
- **Savannah Williams (student at Gloucester High School)**
- **Kathryn Lindsay (parent of student(s) enrolled in Gloucester County Public Schools)**
- **Drew Palas (parent of student(s) enrolled in Gloucester County Public Schools)**
- **Karen Pauly**
- **Mike Enz (parent of student(s) enrolled in Gloucester County Public Schools)**
- **Katherine Foley (parent of student(s) enrolled at Gloucester High School)**
- **Howard Mowry**
- **Janet West (parent of student(s) enrolled at Gloucester High School)**
- **Linda Walk**
- **Don Mitchell**

- **Terry Brennan**
- **Marista Cooper (grandparent of student(s) enrolled in Gloucester County Public Schools)**
- **Kelly Williams**

The School Board also incorporates by reference any additional “complaints” not described herein that are contained in the documents the School Board has produced in response to Plaintiff’s First Request for Production of Documents.

SUPPLEMENTAL ANSWER:

In its Answers to Plaintiff’s First Interrogatories, the School Board provided a list of email communications between board members and various individuals regarding the use of restrooms by transgender students. Further, the School Board provided the emails identified in those Answers in response to Plaintiff’s First Requests for Production of Documents. The emails speak for themselves, and each School Board member’s knowledge of any “complaint” sent by email relating to the use of restrooms by transgender students is consistent with the contents of those emails.

Further, in addition to the information provided in the School Board’s Answers to Plaintiff’s First Interrogatories, the following School Board members recall receiving non-email communications from individuals concerning the use of school restrooms by transgender students:

- **Carla Hook received approximately five (5) telephone calls from parents of students enrolled in Gloucester County Public Schools who said their children were uncomfortable with a girl using the boys’ restroom. Ms. Hook does not recall the names of either the parents with whom she spoke or their children. To Ms. Hook’s knowledge, the children had no direct interaction with Grimm in the boys’ restroom.**
- **Kevin Smith received dozens of communications before the December 9, 2014, School Board meeting regarding a transgender student using the restroom**

inconsistent with that student's biological sex. To Mr. Smith's best recollection, approximately seventy-five (75) percent of those communications came from parents of students enrolled in Gloucester County Public Schools. Mr. Smith does not recall the names of either the individuals with whom he spoke or their children. The individuals indicated that they were not in favor of a transgender student using the restroom inconsistent with that student's biological sex. Additionally, parents indicated that they did not want their children using the same bathroom as a member of the opposite sex. To Mr. Smith's knowledge, the children had no direct interaction with Grimm in the boys' restroom.

- Troy Andersen received approximately five (5) telephone calls from parents of students at Gloucester County Public Schools regarding a transgender student using the restroom inconsistent with that student's biological sex. Mr. Andersen does not recall the names of either the parents or their children. The parents did not want their children using the same bathroom as a member of the opposite sex, and they were concerned about the privacy and safety of students, including their children. Mr. Andersen believes that he followed any telephone conversation on this issue with an email to the parent, and that the telephone conversations were substantively similar to the email exchanges. To the best of Mr. Andersen's knowledge, the children had no direct interaction with Grimm in the boys' restroom.
- Randy Burak received two telephone calls on October 20, 2014, from parents of students at Gloucester County Public Schools regarding a transgender student using the restroom inconsistent with that student's biological sex. One telephone call came from "REDACTED," a parent of two boys enrolled in Gloucester County Public Schools. Mr. Burak does not recall the first name of REDACTED indicated that he and his children were not in favor of a girl using the same restroom as boys. The other telephone call came from a parent, whose name Mr. Burak cannot recall, who likewise did not approve of a transgender student using the restroom inconsistent with that student's biological sex. This parent expressed concern that young male students would be uncomfortable with a student who was biologically female using the male restroom. Mr. Burak does not know whether or not the children of the two parents had any direct interaction with Grimm in the boys' restroom.

This Answer will be supplemented further as additional information is received.

**GLOUCESTER COUNTY SCHOOL
BOARD**

By _____



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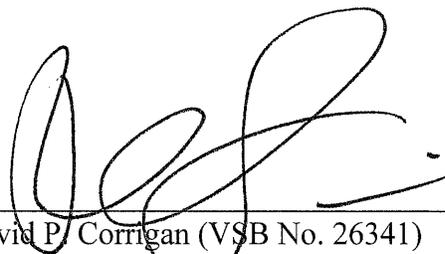
CERTIFICATE

I hereby certify that on the 11th day of January, 2019, I mailed and emailed the document to the following:

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**RECORDED MINUTES OF THE
GLOUCESTER COUNTY SCHOOL BOARD
GLOUCESTER, VIRGINIA**

NOVEMBER 11, 2014

The regular monthly meeting of the Gloucester County School Board was held on Tuesday, November 11, 2014. The Chairperson called the meeting to order at 5:35 pm at the Thomas Calhoun Walker Education Center.

I. ROLL CALL

Roll call was taken by the Acting Clerk, and the following persons were recorded as present: George R. (Randy) Burak, Chairperson, Troy M. Anderson, Kimberly (Kim) E. Hensley, Carla B. Hook, Anita F. Parker, Charles B. Records, and Kevin M. Smith, Members. Also present for the closed meeting: Walter R. Clemons, Ph.D., Superintendent of Schools, and John E. Hutchinson, Assistant Superintendent for Administrative Services and Acting Clerk.

II. CALL FOR CLOSED MEETING

At 5:36 pm, a motion was made by Ms. Hensley, seconded by Mrs. Hook, and unanimously approved to adjourn for a closed session, pursuant to Code of Virginia, 1950, as amended, Section 2.2-3711 (A), Subsection 1, for the discussion of personnel matters (monthly appointments, resignations, etc.) and Subsection 7, for consultation with legal counsel. At 6:50 pm, the Chairperson declared a recess, and the meeting was relocated to the Thomas Calhoun Walker Education Center auditorium.

III. RETURN TO OPEN MEETING/CERTIFICATION

Note: Ms. Betty Jane Duncan, Deputy Clerk, recorded the open meeting.
The Deputy Clerk noted that all members were present for the open meeting.

At 7:00 pm, a motion was made by Mr. Smith and seconded by Ms. Hensley to reconvene the meeting into open session. The motion was approved as follows:

Mr. Andersen	<u>Aye</u>	Mr. Records	<u>Aye</u>
Ms. Hensley	<u>Aye</u>	Mr. Smith	<u>Aye</u>
Mrs. Hook	<u>Aye</u>	Mr. Burak	<u>Aye</u>
Ms. Parker	<u>Aye</u>		

There was no certification for the closed session at this time. The Chairperson stated that the Board had recessed from the closed session and would resume that closed session at the conclusion of the opening meeting.

IV. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE – Mr. Burak noted that today was Veterans' Day and extended thanks to all veterans who had served our country. Ms. Campbell Farina, SAC representative, led the Board and citizens in a moment of silence followed by the Pledge of Allegiance to the flag of the United States of America.

V. PERSONNEL ITEMS – (moved to consideration after closed session)

VI. ADDITIONS/CHANGES/ADOPTION OF AGENDA

There were no changes to the agenda as previously revised and published. A motion was made by Ms. Hensley, seconded by Mr. Records, and unanimously adopted to approve the agenda as revised and published.

EXHIBIT

J

**RECORDED MINUTES OF THE NOVEMBER 11, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING**

VII. APPROVAL OF ITEMS CONTAINED IN THE CONSENT AGENDA

A motion was made by Ms. Hensley to approve the Consent Agenda (listed below). Motion was seconded by Mr. Andersen and approved with a roll call vote.

Mr. Andersen	<u>Aye</u>	Mr. Records	<u>Aye</u>
Ms. Hensley	<u>Aye</u>	Mr. Smith	<u>Aye</u>
Mrs. Hook	<u>Aye</u>	Mr. Burak	<u>Aye</u>
Ms. Parker	<u>Aye</u>		

ITEMS CONTAINED WITHIN THE CONSENT AGENDA:

- A. Approval of Minutes of October 14, 2014, Monthly Meeting
- B. Approval of Minutes of October 23, 2014, Special (Work Session) Meeting
- C. Approval of Minutes of October 30, 2014 Special (Closed) Meeting
- D. Approval of Disposal of Equipment Valued in Excess of \$500
- E. Approval of Policy Manual Update (1st/2nd Readings)
 - 1. FF: Public Dedication of New Facilities (new)
 - 2. FFA: Naming of School Facilities (new)
 - 3. BBFA: School Board Members Conflict of Interest (revision)
 - 4. BDDF: Voting Method (revision)
 - 5. EFB: Free and Reduced Price Food Services (revision)
 - 6. FE: Playground Equipment (revision)
 - 7. FG: Retirement of Facilities (revision)
 - 8. JO: Student Records (revision)
 - 9. KFB: Administration of Surveys and Questionnaires (revision)
 - 10. KH: Public Gifts to Schools (revision)
 - 11. KKA: Service Animals in Public Schools (revision)
 - 12. LCA: Charter Schools (revision)
 - 13. LCA-E: Charter School Application Addendum (form revision)
- F. Informational Central Food Service Financial Report as of September 30, 2014
- G. Informational Membership Report as of October 30, 2014
- H. Informational Suspension Report for October, 2014
- I. Informational Visiting Teachers Report for October, 2014
- J. Informational Transportation Report for October, 2014

VIII. STAFF PRESENTATIONS/RECOGNITIONS

A. Presentation of VSBA Academy Awards – Dr. Clemons presented the following VSBA Academy Awards:

Mr. Burak	Achievement	Mrs. Hook	Excellence
Mr. Andersen	Achievement	Ms. Parker	Honor
Ms. Hensley	Recognition	Mr. Smith	Recognition

B. Updates on Boards/Commissions by School Board Members

Ms. Hensley gave a report on WHRO. Ms. Parker provided information on the Education Foundation. Mrs. Hook made remarks regarding the Chesapeake Bay Governor’s School.

**RECORDED MINUTES OF THE NOVEMBER 11, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING**

PAGE 3 of 8

IX. CITIZENS' COMMENT PERIOD

Mr. Burak asked if there were any persons present who wished to address the Board. He asked that all persons state their name, the district in which they reside and to limit their remarks to three (3) minutes or less. A number of citizens addressed the issue of accommodations for transgender students including:

Ralph Van Ness (Ware)
Rev. Eddy Aliff (Virginia Assembly of Independent Baptists)
Savannah Williams (Abingdon)
Terry Brennan (Abingdon)
Deidre Grimm
Gavin Grimm
Joy Sampson (Petersworth)
Kelly Williams (Abingdon)
Mark Faulkner (Ware)
Lorraine Walsh (Abingdon)
Drew Palas (Gloucester Point)
Kathryn Lindsay (Gloucester Point)
Jacklynn Laniff (Abingdon)
Brian Byrd (Gloucester Point)
Ira Johnson (Petersworth)
Patricia Ray (Petersworth)
Kim Ward (Ware)
Melisa Wamsley (Petersworth)
Ray Wamsley (Petersworth)
Season Palas (Gloucester Point)
Paul Martin (Gloucester Point)
Christi Jackson Feliciano (White Marsh)
Elisa Nelson (Abingdon)
Amy VanFossen (Ware)
David Grimm
Robert Teagle
Howard Mowry (Gloucester Point)

Mr. Burak thanked all citizens who came forward to speak regarding this matter.

X. STUDENT ADVISORY COMMITTEE (SAC) ITEMS – Ms. Farina offered remarks regarding the transgender accommodation issue.

XI. SUPERINTENDENT'S ITEMS

A. Comprehensive Plan Update/Reminder of Next Meeting Date – Dr. Clemons reminded Board members and the public that the next Comprehensive Plan development meeting would be held on Monday, November 17, 2014, at 7:00 pm at the Thomas Calhoun Walker Education Center (Cafeteria). He expressed thanks to all who have attended previous meetings and provided valuable input in the process.

**RECORDED MINUTES OF THE NOVEMBER 11, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING**

XII. SCHOOL BOARD MEMBERS' ITEMS

A. VSBA Annual Convention – November 19-21, 2014 at Doubletree by Hilton Williamsburg. The Clerk has registered all School Board members who are able to attend. Opening session begins at 2:00 pm on Wednesday, November 19, 2014, followed by a break from 4:00-4:30 pm, followed by the President’s Reception at 5:30 pm, followed by dinner at 7:00 pm.

B. Other Matters as Brought Up by Board Members

1. Discussion of Use of Restrooms/Locker Room Facilities – Mrs. Hook read the following resolution and made a motion to adopt said resolution:

Whereas the GCPS recognizes that some students question their gender identities, and

Whereas the GCPS encourages such students to seek support, advice, and guidance from parents, professionals and other trusted adults, and

Whereas the GCPS seeks to provide a safe learning environment for all students and to protect the privacy of all students, therefore

It shall be the practice of the GCPS to provide male and female restroom and locker room facilities in its schools, and the use of said facilities shall be limited to the corresponding biological genders, and students with gender identity issues shall be provided an alternative appropriate private facility.

The motion was seconded by Mr. Records.

A motion was made by Ms. Parker and seconded by Ms. Hensley to postpone action on the resolution and motion offered by Mrs. Hook until the December 9 meeting of the Board. A roll call vote was called for, and the Deputy Clerk recorded the following vote:

Mr. Andersen	<u>Nay</u>	Mr. Records	<u>Nay</u>
Ms. Hensley	<u>Aye</u>	Mr. Smith	<u>Aye</u>
Mrs. Hook	<u>Nay</u>	Mr. Burak	<u>Aye</u>
Ms. Parker	<u>Aye</u>		

Motion was carried by a vote of 4-3. Motion offered by Mrs. Hook will be considered at the December 9 meeting of the Board.

XIII. ADMINISTRATIVE ITEMS

A. Recommendation to Restrict Outside Food Sharing at Elementary Schools – Ms. Shirley Chirch, Environmental Health and Safety Manager, and Ms. Lauren Giddings, School Health and Safety Board representative, reviewed the recommendation from the Board regarding the restriction of outside food sharing at the elementary schools. Due to an increasing number of students with life threatening food allergies and the potential for fatal reactions from unintended exposure to them, the following guidelines were recommended by the School Health Advisory Board:

RECORDED MINUTES OF THE NOVEMBER 11, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING

XIII. ADMINISTRATIVE ITEMS (continued)

• During the normal instructional day, no homemade or commercially prepared treats or food items, which are intended to be shared with students, will be allowed at the elementary level. This will not include food items that are part of the instructional process or school sponsored activities which are planned in advance.

A motion was made by Mr. Andersen, seconded by Ms. Hensley, and unanimously approved to adopt the guidelines as recommended by the School Health Advisory Board.

B. Discussion of Redistricting Plans – Mr. Hutchinson stated that the Redistricting Committee would be reactivated in preparation for the opening of the new Page Middle School. The first meeting of the committee will be held in January 2015 with a presentation and recommendation to the Board in March. School Board members are needed to serve on the committee. Mr. Andersen and Mr. Records agreed to serve on this committee. Mr. Records stated that this would be an opportunity for the Board to consider restructuring grade levels among the schools throughout the school system.

At 8:55 pm, the Chairperson called for a brief recess. The meeting was reconvened at 9:07 pm.

C. Monthly Departmental Report – Mr. Hutchinson reviewed departmental activities accomplished during the month.

XIV. INSTRUCTIONAL ITEMS

A. Recommended GCPS Local Assessment Plan – Dr. Bess Worley, Instructional Supervisor, provided information on the Virginia Department of Education Local Assessment Guidelines. It was the consensus of the Board to move forward with plans for developing local assessments in accordance with state guidelines.

B. Monthly Departmental Report – Dr. Wagner reviewed highlights of the month from Instructional Services. Ms. Hensley asked for further information on requirements for lesson plans on the elementary level. Dr. Wagner will provide this information to Board members through e-mail.

XV. BUDGET AND FINANCE ITEMS --- CONSIDERED OUT OF ORDER FROM PUBLISHED AGENDA

A. Monthly Departmental Report – Ms. Joanne Wright, Director of Budget and Finance, highlighted tasks and accomplishments of the Budget and Finance Office.

B. Acceptance of Donations -- Ms. Wright highlighted the donations received by the division totaling \$11,055.00. A motion was made by Mr. Records and seconded by Ms. Parker to accept with grateful appreciation the donations as outlined. The Deputy Clerk polled the Board as follows:

Ms. Parker	<u>Aye</u>	Mr. Smith	<u>Aye</u>
Ms. Hensley	<u>Aye</u>	Mr. Records	<u>Aye</u>
Mrs. Hook	<u>Aye</u>	Mr. Burak	<u>Aye</u>
Mr. Andersen	<u>Aye</u>		

**RECORDED MINUTES OF THE NOVEMBER 11, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING**

XV. BUDGET AND FINANCE ITEMS (continued)

C. Informational Financial Reports – Ms. Wright presented the following reports which were accepted by the Board as information:

1. September 30, 2014, Financial Report
2. October 30, 2014, Construction Financial Report
3. October 30, 2014, HVAC/Roof Financial Report

Ms. Hensley inquired what process the Board would follow if they wished to consider hiring a public relations person. Ms. Wright explained the process of bidding for services. Dr. Clemons will bring back a recommendation on this matter at the next meeting.

XIV. INSTRUCTIONAL ITEMS (continued)

The Board considered the remainder of the Instructional Items at this time.

C. Update on Naviance: College and Career Readiness Solutions – Dr. Wagner stated that Mr. Bill Lindsey with the County Purchasing Department had been consulted and would be soliciting bids for college and career readiness services/programs. Further information will be provided to the Board in December.

D. Approval of Proposal to Assess Dual Enrollment Fees to Students for 2015-16 – The Board discussed the proposal to assess dual enrollment fees beginning in 2015-16. A motion was made by Mr. Andersen and seconded by Ms. Hensley to approve the proposal to assess dual enrollment fees in the amount of \$15.00 (\$5.00/credit hour) to students beginning in 2015-16. The Deputy Clerk recorded the following roll call vote:

Ms. Parker	<u>Aye</u>	Mr. Smith	<u>Aye</u>
Ms. Hensley	<u>Aye</u>	Mr. Records	<u>Aye</u>
Mrs. Hook	<u>Aye</u>	Mr. Burak	<u>Aye</u>
Mr. Andersen	<u>Aye</u>		

E. Update on Year-Round Program Proposal at Abingdon Elementary – Dr. Wagner apprised the Board on the status of the year-round program grant. Funds allocated by the state are insufficient to provide the program as written in the grant. After considerable discussion, a motion was made by Mrs. Hook and seconded by Mr. Smith to stop the planning process for a year-round program at this time and allow the grant funds to revert to the VDOE. Upon a voice vote, the motion was approved by the majority of the Board with Mr. Records voting nay.

F. Continued Discussion on Field Trip Policy (File IICA) – Dr. Wagner informed the Board that the division's insurance carrier had indicated that supplemental insurance plans were available for purchase to provide certain coverages for international trips. After discussion, it was the consensus of the Board to have Dr. Wagner obtain further information from the carrier to bring back to the Board in December. Revisions to the policy to cover international travel also will be considered at a future meeting.

G. VDOE Academic Review for Schools Accredited with Warning (GHS/Page) – Dr. Wagner outlined the process by which the VDOE will conduct academic reviews for schools accredited with warning. Teams/contractors will visit the schools on December 11 to observe classrooms, review lesson plans and curriculum, and meet with school staff. At the conclusion of the site visit, the team will present a report with recommendations to the VDOE.

**RECORDED MINUTES OF THE NOVEMBER 11, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING**

XVI. PUBLIC ANNOUNCEMENTS

Mr. Burak read the following public announcements:

- A. Next GCPS Comprehensive Plan Meeting – Monday, November 17, 2014, 7:00 pm @ the Thomas Calhoun Walker Education Center (Cafeteria)
- B. G.H.S. Fall Athletic Awards Ceremony – Tuesday, November 18, 2014, 7:00 pm, G.H.S. (Auditorium)
- C. Professional Days (Students Off) – Monday-Tuesday, November 24-25, 2014
- D. Professional Work @ Home Day (Students Off)/SBO Open ½ Day – Wednesday, November 26, 2014
- E. Thanksgiving Holidays-All GCPS Schools and Offices Closed, Thursday-Friday, November 27-28, 2014
- F. Next Monthly School Board Meeting – Tuesday, December 9, 2014, 7:00 pm @ the Thomas Calhoun Walker Education Center (Auditorium)

CLOSED MEETING

At 10:52 pm, the Board resumed the closed session.

At 10:59 pm, a motion was made by Ms. Hensley, seconded by Mr. Records, and unanimously approved to extend the meeting to 11:15 pm.

At 11:14 pm, a motion was made by Ms. Parker, seconded by Mrs. Hook, and unanimously approved to extend the meeting to 11:30 pm.

At 11:30 pm, a motion was made by Mr. Records, seconded by Mrs. Hook, and unanimously approved to extend the meeting to 11:45 pm.

At 11:36 pm, a motion was made by Mrs. Hook to reconvene the meeting into open session and to certify that the Gloucester County School Board, while in closed session, discussed only public matters lawfully exempted from open meeting requirements provided in Subsection A of Section 2.2-3711 and that only public business matters that were identified in the motion convening the closed session were heard, discussed or considered. The motion was seconded by Ms. Hensley and approved as follows:

Mr. Andersen	<u>Aye</u>	Mr. Records	<u>Aye</u>
Ms. Hensley	<u>Aye</u>	Mr. Smith	<u>Aye</u>
Mrs. Hook	<u>Aye</u>	Mr. Burak	<u>Aye</u>
Ms. Parker	<u>Aye</u>		

V. PERSONNEL ITEMS – (agenda item moved to be considered after closed session)

A. Approval of Monthly Personnel Actions — A motion was made by Mr. Smith, seconded by Ms. Hensley and unanimously adopted to approve the monthly listing of personnel appointments, staff leave, and contract changes. **(Approved copies attached to minutes)**

RECORDED MINUTES OF THE NOVEMBER 11, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING

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XVII. CALL FOR ADJOURNMENT

At 11:37 pm, there being no further business, a motion was made by Ms. Hensley, seconded by Mr. Records, and unanimously approved to adjourn the regular monthly meeting of November 11, 2014, until the next monthly meeting on Tuesday, December 9, 2014, 7:00 pm at the Thomas Calhoun Walker Education Center (auditorium).

George R. (Randy) Burak, Chairperson

Betty Jane Duncan, Deputy Clerk

John E. Hutchinson, Acting Clerk

Attachments (3):

1. Bound Agenda for November 11, 2014, Monthly Meeting
2. Revised Agenda for November 11, 2014, Monthly Meeting
3. Approved Monthly and Supplemental Personnel Listing

Note: The attachments will be bound with the official minutes once approved.

END
BJD/JEH:/bjd
MIN-11-11-14

**RECORDED MINUTES OF THE
GLOUCESTER COUNTY SCHOOL BOARD
GLOUCESTER, VIRGINIA**

DECEMBER 9, 2014

The regular monthly meeting of the Gloucester County School Board was held on Tuesday, December 9, 2014. The Chairperson called the meeting to order at 5:30 pm at the Thomas Calhoun Walker Education Center.

I. ROLL CALL

Roll call was taken by the Acting Clerk, and the following persons were recorded as present: George R. (Randy) Burak, Chairperson, Troy M. Anderson, Kimberly (Kim) E. Hensley, Carla B. Hook, Anita F. Parker, Charles B. Records, and Kevin M. Smith, Members. Also present for the closed meeting: Walter R. Clemons, Ph.D., Superintendent of Schools, and John E. Hutchinson, Assistant Superintendent for Administrative Services and Acting Clerk.

II. CALL FOR CLOSED MEETING

At 5:42 pm, a motion was made by Mr. Records, seconded by Ms. Parker, and unanimously approved to adjourn for a closed session, pursuant to Code of Virginia, 1950, as amended, Section 2.2-3711 (A), Subsection 1, for the discussion of personnel matters (monthly appointments, resignations, etc.). At 6:32 pm, the Chairperson declared a recess, and the meeting was relocated to the Thomas Calhoun Walker Education Center auditorium.

III. RETURN TO OPEN MEETING/CERTIFICATION

Note: Ms. Diane Clements Gamache, Clerk, recorded the remainder of the meeting. The Clerk noted that all members were present for the open meeting.

At 7:00 pm, a motion was made by Mr. Smith to reconvene the meeting into open session and certify that the Gloucester County School Board, while in closed session, discussed only public matters lawfully exempted from open meeting requirements provided in Subsection A of Section 2.2-3711 and that only public business matters that were identified in the motion convening the closed session were heard, discussed or considered. The motion was seconded by Ms. Hensley and approved as follows:

Mr. Andersen	<u>Aye</u>	Mr. Records	<u>Aye</u>
Ms. Hensley	<u>Aye</u>	Mr. Smith	<u>Aye</u>
Mrs. Hook	<u>Aye</u>	Mr. Burak	<u>Aye</u>
Ms. Parker	<u>Aye</u>		

IV. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE – Ms. Campbell Farina, SAC representative, led the Board and citizens in a moment of silence followed by the Pledge of Allegiance to the flag of the United States of America.

V. PERSONNEL ITEMS

A. Approval of Monthly Personnel Actions — A motion was made by Mr. Records, seconded by Mr. Andersen, and unanimously adopted to approve the monthly listing of personnel appointments, staff leave, and contract changes (**approved copies attached to minutes**).

**EXHIBIT
K**

**RECORDED MINUTES OF THE DECEMBER 9, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING**

VI. ADDITIONS/CHANGES/ADOPTION OF AGENDA

Dr. Clemons recommended the following changes to the *revised* agenda (**attached to minutes**) as published: Moving policy, File JHCH from Consent to Item C under Administrative Services' Items; and re-ordering School Board Members Items' immediately following Citizens' Comment Period. A motion was made by Mr. Smith, seconded by Mr. Records, and unanimously adopted to approve the agenda as amended.

VII. APPROVAL OF ITEMS CONTAINED IN THE CONSENT AGENDA

A motion was made by Mr. Smith to approve the Consent Agenda as amended (listed below). Motion was seconded by Mr. Andersen and approved with a roll call vote:

Mr. Andersen	<u>Aye</u>	Mr. Records	<u>Aye</u>
Ms. Hensley	<u>Aye</u>	Mr. Smith	<u>Aye</u>
Mrs. Hook	<u>Aye</u>	Mr. Burak	<u>Aye</u>
Ms. Parker	<u>Aye</u>		

ITEMS CONTAINED WITHIN THE CONSENT AGENDA:

- A. Approval of Minutes of November 5, 2014 Special (3-Member Panel Hearing) Meeting
- B. Approval of Minutes of November 11, 2014, Monthly Meeting
- C. Approval of Policy Manual Update
 - a. IF-R: Program of Studies (revision)
- D. Informational Central Food Service Financial Report as of October 31, 2014
- E. Informational Membership Report as of November 21, 2014
- F. Informational Suspension Report for November, 2014
- G. Informational Visiting Teachers Report for November, 2014
- H. Informational Transportation Report for November, 2014

VIII. STAFF PRESENTATIONS/RECOGNITIONS

A. Presentation of Diplomas to GHS Winter Graduates – Dr. Toni Childress, GHS Staff, Mr. Nate Collins, GHS Principal, and Mr. Burak awarded diplomas to the GHS winter graduates. Students present who received their diplomas were: Rebecca Gayle Allen, John Raye Gaddis, Ashley Michelle Kearns, Alexandra Judith Rodriguez, Sebastian Leigh Sain (Advanced Diploma), Justin Raye Schultz, and Tavor Jameel Wilson. Three other graduates were not present: Cassidy Reid Preston, James Jack Spence, and Keith Randall Thrift, Jr.

B. Recognition of Mr. Rusty West, Project Lead the Way Teacher – Dr. Wagner congratulated Rusty West for receiving the Project Lead the Way National Teacher of Excellence Award. Mr. West was one of six instructors recognized on the national level for their outstanding commitment to educating students in the STEM disciplines and preparing them with the skills to be successful in college and their careers.

C. Updates on Boards/Commissions by School Board Members – There were none.

**RECORDED MINUTES OF THE DECEMBER 9, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING**

PAGE 3 of 7

IX. CITIZENS' COMMENT PERIOD

Mr. Burak asked if there were any persons present who wished to address the Board. He asked that all persons state their name, the district in which they reside and to limit their remarks to two (2) minutes or less. He stated that Mr. Ted Wilmot, County Attorney, would act as the official time-keeper. The following citizens came forward to speak:

Steve Sikes-Nova (teacher/GEA spokesperson)
Brian McGovern (President of GEA)
Ralph VanNess (Ware)
Donna Pierce Freeman (teacher/Ware)
Pastor Fred Carter (Gloucester)
Gavin Grimm (student)
Deirdre Grimm (Gloucester)
Jacklynn Lehiff (Abingdon)
Scott Williams (Abingdon)
Savannah Williams (Abingdon)
Kathryn Lindsay (Abingdon)
Dianne Carter deMayo (Hayes)
Andrew Palas (Gloucester Point)
Amy VonFossen (Ware)
Adam Carpenter (Gloucester Point)
Campbell Farina (Abingdon)
Karen Pauley (White Marsh)
Barbara King (Abingdon)
Mike Enz (Abingdon)
Catherine Foley (Abingdon)
Marc Farina (Abingdon)
Reese Williams (Ware)
Howard Mowry (Gloucester Point)
Paul Martin (Gloucester Point)
Janet West
Linda Wall (Buckroe Beach)
Don Mitchell (York)
David Wilcox (York)
Terry Brennan (Abingdon)
Michelle Larson (York)
Maritza Cooper (Petsworth)
Ira Johnson (Petsworth)
Gabrielle Johnson (Ware)
Christina Klein (Hayes)
Alex Westfall (Gloucester)
Jacob Hangdahl (Hayes)
Kelly Williams (Gloucester Point)

Note: Change in Order of Items

XII. SCHOOL BOARD MEMBERS ITEMS

A. VSBA Capital Conference – Monday, January 26, 2015 at the Richmond Marriott @ \$170 per person. Board members should contact the Clerk for pre-registration purposes if they would like to attend.

**RECORDED MINUTES OF THE DECEMBER 9, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING**

XII. SCHOOL BOARD MEMBERS ITEMS – continued

B. Adoption of Resolution re: Funding of Public Education in Virginia – Mr. Burak stated that a resolution proposed in conjunction with the Virginia School Boards Association and the Virginia Association of School Superintendents, was included in the agenda regarding calling upon the Virginia General Assembly to immediately increase the state’s share of funding for public education to the level of quality that is prescribed by them in the Standards of Quality and expected by all of the Commonwealth’s citizens. A motion was made by Mr. Andersen and seconded by Ms. Parker to adopt the resolution as presented. The Clerk recorded the following vote:

Mr. Smith	<u>Aye</u>	Ms. Parker	<u>Aye</u>
Mr. Records	<u>Aye</u>	Ms. Hensley	<u>Aye</u>
Mr. Andersen	<u>Aye</u>	Mr. Burak	<u>Aye</u>
Mrs. Hook	<u>Aye</u>		

C. Other Matters as brought up by Board Members

1. Discussion of Use of Restrooms/Locker Room Facilities – Mr. Burak stated that a motion had been postponed at the November 11, 2014, until the December 9, 2014, meeting and was in order for consideration at this time. He read the motion to be considered as recorded in the November 11, 2014 minutes:

“Mrs. Hook read the following resolution and made a motion to adopt said resolution:

Whereas the GCPS recognizes that some students question their gender identities, and
Whereas the GCPS encourages such students to seek support, advice, and guidance from parents, professionals and other trusted adults, and
Whereas the GCPS seeks to provide a safe learning environment for all students and to protect the privacy of all students, therefore
It shall be the practice of the GCPS to provide male and female restroom and locker room facilities in its schools, and the use of said facilities shall be limited to the corresponding biological genders, and students with gender identity issues shall be provided an alternative appropriate private facility.

The motion was seconded by Mr. Records.”

A motion was made by Mr. Records, and seconded by Mr. Andersen to bring the original motion back to the table for a vote.

Mr. Andersen stated that he would like to politely request from one Board member to another that anyone recuse themselves from voting if they felt they had a conflict of interest, pursuant to Code of Va, 1950, as amended, Section 2.2-3100 or Board policy, File BBFA.

Following comments by each Board member, the Clerk polled on the postponed motion under consideration (carried 6 to 1):

Ms. Parker	<u>Aye</u>	Mr. Smith	<u>Aye</u>
Ms. Hensley	<u>Naye</u>	Mr. Records	<u>Aye</u>
Mrs. Hook	<u>Aye</u>	Mr. Burak	<u>Aye</u>
Mr. Andersen	<u>Aye</u>		

**RECORDED MINUTES OF THE DECEMBER 9, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING**

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X. STUDENT ADVISORY COMMITTEE (SAC) ITEMS – Ms. Farina had no items.

RECESS – At 9:18 pm, the Chair called for a 5-10 minute recess. At 9:28 pm, he called the meeting back to order.

XI. SUPERINTENDENT'S ITEMS

A. Comprehensive Plan Update/Reminder of Next Meeting Date – Dr. Clemons reminded Board members and the public that the next Comprehensive Plan development meeting would be held on Wednesday, December 17, 2014, 7:00 pm at the Thomas Calhoun Walker Education Center. He stated that the School Board would have the final decision on the Comprehensive Plan.

B. Discussion of Possible Additional Budget Meeting with Board of Supervisors – Dr. Clemons stated that he would speak with Ms. Brenda Garton, County Administrator, about the possibility of holding another joint budget work session with the Board of Supervisors, as this was discussed at the September joint meeting and the School Board was again receptive.

Mrs. Hook asked if it might be possible to hold a 1-hour meeting with the local and state legislators prior to the opening of the General Assembly, and Dr. Clemons stated that he would check into it and get back to the Board.

XIII. HUMAN RESOURCES ITEMS

A. Monthly Departmental Report – Dr. Juanita Smith, Director of Human Resources, presented information on the activities of the department during the month, and expressed her appreciation to her staff. She also announced that Ms. Ashley Field had recently earned Nationally Board Certified Teacher status and Mr. Andersen asked that she be recognized at the January Board meeting.

XIV. ADMINISTRATIVE ITEMS

A. Monthly Departmental Report – Mr. Hutchinson reviewed departmental activities accomplished during the month.

B. Update on Redistricting Plans – Mr. Hutchinson stated that preliminary numbers would suggest that attendance zones would remain the same for middle schools when Page opens; however, they are continuing to monitor elementary school numbers.

Mr. Records asked if information on previous studies on the Page site, etc. had been sent to the Board of Supervisors. Dr. Clemons and Mr. Hutchinson both noted that they would check.

C. Policy JHCH: School Meals and Snacks (new) – A motion was made by Mr. Smith, seconded by Mr. Records and unanimously approved to adopt File JHCH: School Meals and Snacks as a first and second reading.

Mrs. Hook asked if Food Service could make a 10 minute presentation on the status of the School Lunch Act at a future work session, and Mr. Hutchinson agreed to pursue this.

XV. INSTRUCTIONAL ITEMS

A. Monthly Departmental Report – Dr. Wagner reviewed highlights of the month from Instructional Services.

**RECORDED MINUTES OF THE DECEMBER 9, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING**

PAGE 6 of 7

XV. INSTRUCTIONAL ITEMS – continued

Mrs. Hook asked that a report be given to the Board in January on the Adaptive Tests for 6th graders.

B. Continued Discussion on Field Trip Policy (Policy ICA) – Dr. Wagner stated that a VML supplemental policy might be available on an annual basis to cover international travel but stated that there were several options available. It was agreed that he would present different options for the Board at a work session in January or February.

C. Update on Naviance: College and Career Readiness Solutions – Dr. Wagner informed the Board that staff would pursue using Naviance as a sole source since no others were available as a result of the RFP/bid process.

XVI. BUDGET AND FINANCE ITEMS

A. Monthly Departmental Report – Ms. Joanne Wright, Director of Budget and Finance, highlighted tasks and accomplishments of the Budget and Finance Office, and expressed her appreciation to her staff.

B. Acceptance of Donations -- Ms. Wright highlighted the donations received by the division totaling \$564.44. A motion was made by Mr. Records and seconded Mr. Smith to accept with grateful appreciation the donations as outlined. The Clerk polled the Board as follows:

Ms. Parker	<u>Aye</u>	Mr. Smith	<u>Aye</u>
Ms. Hensley	<u>Aye</u>	Mr. Records	<u>Aye</u>
Mrs. Hook	<u>Aye</u>	Mr. Burak	<u>Aye</u>
Mr. Andersen	<u>Aye</u>		

C. Financial Reports – Ms. Wright presented the following reports that were accepted by the Board as information:

1. October 30, 2014 Financial Report
2. November 25, 2014 Construction Financial Report
3. November 25, 2014, HVAC/Roof Financial Report

XVII. PUBLIC ANNOUNCEMENTS

Mr. Burak read the following public announcements:

- A. Next GCPS Comprehensive Plan Meeting – Wednesday, December 17, 2014, 7:00 pm @ the Thomas Calhoun Walker Education Center (Cafeteria)
- B. Winter Break-Division Closed – Monday-Friday, December 22, 2014-January 2, 2015 – Note: Monday-Tuesday, December 22 (Full)-23 (Half), 2014, are 12-Month Employee Work Days
- C. Teachers/Students Return from Winter Break – Monday, January 5, 2015
- D. Next Monthly and Annual Organizational School Board Meeting – Tuesday, January 13, 2015, 7:00 pm @ the Thomas Calhoun Walker Education Center (Auditorium)

Mr. Burak asked Board members to consider leadership roles for the January 13, 2015, organizational meeting and let others know if they were interested the Chair/Vice Chair position.

RECORDED MINUTES OF THE DECEMBER 9, 2014
GLOUCESTER COUNTY SCHOOL BOARD MEETING

PAGE 7 of 7

Mr. Burak requested additional information on the use of a PR consultant for such items as redistricting, the new Page Middle School and the budget process. Dr. Clemons stated that he would bring back a recommendation to the Board.

Mr. Records asked if Dr. Clemons would be prepared to give an assessment/synopsis of his first 90 days at the January meeting and Dr. Clements assured him that he would.

XVIII. CALL FOR ADJOURNMENT

At 10:10 pm, there being no further business, a motion was made by Ms. Parker, seconded by Mrs. Hook, and unanimously approved to adjourn the regular monthly meeting of December 9, 2014, until the next monthly and annual organizational meeting at 7:00 pm on Tuesday, January 13, 2015, at the Thomas Calhoun Walker Education Center (Auditorium).

George R. (Randy) Burak, Chairperson

Diane Clements Gamache, Clerk

John E. Hutchinson, Acting Clerk

Attachments (3): To be bound with the official minutes once approved.

1. Bound Agenda for December 9, 2014, Monthly Meeting
2. Revised Agenda for December 9, 2014, Monthly Meeting
3. Approved Monthly and Supplemental Personnel Listing

END
DCG/JEH:bjd
MIN-12-09-14

DIAGNOSTIC AND STATISTICAL
MANUAL OF
MENTAL DISORDERS

FIFTH EDITION

DSM-5[®]

EXHIBIT

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AMERICAN PSYCHIATRIC ASSOCIATION

Gender Dysphoria

In this chapter, there is one overarching diagnosis of gender dysphoria, with separate developmentally appropriate criteria sets for children and for adolescents and adults. The area of sex and gender is highly controversial and has led to a proliferation of terms whose meanings vary over time and within and between disciplines. An additional source of confusion is that in English "sex" connotes both male/female and sexuality. This chapter employs constructs and terms as they are widely used by clinicians from various disciplines with specialization in this area. In this chapter, *sex* and *sexual* refer to the biological indicators of male and female (understood in the context of reproductive capacity), such as in sex chromosomes, gonads, sex hormones, and nonambiguous internal and external genitalia. Disorders of sex development denote conditions of inborn somatic deviations of the reproductive tract from the norm and/or discrepancies among the biological indicators of male and female. *Cross-sex* hormone treatment denotes the use of feminizing hormones in an individual assigned male at birth based on traditional biological indicators or the use of masculinizing hormones in an individual assigned female at birth.

The need to introduce the term *gender* arose with the realization that for individuals with conflicting or ambiguous biological indicators of sex (i.e., "intersex"), the lived role in society and/or the identification as male or female could not be uniformly associated with or predicted from the biological indicators and, later, that some individuals develop an identity as female or male at variance with their uniform set of classical biological indicators. Thus, *gender* is used to denote the public (and usually legally recognized) lived role as boy or girl, man or woman, but, in contrast to certain social constructionist theories, biological factors are seen as contributing, in interaction with social and psychological factors, to gender development. *Gender assignment* refers to the initial assignment as male or female. This occurs usually at birth and, thereby, yields the "natal gender." *Gender-atypical* refers to somatic features or behaviors that are not typical (in a statistical sense) of individuals with the same assigned gender in a given society and historical era; for behavior, *gender-nonconforming* is an alternative descriptive term. *Gender reassignment* denotes an official (and usually legal) change of gender. *Gender identity* is a category of social identity and refers to an individual's identification as male, female, or, occasionally, some category other than male or female. *Gender dysphoria* as a general descriptive term refers to an individual's affective/cognitive discontent with the assigned gender but is more specifically defined when used as a diagnostic category. *Transgender* refers to the broad spectrum of individuals who transiently or persistently identify with a gender different from their natal gender. *Transsexual* denotes an individual who seeks, or has undergone, a social transition from male to female or female to male, which in many, but not all, cases also involves a somatic transition by cross-sex hormone treatment and genital surgery (*sex reassignment surgery*).

Gender dysphoria refers to the distress that may accompany the incongruence between one's experienced or expressed gender and one's assigned gender. Although not all individuals will experience distress as a result of such incongruence, many are distressed if the desired physical interventions by means of hormones and/or surgery are not available. The current term is more descriptive than the previous DSM-IV term *gender identity disorder* and focuses on dysphoria as the clinical problem, not identity per se.

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
CIVIL CASE NO. 4:15-CV-54

-----X
GAVIN GRIMM :
Plaintiff :
v. :
GLOUCESTER COUNTY SCHOOL BOARD :
Defendant :
-----X

Deposition of MATTHEW R. LORD
Glen Allen
Wednesday, October 10, 2018
11:14 a.m.

Job No.: 207625
Pages 1 - 64
Reported by: Lisa M. Blair, RMR



Transcript of Matthew R. Lord
Conducted on October 10, 2018

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1 that the bathroom policy in particular was having
2 on him?

3 A. I don't think so, no.

4 Q. Do you know why Gavin, during his
5 senior year, wasn't taking as many classes through
6 distance learning?

7 A. He didn't take any in his 12th grade
8 year, because he and his mother, from what I
9 remember, decided that he was coming back to
10 school, to the high school full time to finish.
11 In fact, I believe at the end of his 11th grade
12 year they were back at the high school anyway.
13 That program had been moved back to the high
14 school. And so, he -- this is from what I
15 remember -- felt that he could go back into
16 classes and finish his school year that way.

17 Q. If you look at the top left corner of
18 the transcript, under gender it says female; is
19 that right?

20 A. That's what it says.

21 Q. Now, are you aware of Gavin's efforts
22 to have the school change his gender marker on his

Transcript of Matthew R. Lord
Conducted on October 10, 2018

47

1 student records?

2 A. Yes.

3 Q. How are you -- what do you know about
4 that?

5 A. I know that at one point Gavin had
6 asked about it, was told that he would need a
7 legal document, asked for it repeatedly, never
8 producing one, did then produce one and turned it
9 in to me, and I then gave it to Mr. Collins.

10 Q. So the legal document that he gave
11 you, was that -- what was that legal document?

12 A. I believe it was a birth certificate.

13 Q. And when you said he was asked before
14 about it and was told he needed a legal document,
15 who is the person that told him he would need a
16 legal document?

17 A. From what I remember, I had asked
18 Mr. Collins, and probably Mr. Collins, but
19 definitely I said it, because a lot of that
20 information comes through the counseling office.
21 That's where the registrar is, who is the records
22 person.

Transcript of Matthew R. Lord
Conducted on October 10, 2018

1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC
2 I,
3 LISA BLAIR, the officer before whom the foregoing
4 deposition was taken, do hereby certify that the
5 foregoing transcript is a true and correct record
6 of the testimony given; that said testimony was
7 taken by me stenographically and thereafter
8 reduced to typewriting under my direction; that
9 reading and signing was requested; and that I am
10 neither counsel for, related to, nor employed by
11 any of the parties to this case and have no
12 interest, financial or otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto
14 set my hand and affixed my notarial seal this 17th
15 day of October 2018.

16 My commission expires October 31, 2020.

17

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19

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21



22

Lisa Blair, RMR

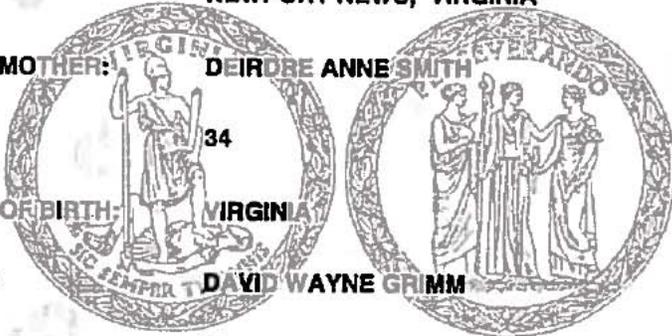
S20328 modified

CERTIFICATE OF VITAL RECORD

VERIFY PRESENCE OF WATERMARK HOLD TO LIGHT TO VIEW

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH - DIVISION OF VITAL RECORDS
CERTIFICATE OF LIVE BIRTH

STATE FILE NUMBER: [REDACTED]
NAME OF REGISTRANT: **GAVIN ELLIOT GRIMM**
DATE OF BIRTH: [REDACTED] SEX: **MALE**
PLACE OF BIRTH: **NEWPORT NEWS, VIRGINIA**
MAIDEN NAME OF MOTHER: **DEIRDRE ANNE SMITH**
AGE OF MOTHER: **34**
MOTHER'S PLACE OF BIRTH: **VIRGINIA**
NAME OF FATHER: **DAVID WAYNE GRIMM**
AGE OF FATHER: **38**
FATHER'S PLACE OF BIRTH: **PENNSYLVANIA**
DATE RECORD FILED: **MAY 17, 1999**



VOID IF ALTERED OR ERASED

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DATE ISSUED **October 27, 2016**

Janet M. Rainey
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VS 15B

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SEE REVERSE SIDE FOR OPENING INSTRUCTIONS

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Department of Health
P.O. Box 1000
Richmond, VA 23218-1000

GRIMM000078

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1B

S2032B modified

CERTIFICATE OF VITAL RECORD

VERIFY PRESENCE OF WATERMARK HOLD TO LIGHT TO VIEW

7180852

COMMONWEALTH OF VIRGINIA

DEPARTMENT OF HEALTH - DIVISION OF VITAL RECORDS

CERTIFICATE OF LIVE BIRTH

STATE FILE NUMBER:

REDACTED

NAME OF REGISTRANT:

GAVIN ELLIOT GRIMM

DATE OF BIRTH:

Redacted

1999

SEX:

MALE

PLACE OF BIRTH:

NEWPORT NEWS, VIRGINIA

MAIDEN NAME OF MOTHER:

DEIRDRE ANNE SMITH

AGE OF MOTHER:

34

MOTHER'S PLACE OF BIRTH:

VIRGINIA

NAME OF FATHER:

DAVID WAYNE GRIMM

AGE OF FATHER:

38

FATHER'S PLACE OF BIRTH:

PENNSYLVANIA

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