

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 OPPOSITION TO PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT**

**I. Introduction**

The Parties have filed cross-Motions for Summary Judgment. Gloucester County School Board (“School Board”) supported its Motion with undisputed material facts. Grimm’s Motion, on the other hand, is essentially a recitation of the allegations in the Second Amended Complaint without admissible evidentiary support, sprinkled with hearsay and conclusory legal arguments. Almost all of the “material” facts that Grimm relies on are disputed.

Even more glaring is Grimm’s failure to provide proof to support summary judgment. Grimm has not presented expert testimony to support his assertion of gender dysphoria, emotional distress, his medical treatment plan, the necessity to use the boys’ restroom, or his damages. Instead, the brief in support of Grimm’s Motion for Summary Judgment amounts to a breathless criticism on the School Board’s policy without the necessary foundation or factual support to permit Grimm to meet his burden of proof at trial, let alone on summary judgment, under either his Title IX or Equal Protection claim.

Indeed, the premise of Plaintiff’s Motion for Summary Judgment – that the “Board reversed its position ... on the final day of discovery” to define biological gender on the basis of a student’s birth certificate – is nothing more than an inaccurate narrative unsupported by actual fact. The School Board’s policy allowing all students the right to use the restroom consistent with their physiological sex or one of three alternative single stall restrooms, or other available restrooms in the Nurse’s office, or the faculty restroom on D Hall is not a violation of either Title IX or the Equal Protection Clause. Grimm’s Motion for Summary Judgment must be denied.

## **II. Standard of Review and Burden of Proof**

Where parties file cross-motions for summary judgment, courts consider “each motion separately on its own merits to determine whether either of the parties deserves judgment as a matter of law.” *Capitol Prop. Mgmt. Corp. v. Nationwide Prop. & Cas. Ins. Co.*, 261 F. Supp. 3d 680, 687 (E.D. Va. 2017), *aff’d*, No. 17-1789, 2018 WL 6600219 (4th Cir. Dec. 14, 2018), citing *Def. of Wildlife v. N. Carolina Dep’t of Transp.*, 762 F.3d 374, 392–93 (4th Cir. 2014) (citation and internal quotation marks omitted).

When ruling on a motion for summary judgment, the court must construe the facts alleged in the light most favorable to the party opposing the motion. *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962); *Gill v. Rollins Protective Servs. Co.*, 773 F.2d 592, 595 (4th Cir. 1985). A party who bears the burden of proof on a particular claim must factually support each element of his claim. “[A] complete failure of proof concerning an essential element ... necessarily renders all other facts immaterial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). **“A plaintiff seeking summary judgment on an issue ... bears the burden of establishing a prima facie case that would entitle the movant to a directed verdict if the issue was uncontested at trial.”** *Orozco v. County of Yolo*, 814 F. Supp. 885, 890 (E.D. Ca.

1993), *citing* 8 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, FEDERAL PRACTICE AND PROCEDURE, § 2727 (1991). Summary judgment is not appropriate if a plaintiff does not produce sufficient evidence:

A plaintiff who seeks summary judgment and who fails to produce sufficient evidence on one or more essential elements of the claim is “no more entitled to a judgment ... than is a plaintiff who has fully tried the case and who has neglected to offer evidence sufficient to support a finding on a material issue upon which [the plaintiff] bears the burden of proof.” *Watts v. United States*, 703 F.2d 346, 347 (9th Cir.1983), *quoting United States v. Dibble*, 429 F.2d 598, 601 (9th Cir. 1970).

*Gray v. Metts*, 203 F. Supp. 2d 426, 431 (D. Md. 2002)

Further, conclusory recapitulations of the complaint, without additional supporting evidence, are insufficient on summary judgment. *See e.g., Turner v. Vincent*, No. 1:12CV431 TSE/TCB, 2014 WL 1304998, at \*3 (E.D. Va. Mar. 31, 2014), *aff'd sub nom. Turner v. Porter*, 582 F. App'x 211 (4th Cir. 2014). In ruling upon a Rule 56 motion, “where the fact in question is the one put in issue by the § 702 challenge ... It will not do to ‘presume’ the missing facts.” *Lujan v. Nat'l Wildlife Fed'n*, 497 U.S. 871, 889 (1990).

A fact is “material” if it “might affect the outcome of the suit under the governing law.” *Id.*; *Libertarian Party of Va. v. Judd*, 718 F.3d 308, 313 (4th Cir. 2013) (citations omitted). A dispute is “genuine” if “a reasonable jury could return a verdict for the nonmoving party.” *Capitol Prop. Mgmt. Corp. v. Nationwide Prop. & Cas. Ins. Co.*, 261 F. Supp. 3d 680, 686 (E.D. Va. 2017), *aff'd*, No. 17-1789, 2018 WL 6600219 (4th Cir. Dec. 14, 2018).

### III. Disputed Material Facts<sup>1</sup>

1. Paragraph 1. Disputed. Grimm was not “designated” female by hospital staff. Grimm was born a female. Grimm was born with female genitalia and fully functioning female reproductive organs. Grimm, 112:19-20; 113:3-8; 117:17-118:12; Penn, 48:4-12. 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 Report; Penn, 48:4-49:7; 49:19-22.

2. Paragraph 2. Disputed. Grimm states that everyone has a gender identity. “It is an established medical concept”, relying on Penn’s Report & Decl. ¶ 17. Penn does not opine gender identity “is an established medical concept.” Furthermore, statements made in Amicus briefs, including those submitted by the American Academy of Pediatrics, are not evidence. Amicus briefs, filed in this or any other case, are not competent evidence for proof of what is represented as “undisputed facts.” The Court may consider such briefs if it sees fit to do so, but only as legal argument and not as proof of facts. Absent medical proof, Grimm merely asserts the nonspecific interpretation of “transgender” that can be found “from the internet.”

3. Paragraph 3. Not a genuine material fact. Self-serving.

4. Paragraph 4. Not a genuine material fact. Self-serving.

5. Paragraph 5. Disputed. Gender Dysphoria is a mental health condition that requires a diagnosis from a mental health professional. Diagnostic and Statistical Manual Of Mental Disorders, Fifth Ed. (“DSM-V”); Van Meter Report; Penn, 53:3-54:6. There is not an

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<sup>1</sup> For purposes of judicial economy and brevity, the School Board relies on and incorporates its Brief in Support of its Motion for Summary Judgment, along with the evidentiary exhibits, in opposition to Grimm’s Motion for Summary Judgment as if fully set forth in this brief. See, ECF Doc. 196. The School Board specifically incorporates its statement of undisputed fact in opposition to Grimm’s Motion for Summary Judgment.

objective test to diagnose gender dysphoria. Van Meter Report; Penn, 55:15-17. Grimm has not presented an expert, treating or retained, to testify that Grimm was diagnosed with or suffered from gender dysphoria, nor expert testimony on the severity of the effects of gender dysphoria on Grimm. Further, Grimm has not presented expert testimony that relates his inability to attend class to gender dysphoria. Plaintiff's Expert Witness Identification.

Dr. Penn's report and declaration describe the condition of gender dysphoria as set out in the DSM-V, but she says nothing about Grimm or his alleged symptoms or diagnosis. Grimm's quoted statement is unsupported. (Paragraph 24 of Plaintiff's declaration states that "a psychologist who had experience with working with transgender patients ... diagnosed me with gender dysphoria.") The statement Grimm relies on is hearsay, and Grimm has laid no foundation for admission of a psychologist's diagnosis. That statement, therefore, is incompetent evidence of the purported diagnosis on two separate grounds.

6. Paragraph 7. Disputed. Grimm has not presented an expert, treating or retained, to testify that Grimm was diagnosed with or suffered from gender dysphoria, nor expert testimony on the severity of the effects of gender dysphoria on Grimm. Moreover, Grimm's expert, Dr. Penn, is not a mental health care provider, has never diagnosed anyone with gender dysphoria, and does not have the foundation or qualifications to support the asserted expert opinion in paragraph 7. Further, Dr. Penn does not express any opinions specific to Grimm. Penn, 11:4-11.

7. Paragraph 8. Disputed. Grimm's citation to Penn Expert Report & Decl. ¶ 23, purports to describe "[t]he standard of care for the treatment for gender dysphoria that is recognized by the American Academy of Pediatrics and every major medical and mental health professional organization in the United States ...." Dr. Penn, however, states only that "WPATH

and the National Endocrine Society have published widely accepted standards of care for treating gender dysphoria,” describes their recommendations, and states that “[t]he American Academy of Pediatrics agrees that this care is safe, effective, and medically necessary.” Those three entities do not comprise “every major medical and mental health professional organization in the United States.” In fact, the American College of Pediatricians disagrees with the WPATH and National Endocrine Society recommendations. Van Meter, 50:18-22, 150:7-151:2, 155:6-18 & Ex. 5.

Moreover, Grimm has not designated a qualified expert or offered qualified expert testimony or evidence on the “standard of care for the treatment of gender dysphoria.” Grimm’s expert, Dr. Penn, is not a mental health care provider, has never diagnosed anyone with gender dysphoria, and does not have the foundation or qualifications to support the asserted expert opinion in paragraph 8. Penn, 14:20-19:1, 20:2-13, 21:20-22:5, 28:19-29:5, 31:13-32:18. Penn has never served as an expert in a case involving appropriate psychological treatment for a transgender adolescent. Penn, 13:3-6.

Further, the “standard of care” that Grimm claims is recognized by “every major medical and mental health professional,” and which Penn relies on, is the WPATH proposed standards of care. Penn, however, does not know whether these standards of care were peer reviewed by endocrine professionals, nor does she know who authored the standards of care. Penn, 35:21-36:5. **Penn does, however, opine that under these standards of care, the precise treatment for gender dysphoria depends on each person’s individualized need, and the medical standards of care differ depending on whether the treatment is for a pre-pubertal child, an adolescent, or an adult. Penn Expert Rep. & Decl. ¶ 23. Moreover, the WPATH standards of care provide that what helps one person alleviate gender dysphoria might be very**

**different from what helps another person. Penn, 37:18-38:6. Yet, Grimm does not present any expert testimony to state what Grimm’s particular medical treatment needs required.**

**Finally, neither the WPATH standards of care nor the Endocrine Society guidelines that Penn relies on has a standard of care related to the use of restrooms at school by transgender students. Penn, 66:21-67:2, 68:15-21; see also Penn, 63:8-65:19.**

8. Paragraph 10. Disputed. Grimm does not present any expert testimony to state what Grimm’s particular medical treatment needs required, what his medical providers recommended, nor is he qualified to offer medical opinion testimony. Paragraph 24 of Grimm’s declaration is nothing more than unsupported hearsay.

9. Paragraph 11. Not a genuine material fact. Self-serving.

10. Paragraph 12. Disputed. Grimm and his mother did not tell Tiffany Durr that Grimm was a boy or that he “would be attending school as a boy.” Durr, 9:8-10:14, 14:6-15:5. Furthermore, the “treatment letter” is unsupported hearsay. Grimm has not presented expert testimony to support the hearsay statements in the treatment letter.

11. Paragraph 15. Disputed. Grimm does not present expert testimony to support his mental health assertions related to the use of the restroom in the nurse’s office. Further, Grimm has not presented an expert, treating or retained, to testify that Grimm was diagnosed with or suffered from gender dysphoria, nor expert testimony on the severity of the effects of gender dysphoria on Grimm. Further, Grimm told Durr he wanted to use the boys’ restroom when he began to undergo hormone therapy. Durr, 23:6-17.

12. Paragraph 17. Disputed. Durr did not tell Principal Collins that “allowing Gavin to use the boys’ restroom would be in Gavin’s best interest,” and Grimm’s citation to the record does not support this statement. Durr, 25:11-26:3; Collins, 45:13-20.

13. Paragraph 18. Disputed. Grimm's record citations do not support the statement that Matt Lord said to Principal Collins that "it would be in Gavin's best interest" to use the boys' restrooms. Collins, 47:1-10; Lord, 28:15-30:19.

14. Paragraph 19. Disputed. This paragraph is not evidence, nor is it supported by admissible evidence or expert testimony. Statements made in Amicus briefs are not evidence, but inadmissible hearsay.

15. Paragraph 22. Not material. Grimm does not provide evidence or a record citation to support the assertion that "Principal Collins decided that allowing Gavin to use the same restrooms as other boys would be in his best interest." The remaining assertions were answers to general questions not related to Grimm and are not material to Grimm's motion for summary judgment.

16. Paragraph 23. Disputed. This paragraph is not evidence, nor is it supported by admissible evidence or expert testimony. It is inadmissible hearsay.

17. Paragraph 24. Disputed. This assertion is without proper foundation and expert support. The declarants supporting the assertions in paragraph 24 are not mental health providers. The precise treatment for gender dysphoria depends on each person's individualized need, and the medical standards of care differ depending on whether the treatment is for a pre-pubertal child, an adolescent, or an adult. Penn Expert Report & Decl. ¶ 23. Moreover, those standards of care provide that what helps one person alleviate gender dysphoria might be very different from what helps another person. Penn, 37:18-38:6. Further, statements made in Amicus briefs are inadmissible hearsay.

18. Paragraph 25. Grimm does not accurately describe the initial agreement to allow him to use the boys' restroom at the high school. At Grimm's request, he was permitted to

choose the boys' restroom he would use as long as the restroom stall was equipped with a door. Collins, 55:14-57:21 (“Gavin had made it clear that he wanted a stall with a door.”)

19. Paragraph 27. Disputed. Grimm did not use the restroom for seven weeks without incident. 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 3541. See further, ECF Doc. 196 ¶ 8.

20. Paragraph 28. Disputed. Parents of students expressed concern with a transgender boy using the boy's restroom. See further, ECF Doc. 196 ¶ 8.

21. Paragraph 34. Disputed. Grimm misrepresents the contents of the emails, which are inadmissible hearsay. In context, Hook explains that the majority of the Board wanted to seek legal consultation before addressing the restroom issue. GCSB 0853-855, 0844.

22. Paragraph 35. Disputed. There is no evidence to support Grimm's statement that Carla Hook was “unsatisfied with the results of the private work session” and Grimm again mischaracterizes Carla Hook's email. GCSB 0513 (“I think we need to add appropriate use of restroom/locker room facilities to the agenda, discuss and vote and be done with this issue for now.”)

23. Paragraph 40. Disputed. Grimm was not “forced to reveal himself to the entire community and the local media” and, instead, chose to attend the meeting voluntarily. Moreover, Grimm claims that he had already revealed his new gender identity to his friends, classmates and the school.

24. Paragraph 41. Disputed. Grimm did not continue to use the restroom at school without incident. See ECF Doc. 196 ¶ 8.

25. Paragraphs 43-44. Grimm mischaracterizes the tenor of the public meeting, which was largely a respectful public discussion. The complete discussion can be heard at [http://gloucester.granicus.com/MediaPlayer.php?view\\_id=10&clip\\_id=1065](http://gloucester.granicus.com/MediaPlayer.php?view_id=10&clip_id=1065).

26. Paragraph 47. Disputed. Under the policy, the School Board 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. The single-stall restrooms were not just for Grimm. Andersen, 44:20-45:3; 49:11-13, Andersen Declaration.

27. Paragraph 49. Disputed. The single-user restrooms were not located so that they were unavailable for Grimm's use. Moreover, Grimm acknowledged that at lunch it was closer to use the single-stall restroom. Grimm, 134:7-11. Grimm was also given permission to use a staff restroom on the D wing. Grimm, 76:13-77:2; GCSB 4122.

28. Paragraph 52. Disputed. Grimm was not required to use the single-user restroom as there were other options available to him, including the use of the restroom in the Nurse's office. Further, Grimm could not say whether the restrooms were used by other students. Grimm, 129:14-16. Further, Paragraph 53 of Grimm's brief and the record citations contained therein contradict paragraph 52.

29. Paragraph 55-56. Disputed. Grimm does not present expert testimony to support his mental health assertions related to the use of the restroom or the School Board's policy. Further, Grimm has not presented an expert, treating or retained, to testify that Grimm was

diagnosed with or suffered from gender dysphoria, nor expert testimony on the severity of the effects of gender dysphoria on Grimm.

30. Paragraph 57. Disputed. Grimm has not presented admissible medical evidence or testimony to support the assertion that Grimm suffered from “frequent urinary tract infections.” Further, there is no evidence that Grimm was diagnosed with urinary tract infections or that urinary tract infections were related to Grimm’s restroom usage at school. Grimm, 135:2-136:5.

31. Paragraph 58. Disputed. Grimm does not present expert testimony to support his mental health assertions related to the use of the restroom or the School Board’s policy. Further, Grimm has not presented an expert, treating or retained, to testify that Grimm was diagnosed with or suffered from gender dysphoria, nor expert testimony on the severity of the effects of gender dysphoria on Grimm.

32. Paragraph 61. Disputed. Grimm does not present expert testimony to support his mental health assertions related to the use of the restroom or the School Board’s policy. Further, Grimm has not presented an expert, treating or retained, to testify that Grimm was diagnosed with or suffered from gender dysphoria, nor expert testimony on the severity of the effects of gender dysphoria on Grimm.

33. Paragraph 64. Disputed. Grimm does not present expert testimony to support his assertion of continued medical treatment for gender dysphoria, nor has Grimm presented an expert, treating or retained, to testify that Grimm was diagnosed with or suffered from gender dysphoria, nor expert testimony on the severity of the effects of gender dysphoria on Grimm. It is also disputed that Grimm was issued a new amended birth certificate in accordance with Virginia law. See ECF Doc 196, ¶ 18.

34. Paragraphs 64-70. Disputed. Grimm mischaracterizes the birth certificate issue and evidence. Moreover, Grimm does not quote the complete response from the School Board on Grimm's request that the Board change his official school records. That response stated **“Please feel free to submit additional materials, and, of course, [Grimm] has the right under school policy JO, see page 8 Correction of Education Records, to a hearing 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.”** 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. It is also disputed that Grimm was issued a new amended birth certificate in accordance with Virginia law. See ECF Doc 196, ¶ 18-19.

35. Paragraphs 71-74. Disputed. Grimm misstates the legal arguments made by the School Board with respect to Grimm's birth certificate. For example, in the Board's response to Grimm's request to lodge the Court Order and his amended birth certificate with the Supreme Court, Counsel for the School Board responded by stating that the materials were not part of the record. This was because the case was on appeal on the denial of Grimm's motion for a preliminary injunction and dismissal of his Title IX claim. Counsel noted that the Supreme Court does not base its decisions on matters outside of the record, and that “*none* of the various legal positions taken below—whether by the Board, the district court, the Fourth Circuit, the Department of Education, or Respondent—turn on Respondent's birth certificate.” ECF Doc. 192-34. The same is true of the School Board's legal arguments in the Fourth Circuit.

36. Paragraphs 78-81. Not material issues of fact.

37. Paragraph 82. Disputed. Grimm has not introduced factual evidence to support the conclusory statement that “the Board refused to explain how it defines ‘biological gender’ for purposes of its policy.” Further, 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 Report; Penn, 48:4-49:7; 49:19-22. 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. 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 Report; Penn, 52:14-21.

38. Paragraphs 85-86. Not material issues of fact. These statements do not involve or pertain to Grimm or the application of the School Board’s restroom policy to Grimm.

39. Paragraph 87. Grimm does not accurately characterize the School Board’s testimony concerning the application of its restroom policy to a student’s biological gender. The School Board testified that although there is not a set process or procedure, the School Board relies on social norms, binary sexes, and students using the restroom that corresponds to their physiological sex. This case is the only time there has been a conflict between those concepts. Andersen, 14:8-15:9, 16:15-21. A student’s birth certificate is evidence of a student’s physiology when the student enrolls in school. Andersen, 16:22-17:8. This is because sex is binary, male or female, and is determined by chromosomal compliment and corresponding reproductive role. Transgender individuals do not have intersex conditions or other verifiable

physical anomalies. Instead, they remain biologically men or biologically women. Gender discordance is rare. Van Meter Report, ¶¶ 15, 17, 21. In fact, Grimm includes cites to Superintendent Clemons' testimony that he believed biological gender was determined by a student's genitalia – i.e. the student's physiological and anatomical characteristics. Clemons, 69:3-8, 70:4-5. Grimm does not dispute that when he enrolled in school, and when he began high school, he was physiologically and anatomically a girl.

40. Paragraph 90-95. Not material issues of fact. These paragraphs are nothing more than argument by counsel. Further, in paragraph 93, Grimm states that Virginia Code § 32.1-270 required that his birth certificate be printed on security paper which causes it to be marked void. Virginia Code § 32.1-270 provides that “[a]ny vital record issued by the Department of Motor Vehicles shall be on security paper” (emphasis added), but birth certificates are not issued by the Department of Motor Vehicles. *See* Va. Code §§ 32.1-257, 32.1-251. There is no evidence or testimony in the record to support Grimm's assertion. Further, the declaration submitted by Janet Rainey does not confirm the authenticity of the birth certificate submitted by Grimm to the School Board in 2016, nor does it address the underlying deficiencies surrounding its issuance.

#### **IV. Additional Facts**

1. 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. Van Meter Report, ¶ 12.

2. Sex is binary, male or female, and is determined by chromosomal complement and corresponding reproductive role. Van Meter Report, ¶ 15.

3. “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. Van Meter Report, ¶ 18.

4. Scientific evidence shows that 80%-95% of pre-pubertal children with gender identity disorder (the mental disorder described as a discordance between natal sex and gender identity) come to identify with their biological sex by late adolescence. Some will require lifelong supportive counseling, and others will not. Van Meter Report, ¶ 33. The vast majority of boys and girls with gender identity disorder identify with their biological sex by the time they emerge from puberty to adulthood, through either watchful waiting or family and individual counseling. Van Meter Report, ¶¶ 29, 30; Van Meter, 81:4-83:2. This occurrence is known as “desistance.”

5. The American College of Pediatricians has published statements opposing the provision of hormone therapy to transgender youth. Van Meter, 50:18-22. Hormone therapy stops the development of or production of pubertal hormones. Penn, 24:16-21. Hormone treatment is proven to be harmful. Van Meter, 51:12-52:17, 80:1-81:3. If hormone therapy is stopped in a transgender boy, some of the physical changes will revert back to more feminine features. Penn, 81:13-14.

6. Medical and surgical transitioning causes an enormous increase in the incidence of mental health morbidity. The results of a Swedish study demonstrate a 19-fold increase in completed suicides compared to the general Swedish population. Van Meter, 119:3-121:14.

7. Recognized experts in the field believe and hold the opinion that the treatment of children and adolescents 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 psychological 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. Van Meter Report, ¶ 32.

8. WPATH is an agenda-driven advocacy organization whose membership consists of anyone who has an interest in the transgender social and political agenda. It has no requirements for specialty training or certification. Its guidelines and standards of care are not scientifically supported. Its “peer-reviewed” journal is not reviewed by anyone with an opinion that is not in keeping with the philosophy of the organization. Van Meter Report, ¶¶ 34, 38.

9. The Endocrine Society’s guidelines regarding treatment of transgender children and adolescents (through age 21) are not supported by any long-term studies of quality. Van Meter, 97:14-99:3.

10. The breadth of medical literature does not support the concept, expressed in the Declaration of Dr. Melinda Penn, that affirmation of gender incongruence through counseling and medical and surgical intervention is the only scientifically valid way to proceed. Van Meter Report, ¶ 39.

11. There are no scientifically validated gender incongruence training programs at universities in the United States. Van Meter Report, ¶ 40.

12. **There are no studies in existence which demonstrate that allowing a student to use a bathroom that matches his or her gender identity, but not his or her anatomical sex, is beneficial.** Van Meter, 116:13-117:3; Penn, 70:11-17, 71:5-18.

## V. Law and Argument

### A. The School Board's Policy does not discriminate against Grimm on the basis of sex.

#### 1. Grimm cannot prove a sex stereotype theory of liability under Title IX or the Equal Protection Clause.

Grimm contends that the School Board's restroom policy discriminates against him "because he is transgender." ECF Doc. 185, p. 32. In making this claim, Grimm relies on this Court's opinion on the School Board's Motion to Dismiss that a transgender student can state a "cognizable Title IX sex discrimination claim" and Equal Protection claim based on a gender stereotyping theory. *Id.*, p. 38; ECF Doc. 148, pp. 25-26; relying on *Price Waterhouse v. Hopkins*, 490 U.S. 228, 251 (1989).

Grimm's evidence, however, does not establish that there is no genuine issue of material fact that the School Board discriminated against Grimm based on a sex stereotype. Indeed, the evidence establishes that the School Board has not discriminated based on sex stereotypes.

The School Board distinguishes boys from girls on the basis of *physiological or anatomical characteristics*. 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").

The School Board's policy 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' restroom, while requiring more

“effeminate” boys to use the girls’ restroom. 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*, 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”).

Here, the evidence establishes that Grimm was born a female with female genitalia and fully functioning female reproductive organs. Grimm’s sex was determined or recognized at birth by external genitalia and internal reproductive organs. Van Meter, 7:18-8:11, Van Meter Report; Penn, 48:4-49:7; 49:19-22. Grimm was not born with intersex characteristics. 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, 48:4-12.

Further, Grimm enrolled in Gloucester County School system as a girl and began the ninth grade as a girl. Andersen Declaration; GCSB 1086, 1117, 1118, 1127, 1151-1154. While Grimm told the School Board that he was transgender and identified as a boy at the start of his sophomore year, Grimm remains biologically and anatomically female. Penn, 78:8-12; 79:19-80:1; Grimm, 118:7-12. This remains the case even though Grimm underwent chest-reconstruction surgery. This procedure did not create any biological changes in Grimm, nor did it complete sex reassignment surgery. Penn, 78:8-12; Van Meter, 109:18-21. There is no biological basis for gender identity. Penn, 46:8-10.

Under these facts, the School Board's restroom policy does not discriminate based upon sex stereotypes and, in fact, does not take sex stereotypes into consideration. The policy is based on the biological and physiological characteristics of students.

**2. Grimm does not present undisputed material facts to prove that the School Board's restroom policy violated Title IX or the Equal Protection Clause because of Grimm's gender identity.**

Because Grimm remains biologically and anatomically female, Grimm has premised his lawsuit, and his right to use the boys' restroom at school, as part of a "medically necessary treatment" plan to treat his gender dysphoria. ECF Doc. 177, ¶¶ 1, 2, 23; ECF Doc. 185, ¶ 10, citing Gavin Grimm Decl. ¶ 24. Grimm, however, has not offered medical, mental health, or expert testimony to prove that Grimm is a boy or that he has been diagnosed with gender dysphoria. Additionally, Grimm has not offered medical or expert testimony to prove the severity of the effects of gender dysphoria on Grimm or whether it was medically necessary for Grimm to use the boys' restroom at school to treat his purported gender dysphoria.

Instead, the record is devoid of medical evidence related to Grimm's transgender status and purported treatment for gender dysphoria. Grimm also 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.<sup>2</sup> Plaintiff's Expert Witness Identification. Furthermore, Grimm's expert, Dr. Penn, is not a mental health provider, has never diagnosed anyone with gender dysphoria, and does not express any opinions specific to Grimm. Penn, 11:4-11.

The "evidence" that Grimm offers on summary judgment, including a "treatment letter" provided by a psychologist, is nothing more than unsupported hearsay. Grimm is not qualified to

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<sup>2</sup> Grimm's expert does not prescribe treatment plans that include social transitioning. Penn, 58:10-59:6.

testify to his medical diagnosis or what treatment is medically necessary to treat his alleged gender dysphoria. Instead, testimony regarding medical diagnoses (such as gender dysphoria, mental stress, urinary tract infections) or medical treatments (such as use of opposite-sex bathrooms as a treatment for gender dysphoria) can only be made by a person possessing “scientific, technical, or other specialized knowledge within the scope of Rule 702.” See, Federal Rule of Evidence 701; *Lane v. District of Columbia*, 887 F.3d 480, 485-86 (D.C. Cir. 2018) (holding that the trial court did not err by excluding testimony of decedent’s mother that decedent suffered from ADHD and bipolar disorder.); *Certain Underwriters at Lloyd’s, London v. Sinkovich*, 232 F.3d 200, 203 (4th Cir. 2000) (Rule 701 does “not permit a lay witness to express an opinion as to matters which are beyond the realm of common experience and which require the special skill and knowledge of an expert witness.”); *Edwards v. Graham Cty. Jail*, No. 1:16-CV-315-FDW, 2017 WL 5894496, at \*5–6 (W.D.N.C. Nov. 29, 2017) (holding plaintiff could not testify to the diagnosis of a heart attack or existence of a heart attack because it required specialized knowledge which the plaintiff lacked, nor could the plaintiff testify that he was told he had been diagnosed with a heart attack as it is inadmissible hearsay.)

Furthermore, Grimm’s own expert testified that “gender affirming care” or “social transitioning care” is purportedly part of an overall mental health treatment plan to address gender dysphoria. Using the boys’ 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.

Additionally, the “standards of care” that Grimm’s expert, and “every major medical and mental health professional organization” relies on “to eliminate the clinically significant distress

by helping boys who are transgender to live as boys”, do not address the use of a transgender student’s use of restrooms at school. **Neither the WPATH standards of care nor the Endocrine Society guidelines has a standard of care related to the use of restrooms by transgender students at school.** Penn, 66:21-67:2, 68:15-21; see also Penn, 63:8-65:19.<sup>3</sup>

Penn does, however, opine that under these standards of care, the precise treatment for gender dysphoria depends on each person’s individualized need. The medical standards of care differ depending on whether the treatment is for a pre-pubertal child, an adolescent, or an adult. Penn Expert Report & Decl. ¶ 23. Moreover, the standards of care provide that what helps one person alleviate gender dysphoria might be very different from what helps another person. Penn, 37:18-38:6. The WPATH standards of care that Penn relies on are intended to be a flexible guideline with individualized treatment. Penn, 37:15-22. Yet, Grimm does not present any expert testimony on what medical treatment Grimm needed.

At best, the use of restrooms that are in line with a transgender patient’s gender identity, instead of the sex designated at birth, is only one component of an overall mental health social transition plan or “gender affirming care” plan to treat gender dysphoria. Gender affirming care, however, 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 Report; Penn, 62:15-63:7; 70:18-71:4. Indeed, the School Board

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<sup>3</sup> Penn also does not know whether the WPATH standards of care were peer reviewed by endocrine professionals, nor does she know who authored the standards of care. Penn, 35:21-36:5

accommodated Grimm in the other aspects of Grimm's social transition, including referring to him by his new name and using male pronouns.

Despite all of the allegations and discovery in this case, Grimm is left with the bare assertion that he is a girl that identifies as a boy. There is not medical, mental health or expert testimony in the record to support Grimm's assertion that he is a boy or that it was medically necessary for him to use the boys' restroom at school. Grimm cannot prove that he was subject to sex stereotype discrimination solely on his allegation that he identifies as a boy. In the end, Grimm cannot carry his burden of proof that the School Board violated his rights under Title IX or the Equal Protection Clause.

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

Even if Grimm had evidence to support his allegation that using the boys' restroom was "medically necessary treatment for gender dysphoria", the School Board was not compelled to cooperate and assist with the implementation of this medical treatment to satisfy Title IX and/or the Equal Protection Clause.

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. See ECF Doc. 196, Section IV, pp. 41-43.

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. Peña*, 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. Simply put, Grimm’s desire to use the boys’ restroom at school is not a right protected by the Equal Protection Clause.

**4. Grimm’s new birth certificate does not change the Title IX or Equal Protection analysis.**

Grimm has created an inaccurate narrative to characterize the School Board’s restroom policy. Contrary to Grimm’s assertion on brief, the School Board has not changed its policy and has not asserted that “its ‘biological gender’ policy is actually a policy based on the student’s birth certificate - not based on the student’s physiology.” ECF Doc. 185, p. 33. Instead, Grimm mischaracterized the School Board’s testimony to craft this argument based upon a series of incomplete hypothetical questions asked during the 30(b)(6) deposition.

An examination of the 30(b)(6) testimony confirms that the School Board has consistently applied its policy based upon a student’s physiology and anatomy. The School Board testified that although there is not a set process or procedure, the School Board relies on social norms, binary sexes, **and students using the restroom that corresponds to their physiological sex**. This case is the only time there has been a conflict between those concepts. Andersen, 14:8-15:9, 16:15-21.

Obviously, the School Board does not inspect student’s genitals upon enrollment in school. Andersen, 21:19-22. Instead, the School Board accepts a student’s birth certificate as

evidence of determining a student's physiology when the student enrolls in school. Andersen, 16:22-17:8. The reason for this is that that sex is binary, male or female, and is determined by chromosomal compliment and corresponding reproductive role. Transgender individuals do not have intersex conditions or other verifiable physical anomalies. Instead, they remain biologically men or biologically women. Gender discordance is rare. Van Meter Report, ¶¶ 15, 17, 21. Indeed, Grimm has never disputed in this litigation that he was born with female genitalia, enrolled in Gloucester schools as a girl, and used the girls' restroom, including at Gloucester High School, through the middle of his freshman year of high school. Grimm, 89:14-20.

Grimm again sets up a straw man argument by suggesting that the Board's "last minute assertion conflicts with the Board's repeated representations" in this case that its "policy was based on anatomical and physiological sex characteristics" and that Grimm's birth certificate was not relevant. ECF Doc. 185, pp. 33-34. The School Board has always applied its policy based on the anatomical and physiological sex of its students. There are three reasons Grimm's new amended birth certificate is not relevant to these proceedings. First, all of the "representations" in previous court filings were related to Plaintiff's appeal of the denial of his Motion for Preliminary Injunction and the dismissal of his Title IX case. Grimm's amended birth certificate was not at issue, was not part of the record on appeal, and "*none* of the various legal positions taken below—whether by the Board, the district court, the Fourth Circuit, the Department of Education, or Respondent—turn on Respondent's birth certificate." Indeed, there is no dispute that at the time Grimm enrolled in Gloucester County schools, Grimm's original birth certificate at birth designated his sex as female, and Grimm was physiologically and anatomically a female. That remains true even today.

Second, Grimm's amended birth certificate does not change Grimm's physiological and anatomical sex – which remains female. While Grimm had chest reconstruction surgery, it did not create any biological changes in Grimm. Instead, it is only a physical change. Penn, 78:8-12. Moreover, Grimm did not undergo surgical gender reassignment procedures, as that procedure could not be completed until Grimm was at least 18 years of age. Van Meter, 109:18-21; Penn, 78:19-79:15. There is no evidence in the record to suggest that Grimm has completed surgical gender reassignment to date, and to that extent, Grimm remains biologically and anatomically female. Penn, 78:8-12; 79:19-80:1; Grimm, 118:7-12. Thus, while Grimm was enrolled in Gloucester High School, the School Board was aware that Grimm remained physiologically and anatomically a female.

Third, while Grimm provided a different Virginia birth certificate to the high school in November of 2016 listing Grimm's sex as male, 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.<sup>4</sup> Ultimately, the underlying basis for Grimm's 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,

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<sup>4</sup> The School Board incorporates section IV. A. from its brief in support of summary judgment detailing the reasons that Grimm's amended birth certificate did not comply with Virginia law, notwithstanding the declaration submitted by Janet Rainey. ECF Doc. 196, pp. 43-45. Rainey's declaration does not address the underlying deficiencies with the amended birth certificate. See, ECF Doc. 195. Moreover, **Rainey was not identified as a witness in this case until after the close of discovery.** Plaintiff's Second Supplement to Initial Disclosures.

surgical gender reassignment surgery could not be performed until Grimm was at least 18 years old. Penn, 78:19-79:15; 79:19-80:1.<sup>5</sup>

Contrary to Grimm's suggestion, there was no "stark departure from its usual practice" of explaining concerns about documentation. Once again, Grimm ignores the actual letter that was sent to his counsel. In the January 18, 2017, letter to Grimm's counsel, the School Board stated that it declined to change the official school records "[b]ased on [its] review" of the birth certificate, school policy JO, and the Virginia Code and Administrative Code. Additionally, Grimm's counsel was provided with a copy of the documents referenced in the letter. The School Board's explanation was transparent, and Grimm's experienced attorneys were quite capable of reviewing these materials and the Virginia Code and Administrative Code to determine the deficiencies to his request.

Furthermore, the letter concluded by stating: "Please feel free to submit additional materials, and, of course, [Grimm] has the right under school policy JO, see page 8 Correction of Education Records, to a hearing 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." 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.

Ultimately, Grimm's counsel never closed the loop on his hypothetical questions. Specifically, counsel did not ask a hypothetical that included facts relevant to this case. Counsel

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<sup>5</sup> The School Board was not under an obligation to "make a simple phone call to the Department of Vital Records" to verify the underlying basis for Grimm's birth certificate, nor could the Department of Vital Records have released any information concerning Grimm's birth certificate in a "simple phone call" as suggested in Grimm's brief. ECF Doc. 185, p. 34; See 12 VAC 5-550-20, 12 VAC 5-550-340, 12 VAC 5-550-470.

did not ask how the Board would apply its policy if a student enrolled in Gloucester High School with a birth certificate designating the student's sex as male, but the School Board later learned through complaints from students that the student was actually physiologically and anatomically female. If Grimm's counsel had asked that question, it would have been apparent that the School Board's application of its policy did not turn on a "new interpretation of the policy." ECF Doc. 185, p. 30. Instead, the student would have been required to use the restroom associated with his physiological sex or one of the three single-user restrooms. In fact, Grimm includes in his brief citations to Superintendent Clemons' testimony where he confirmed that under the Board's policy, biological gender was determined by a student's genitalia – i.e. the student's physiological and anatomical characteristics. Clemons, 69:3-8, 70:4-5.

Accordingly, Grimm cannot carry his burden of proof that the School Board violated his rights under Title IX or the Equal Protection Clause.

**B. The School Board's policy complies with the plain language of Title IX.**

In addition to the disputed fact issues and the reasons set forth above, Grimm cannot prevail on summary judgment as the School Board's policy is consistent with 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." ECF Doc. 177, ¶ 20. As the School Board set out in its Motion for Summary Judgment, the text, history, and structure of Title IX, and the plain language of its implementing regulation, foreclose that view.

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. For purposes of brevity, the School Board adopts and incorporates its argument in support of its Motion for Summary Judgment on Grimm’s Title IX claim, and the proper interpretation of “sex”, in support of this argument. ECF Doc. 196, Section II, pp. 12-30.

While this 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” (ECF Doc. 148, p. 16), the evidence on summary judgment now supports the School Board.

Here, Grimm’s own expert agrees that there is a biological, anatomical and physiological component to determining the sex of an individual. Moreover, the 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. It is not an immutable right based on sex. Further, Grimm has not put forth expert evidence to support his contention that the term “sex” under Title IX should be interpreted differently as a result of his gender identity or a medical treatment plan. Additionally, there is no evidence that individuals with physiological characteristics associated with both sexes are implicated in this case. Grimm testified he does not have intersex characteristics.

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. Grimm does not present undisputed evidence that the policy harmed Grimm.**

Grimm asserts on brief that the location of the single-stall restrooms, along with the physical and mental anguish in using those restrooms, caused harm to Grimm. Yet, the evidence does not support this assertion and certainly is not undisputed.

Further, there are no medical scientific or medical research studies into the effect of not permitting a transgender student to use the bathroom consistent with his gender identity in school. Van Meter, 116:13-117:3; Penn, 70:11-17, 71:5-18, 73:3-8. Indeed, Penn has treated transgender students who were not permitted to use the restroom that aligned with their gender identity at school and still saw improvement in their gender dysphoria. Penn, 71:19-72:18. Here, while Grimm points to an increase in anxiety related to the restroom policy, Grimm has not identified an expert, treating or retained, to testify that Grimm suffered from mental distress or that Grimm's mental distress was associated with the use of the restrooms at Gloucester High School. Additionally, Grimm also points to the distance to the single-stall restrooms, but does not offer expert testimony on how this distance effected his gender dysphoria. Indeed, Grimm acknowledged that at lunch it was closer for him to use the single-stall restroom. Grimm, 134:7-11. Grimm was also given permission to use a staff restroom on the D wing. Grimm, 76:13-77:2. Moreover, there is evidence that other students were using the single-stall restrooms. Collins, 132:7-20.<sup>6</sup>

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<sup>6</sup> Grimm's statement that the policy "physically excluded [him] from class by requiring him to travel long distances to use the restroom and miss valuable class time" is not supported by the evidence. Grimm's argument that the distance to the single stall restroom prevented him from using the restroom is a red-herring. Grimm testified that, after consultation with the ACLU, it was clear from the start that he was simply not going to use the single-stall restrooms. Grimm, 121:11-122:17, 124:4-9; 125:11-13.

While Grimm also points to urinary tract infections which is “corroborated by major medical organizations”, his testimony is not corroborated by medical testimony in this case. Grimm has not submitted evidence that he was diagnosed with urinary tract infections or that any urinary tract infection was related to the School Board’s restroom policy. Similarly, Grimm does not offer an expert, retained or treating, to support the assertion that the restroom policy “physically excluded [him] from the entire Gloucester High School campus by driving him to complete many of his course credits on an off-site facility.” These unsupported statements cannot establish a Title IX claim, nor are they sufficient to support a motion for summary judgment. The same is true with regard to Grimm’s citation to the hearsay statements contained in amicus briefs.

**C. The School Board’s restroom policy did not violate the Equal Protection Clause.**

The “[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, Grimm 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).

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

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).

**2. Transgender persons are not entitled to heightened scrutiny.**

In the Court's May 22, 2018, opinion denying the School Board's motion to dismiss, the Court concluded that the School Board's policy should be analyzed under heightened scrutiny because transgender individuals constitute a "quasi-suspect class" and because Grimm relies on a sex stereotype theory of liability. ECF Doc. 148, pp. 25-26. However, 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. *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 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 v. Univ. of Pittsburgh of com. Sys. Of Higher Educ.*, 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.”)

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, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 441 (1985).

Furthermore, intermediate scrutiny does not apply based on the facts 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.

The equal protection question surrounds Grimm's sex at birth. *Johnston*, 97 F. Supp. 3d at 671. 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 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, 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. Accordingly, Grimm's equal protection claim should be reviewed under the rational basis standard.

**3. The School Board's Policy is presumptively constitutional under rational basis review.**

Grimm's identification as a male does not supersede the legitimate privacy rights the School Board considered in enacting the restroom policy. Accordingly, the School Board incorporates section III. C. of its Brief in Support of the School Board's Motion for Summary Judgment in opposition to Grimm's Equal Protection claim. See, ECF Doc. 196, pp. 34-37.

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

Even if intermediate scrutiny applied, 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 *United States v. Virginia*, 518 U.S. 515 (1996),

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).

Grimm’s bald statement that his “use of the boys’ restrooms did not infringe on anyone else’s privacy” because there is not evidence a student actually encountered Grimm in the restroom misses the mark. The School Board does not have to wait for another student’s constitutional privacy rights to be actually violated before it takes those privacy rights into consideration in enacting a policy to protect all students’ privacy rights.

Perhaps it is merely an abundance of common experience that leads inexorably to the conclusion that there must be a fundamental constitutional right to be free from forced exposure of one’s person to strangers of the opposite sex when not reasonably necessary for some legitimate, overriding reason, for the obverse would be repugnant to notions of human decency and personal integrity.

*Kent v. Johnson*, 821 F.2d 1220, 1226 (6th Cir. 1987); *see also, Doe v. Luzerne Cty.*, 660 F.3d 169, 176 (3rd Cir. 2011) (we are not aware of any court of appeals that has adopted ... a requirement that certain anatomical areas of one’s body, such as genitalia, must have been exposed for that person to maintain a privacy claim under the Fourteenth Amendment ....”)

Moreover, Grimm explicitly acknowledged that there were privacy rights and concerns with his use of the boys’ restroom. In fact, Grimm sought to protect his privacy rights by making it clear to school administrators that he only wanted to use the boys’ restroom if the restroom stall was equipped with a door. *Collins*, 55:14-57:21. The School Board’s interests in student privacy satisfies the Equal Protection Clause.<sup>7</sup>

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<sup>7</sup> Grimm creates another strawman argument in asserting that “even if there were an actual risk of exposure to nudity, the reality is that placing a boy who is transgender in the girls’ restroom ... would still mean that students would be ‘in the presence of individuals with physical sex characteristics of the opposite sex.’” ECF Doc. 185, p. 40. Of course, this is not what the School Board’s policy does. Instead, the School Board’s policy provides for a single-user restroom to eliminate this concern.

In further opposition to Grimm's Motion for Summary Judgment on the Equal Protection claim, the School Board incorporates section III. D from its Brief in Support of the School Board's Motion for Summary Judgment. See, ECF Doc. 196, pp. 38-40.

**5. Settlement negotiations in February 2019 are irrelevant, and discussion of those negotiations should be disregarded and stricken from Grimm's Brief.**

Grimm graduated from Gloucester High School on June 10, 2017. In February 2019, nearly two years later, the School Board held a public hearing "regarding a proposed policy that 'would allow transgender students to use the restroom consistent with the student's asserted gender identity when [certain specified] criteria have been met.'" ECF Doc. 185, p. 25 (emphasis added). The School Board's decision not to adopt that proposed policy – which "rose out of the parties' settlement negotiations with Magistrate Judge Miller" – has absolutely nothing to do with the merits of Grimm's case, because Grimm's interests would not have been affected by its adoption and have not been affected by the failure to adopt the policy. Grimm no longer is a student at Gloucester High School. In fact, he now lives in California.

While Grimm argues that Federal Rule of Evidence 408 does not preclude admission of "the Board's press releases and public statements" because they "were not confidential and were not 'made during compromise negotiations' with Plaintiff", this argument does not acknowledge that the statements are not relevant nor appreciate the context in which the policy was considered. ECF Doc. 185, p. 25 n. 6.

Grimm's argument is contrary to the policies underlying Rule 408. As stated in the 1972 Advisory Committee Notes, exclusion of compromise discussions may be based on two grounds. First, "[t]he evidence is irrelevant, since the offer may be motivated by a desire for peace rather than from any concession of weakness of position." The second and "more consistently impressive ground is promotion of the public policy favoring the compromise and settlement of

disputes.” Both grounds support exclusion of Grimm’s evidence of settlement negotiations in this case.

**D. The issuance of a new birth certificate does not compel revision of Grimm’s school records, and the School Board’s actions did not violate Title IX or the Equal Protection Clause**

Grimm asks the Court to issue a declaratory judgment that the Board’s decision declining to “update” his official school transcript violates Grimm’s rights under Title IX and the Equal Protection Clause. Grimm also requests a permanent injunction requiring the School Board to update Grimm’s school transcript to match the male gender marker on his birth certificate. This relief should be denied for all of the reasons discussed in previous sections of this Brief.

Grimm’s brief does not accurately describe the facts nor are there undisputed facts that permit summary judgment to be entered in Grimm’s favor on these issues. Indeed, Grimm’s statement that “*it is doubtful* that any reasonable finder of fact could actually credit the Board’s claim that it had questions about the authenticity of Gavin’s birth certificate” is enough to defeat Grimm’s motion for summary judgment on this issue. ECF Doc. 185, p. 44 (emphasis added). The evidence must be undisputed. The School Board incorporates section IV A and B in its Brief in Support of the School Board’s Motion for Summary Judgment in opposition to Grimm’s motion. ECF Doc. 196, pp. 43-47.

Moreover, the balance of hardships does not weigh in Grimm’s favor. As set out above, the amended birth certificate issued to Grimm not only does not comply with Virginia law, it does not comport with the medical and other factual evidence in this case. Furthermore, the School Board offered Grimm the opportunity for a hearing on this issue **in January 2017**, but Grimm never requested the hearing to update his school records. Additionally, Grimm has not offered an expert, retained or treating, to offer evidence concerning Grimm’s diagnosis, medical

or mental health condition, or a purported gender reassignment surgery. Grimm's reliance on inadmissible hearsay does not support the conclusion that the balance of hardships weigh in his favor or that an injunction is in the public interest.

An injunction should not be entered based on the evidence in this record.

## **VI. Conclusion**

Far from offering undisputed material facts to support summary judgment, Grimm has not offered medical, mental health, or expert testimony to prove that Grimm is a boy or that he has been diagnosed with gender dysphoria. Additionally, Grimm has not offered medical or expert testimony to prove the severity of the effects of gender dysphoria on Grimm or whether it was medically necessary for Grimm to use the boys' restroom at school to treat his purported gender dysphoria. The record is devoid of medical or mental health evidence related to Grimm's transgender status and purported treatment for gender dysphoria. Grimm cannot establish a violation of Title IX or the Equal Protection Clause on this record.

Grimm's Motion for Summary Judgment should be denied.

**GLOUCESTER COUNTY SCHOOL  
BOARD**

By Counsel

/s/

\_\_\_\_\_  
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**C E R T I F I C A T E**

I hereby certify that on the 9<sup>th</sup> day of April 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 OF GLOUCESTER COUNTY  
SCHOOL BOARD'S BRIEF IN OPPOSITION TO PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT**

<b>NO.</b>	<b>EXHIBIT DESCRIPTION</b>
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.	Diagnostic and Statistical Manual of Mental Disorders – DMS-5
F.	Plaintiff's Expert Witness Identification
G.	Quentin Van Meter, M.D. Deposition Exhibit No. 5
H.	Tiffany Durr Deposition Excerpts
I.	Nathan Collins Deposition Excerpts
J.	Matt Lord Deposition Excerpts
K.	Gloucester County School Board's Supplemental Answer to Interrogatory No. 1
L.	Gloucester County School Board Documents GCSB – 0513, 0844, 0853-855, 1086, 1117-1118, 1127, 1151-1154, 1261, 1267,

<b>NO.</b>	<b>EXHIBIT DESCRIPTION</b>
	1272, 3541, 4122, 4286
M.	Troy Andersen Deposition Excerpts
N.	Troy Andersen Declaration
O.	Walter Clemons Deposition Excerpts
P.	Plaintiff's Second Supplement to Initial Disclosures

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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

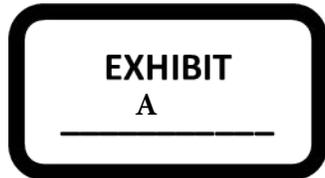
BOARD, :

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

1 to adjust that garment, that is something that I  
2 would have to do three or four times throughout a  
3 school day, often times I would, you know, do that  
4 when I went to the bathroom, but sometimes I  
5 couldn't.

6 Q Why not?

7 A Or rather not sometimes that I couldn't,  
8 but sometimes that it happened, it would  
9 reposition itself in a way that I needed to  
10 correct in a position where I -- I didn't need to  
11 go to the bathroom for any other reason than to  
12 fix that garment.

13 Q Did there come a time when they gave you  
14 access to another restroom that was closer besides  
15 the nurse's office in the D-Hall?

16 A So at one point, it was my understanding  
17 that it was communicated to me that I was allowed  
18 to access the male faculty restrooms on all halls;  
19 however, I was then told that no, in fact, I had  
20 only been given permission to use the ones on  
21 D-Hall, but I think that -- I think I genuinely  
22 was told that I had access to all staff bathrooms

Transcript of Gavin Grimm  
Conducted on October 19, 2018

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1 initially, and then the D-Hall thing was raised  
2 after the fact.

3 Q Tell me, as best you can recall, who told  
4 you you could use any male faculty restroom?

5 A I really -- it would have been one of the  
6 administrators or not -- one of -- either  
7 counselors or the principal, someone in that  
8 position, those positions, I don't recall exactly  
9 who.

10 Q But your recollection is that someone told  
11 you you could use any of the male faculty  
12 restrooms?

13 A So my recollection was that yes, that I  
14 was able -- I was permitted to use the male  
15 faculty restrooms; however, I was later called  
16 into either the guidance office or the office, I  
17 can't recall who I had the conversation with, who  
18 said no, in fact, you can only use the D-Hall.

19 Q Who was it who you had the conversation  
20 with that restricted it to the D-Hall restroom?

21 A I really don't recall.

22 Q Your recollection is it was either someone

Transcript of Gavin Grimm  
Conducted on October 19, 2018

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1 the first week, which would be the 20th, 21st,  
2 22nd, 23rd, did you have any conversation with any  
3 student coming in, going out, while in the  
4 bathroom about what are you doing, what are you  
5 doing in here, anything?

6 A No. I had a single conversation with a  
7 student during that time in the D-Hall bathroom in  
8 which he asked me if I liked his socks, and that  
9 was the only encounter that I have ever had in a  
10 restroom at Gloucester High.

11 Q Beginning at the first of your sophomore  
12 year, did you ever go in the girls' restroom?

13 A Absolutely not.

14 Q When did you last use the girls' restroom  
15 at Gloucester High School?

16 A I began avoiding it before the end of  
17 freshman year of high school, so perhaps sometime  
18 towards the middle or end of that year.

19 Q Of 9th grade?

20 A Yes, sir.

21 Q So the -- that was the second part of that  
22 year, in the spring semester, you went into the

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

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            A    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

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

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 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

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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 was contacted -- we -- my family was in contact  
2 with the ACLU, I -- my recollection at the time  
3 was that was the final decision, and there was  
4 nothing -- no one I could talk to and nothing I  
5 could do to change that within the school.

6 Q What about the idea of just going along  
7 with that and saying I can live with this  
8 alternative, this single stall, unisex restrooms,  
9 don't have to go to the girls' room, I can -- I  
10 can go to these other restrooms.

11 A Part of -- so certainly, the language was  
12 that they were for all students to use; however, I  
13 was the only student mandated to use them, I was  
14 the only student that had no option in the school  
15 other than in a single stall restroom, and that  
16 was part of the reason why I did not think that  
17 was an appropriate thing to go along with.

18 The other reason being I am a boy and it  
19 felt to me that it was humiliating and  
20 stigmatizing for the school to or not the school  
21 perhaps, the School Board to take the position  
22 that there was something wrong with me that made

Transcript of Gavin Grimm  
Conducted on October 19, 2018

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1 that at that time?

2 A I -- it wasn't something that I discussed  
3 in terms with anybody in terms of, you know, hey,  
4 Mom, what should I do. It was more like -- for  
5 example, I approached my mother, and I said I  
6 cannot be discriminated against in this way, I  
7 cannot go for three years of my high school career  
8 being shoved off into, you know, a converted broom  
9 closet where only I am mandated to go.

10 That -- staring down three years of that  
11 was so devastating to me, that there was not a  
12 question of if or not I would stand for that, so  
13 when I had conversations with, for example, with  
14 my mother about next steps, I said this is wrong,  
15 this hurts me, what can we do.

16 Those were the conversation that we had.

17 Q Did you ever talk to any other transgender  
18 youths, not necessarily in Gloucester, but just  
19 anywhere, about restrooms and about -- again, in  
20 this time frame between November 11 and  
21 December 9, accommodations, whether it -- how big  
22 of a deal this is, how much trouble this is, that

Transcript of Gavin Grimm  
Conducted on October 19, 2018

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1 kind of thing?

2 A I did not.

3 Q Okay. Were you talking to your counselor  
4 or other -- not school counselor but the person  
5 you were consulting with, Miss Griffin or someone  
6 else about it?

7 A I -- I didn't -- I don't -- I didn't seek  
8 counsel from them. I do not recall any individual  
9 conversations that I had with any of my mental  
10 healthcare providers.

11 Q It was clear to you from the start, this  
12 was not an option that you were interested in?

13 A Yes. If I may.

14 Q Sure.

15 A Part of that -- part of that  
16 decision-making process was also that for that  
17 7-week period, where I was respected as a boy and  
18 able to use the boys' bathroom, I was -- I was  
19 excited about the prospect of living out the rest  
20 of my school year as just another student, without  
21 having to face down discrimination every time I  
22 had to use the bathroom, and that 7-week sort of

Transcript of Gavin Grimm  
Conducted on October 19, 2018

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1 used them.

2 Q Right.

3 A But, of course, I looked once or twice,  
4 just to see what they look like, but I did never  
5 use them.

6 Q There is a claim in here that no one else  
7 ever used them. Do you know whether other people  
8 used those restrooms or not, I mean of your own  
9 personal knowledge?

10 A The -- the area that those bathrooms were  
11 positioned in was visible from where I would  
12 often, me and my friend group would often sit for  
13 lunch, and I never really saw any traffic in that  
14 time. Of course, I did not monitor those  
15 bathrooms 24/7, and I could not say that they were  
16 never used ever; however, it did not appear to be  
17 a high traffic area.

18 Q All right. After the second meeting, on  
19 December 9, word was passed to you about what the  
20 decision was, and you had a meeting, I think with  
21 the principal, is that right, or do you recall?

22 A I don't recall.

Transcript of Gavin Grimm  
Conducted on October 19, 2018

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1 Q Let me ask you this question. If you had  
2 been allowed to go in the boys' room or the single  
3 stall restroom, would you have ever used the  
4 single stall restrooms?

5 A No, I would go in the boys' room because  
6 they were closer to my classes.

7 Q What about if you were at lunch time and  
8 it was closer to your class to use the single  
9 stall?

10 A Perhaps in that case, if it was the  
11 closest option and I wasn't being actively forced  
12 to use those and those alone, but I mean the --  
13 again, for example, if I was in D-Hall, where  
14 those bathrooms are, it's almost as far as going  
15 to the nurse's office, I would, of course, use  
16 those.

17 MR. CORRIGAN: Sure. I understand.

18 Lunch is here?

19 (Recess from 12:35 p.m. to 1:15 p.m.)

20 BY MR. CORRIGAN:

21 Q Now, the urinary tract infections, we  
22 talked about that. It is in paragraph 68 of your

Transcript of Gavin Grimm  
Conducted on October 19, 2018

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1 Complaint.

2 Did any doctor ever diagnose you as having  
3 urinary tract infections?

4 A I -- I do not recall if there had ever  
5 been a formal diagnosis.

6 Q Did you seek treatment?

7 A I -- I used over-the-counter solutions  
8 designed for urinary tract infections, which  
9 improved the condition.

10 Q What did you use?

11 A One example being a medication called Azo,  
12 that is A-Z-O.

13 Q Did any doctor ever prescribe anything for  
14 you for urinary tract infections?

15 A I do not recall.

16 Q Did any doctor ever tell you that your  
17 urinary tract infections were caused by your not  
18 using the restroom during the day at school?

19 A I do not recall.

20 Q So when you say you do not recall, do you  
21 ever remember speaking to any doctor at any time  
22 about urinary tract infections?

Transcript of Gavin Grimm  
Conducted on October 19, 2018

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1           A I do not recall if I did or did not, but I  
2 also do not recall not having seen a doctor. I --  
3 I -- it may have come up in an appointment, I just  
4 do not recall definitively enough to say yes or  
5 no.

6           Q Okay. Where does this notion come from  
7 that you have urinary tract infections because of  
8 not using the restroom as frequently as you felt  
9 like you might have needed to during the day?

10          A In part, because it is -- as I understood  
11 it, it is something that is -- can be known to  
12 increase urinary tract infections.

13                 In addition, the second that I was in an  
14 environment for any extended period of time where  
15 I did not have restrictions for bathroom use, for  
16 example, summer vacation or post graduation, the  
17 problem eliminated itself entirely.

18          Q Okay. During your 11th grade year, did  
19 you use the restroom regularly then?

20          A I --

21                 MR. BLOCK: Objection. If you could  
22 specify a time period within that year.

Transcript of Gavin Grimm  
Conducted on October 19, 2018

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 \_\_\_\_\_  
20 LESLIE D. ETHEREDGE, Notary Public in  
21 and for the Commonwealth of Virginia  
22 Registration No: 116406

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



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

11

1 that refer to or relate to Gavin Grimm?

2 MR. BLOCK: Objection.

3 A Can you state that question again?

4 Q Sure. You agree that in your report,  
5 you don't mention Gavin Grimm?

6 A Yes.

7 Q And you agree that in the opinion  
8 section of your report, you have not expressed any  
9 opinions specific to Gavin Grimm?

10 A Yes.

11 (Penn Deposition Exhibit 1A was marked  
12 for identification and is attached.)

13 Q You can go ahead and put that to the  
14 side for the moment. We'll get back to it.

15 I'm going to show you what's been  
16 marked as Exhibit 1A. That is the Attachment A to  
17 the binded report that I received. Is that your  
18 current CV?

19 A Yes.

20 Q Are there any additions to your CV  
21 since you provided it back in January?

22 A I have done some additional

Transcript of Melinda Penn, M.D.

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13

1 as an expert involving a transgender case?

2 A No.

3 Q Have you ever served as an expert in a  
4 case involving appropriate psychological treatment  
5 for a transgender adolescent?

6 A No.

7 Q So I get my terminology straight,  
8 what's -- is there a difference from your  
9 treatment between a child and an adolescent, or  
10 are their terms interchangeable?

11 A We only provide endocrine care for  
12 patients who have begun puberty. They have to  
13 have begun puberty to receive treatment. They  
14 would all be adolescents to receive hormone  
15 therapy.

16 Q So if I use the word "adolescent," does  
17 that mean a child who has begun puberty?

18 A Yes.

19 Q And if I just use the term "child" or  
20 "children," that's someone that has not begun  
21 puberty?

22 A In general.

Transcript of Melinda Penn, M.D.

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14

1 Q And then if we use the term "adult," is  
2 that someone that's reached the age of majority,  
3 someone that's over 18?

4 A I think in most cases that would be  
5 used.

6 Q Looking at your CV, you received your  
7 medical degree in 2004 from Eastern Virginia  
8 Medical School?

9 A Yes.

10 Q When you were at Eastern Virginia  
11 Medical School, were there any courses taught on  
12 transgender individuals?

13 A Not full courses.

14 Q Was there any instruction on medical  
15 care for transgender individuals?

16 A I remember having a presentation that  
17 was about LGBT patients.

18 Q And was that a one-day presentation?

19 A Yes.

20 Q One day? While you were at Eastern  
21 Virginia Medical School, did you receive any  
22 training on gender identity disorder?

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

1 A No.

2 Q Did you receive any training on gender  
3 dysphoria?

4 A No.

5 Q Other than the presentation, did you  
6 receive any training on the medical treatment of  
7 transgender individuals?

8 A No.

9 Q It looks like you did your residency in  
10 general pediatrics from July 2004 to July of 2007  
11 at the Medical University of South Carolina. Is  
12 that correct?

13 A Yes.

14 Q And while you were at the Medical  
15 University of South Carolina, did you receive any  
16 training on the medical treatment of transgender  
17 individuals?

18 A Not that I recall.

19 Q Did you receive any training on the  
20 medical treatment of gender dysphoria?

21 A No.

22 Q And while you were at the Medical

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

16

1 University of South Carolina, did you receive any  
2 training on the medical treatment of gender  
3 identity disorder?

4 A No.

5 Q What did your residency at the Medical  
6 University of South Carolina consist of?

7 A General pediatric education.

8 Q What does that mean?

9 A The care and health care of pediatric  
10 patients.

11 Q Did you, during your residency at the  
12 Medical University of South Carolina, participate  
13 in any research studies involving transgender  
14 individuals?

15 A No.

16 Q Then again looking at your CV, it looks  
17 like you had your fellowship at Children's  
18 Hospital of Philadelphia?

19 A Yes.

20 Q From July 2017 through August of 2010?

21 MR. BLOCK: Objection.

22 A July 2007 to August 2010.

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

17

1 Q I'm sorry. Did I misstate it?

2 A Uh-huh.

3 Q So you had your fellowship from  
4 July 2007 through August of 2010; is that correct?

5 A Yes.

6 Q What was your fellowship in?

7 A Pediatric endocrinology.

8 Q And what is pediatric endocrinology?

9 A It's the study of hormones and hormone  
10 disorders.

11 Q In persons under the age of 18?

12 A Yes. Well, we continue up until about  
13 21.

14 Q So in your practice in pediatric  
15 endocrinology, you would treat patients up to  
16 approximately the age of 21?

17 A Yes.

18 Q And during your fellowship in pediatric  
19 endocrinology, did you receive any training on the  
20 treatment of transgender individuals?

21 A We didn't have formal education, but  
22 there was discussion.

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

18

1 Q And so when you say you had discussion,  
2 what did that involve?

3 A Speaking about patients and discussing  
4 the care that was occurring at other facilities.

5 Q And is that -- would that be like on  
6 rounds, presenting on special --

7 A Yes.

8 Q I'm sorry.

9 -- presenting on individual patients?

10 A As we came across them in outpatient  
11 clinic or inpatient, and then just discussing in  
12 general the literature that was coming out.

13 Q During your fellowship, did you have  
14 any medical training on the treatment of gender  
15 identity disorder?

16 A No.

17 Q Did you have, during your fellowship,  
18 any medical training on the treatment of gender  
19 dysphoria?

20 A Just in what I just stated.

21 Q The discussion?

22 A Just the discussions and conferences

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

19

1 that I had attended.

2 Q And as you sit here today, do you  
3 remember any conferences that you attended on --  
4 during your fellowship that involved the treatment  
5 of transgender individuals?

6 A Yes.

7 Q What were those?

8 A Dr. Norman Spack from Boston Children's  
9 has a gender clinic and spoke at -- I believe it  
10 was a Pediatric Endocrine Society meeting.

11 Q Do you remember when that occurred?

12 A Not specifically.

13 Q Other than the conference with

14 Dr. Norman Spack --

15 Can you spell that?

16 A S-P-A-C-K.

17 Q -- that Dr. Norman Spack presented, do  
18 you recall any other conferences that you attended  
19 that involved the treatment of transgender  
20 individuals?

21 A I believe at the Endocrine Society  
22 national conference I attended some discussions

Transcript of Melinda Penn, M.D.

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20

1 about gender dysphoria.

2 Q Did you have any formal education other  
3 than those conferences on gender dysphoria?

4 A No.

5 Q During your fellowship, did you  
6 participate in any research studies on gender  
7 dysphoria or transgender individuals?

8 A No.

9 Q During your fellowship, did you  
10 participate in preparing any articles or  
11 literature on gender dysphoria or transgender  
12 individuals?

13 A No.

14 MR. BLOCK: Jeremy, is now a good time  
15 to call Leslie?

16 MR. CAPPS: Yes. Let's take a break.  
17 I meant to say if you want a break at any time,  
18 tell me.

19 (A recess was taken.)

20 (Ms. Cooper joins the deposition by  
21 telephone.)

22

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

21

1 BY MR. CAPPS: (Continuing)

2 Q You are licensed to practice medicine  
3 in Virginia?

4 A Yes.

5 Q And are you board certified?

6 A Yes.

7 Q What are you board certified in?

8 A General pediatrics and pediatric  
9 endocrinology.

10 Q And when did you become board certified  
11 in pediatric endocrinology?

12 A Pediatric endocrinology was 2011.

13 Q Do you have any other certificates or  
14 licenses -- strike that.

15 Is there any certificate or degree  
16 relative to the treatment of transgender  
17 individuals?

18 A I believe WPATH is in the process of  
19 creating a certificate.

20 Q And do you have a certificate relative  
21 to the treatment of transgender care?

22 A No.

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

22

1 Q Is there any certification at present  
2 concerning the treatment of transgender  
3 individuals?

4 A I don't believe there's one that  
5 formally is available yet.

6 Q What do you do now in your practice?

7 A I practice general pediatric  
8 endocrinology at the Children's Hospitals of the  
9 King's Daughters.

10 Q What is your general patient  
11 population?

12 A I see patients for a number of  
13 endocrine disorders. The majority of my practice  
14 is made up of patients with Type 1 diabetes, but  
15 we also care for children and adolescents with  
16 growth hormone deficiency, thyroid disorders,  
17 puberty disorders, adrenal dysfunction, obesity,  
18 Type 2 diabetes, and then I see transgender  
19 patients as well.

20 Q And do you consider yourself as having  
21 a specialty?

22 A I see -- I tend to specialize in Type 1

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1 endocrinologist who retired, and he was previously  
2 seeing the transgender patients and providing  
3 endocrine care for them. So I've taken over his  
4 practice and continued the care that he was  
5 providing, as well as seeing new patients.

6 Q I guess what I'm getting at now -- so  
7 when you say you are providing endocrine care, you  
8 are providing medical treatment; is that correct?

9 A Yes.

10 Q And are you providing -- when you say  
11 "endocrine care," does that mean you're providing  
12 hormone --

13 A Yes.

14 Q -- therapy? Maybe I'm using the wrong  
15 term.

16 A No. So, it varies what we do for  
17 transgender patients. But if they choose to  
18 undergo hormone therapy and feel that they'll  
19 benefit from hormone therapy, that can include  
20 pubertal suppression where we stop the development  
21 of -- production of pubertal hormones. And then  
22 we can do gender-affirming hormone therapy, which

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1           Q     When you took care of the transgender  
2 patients at VCU, were they all under 21, or were  
3 there adults?

4           A     When I began their care, they were  
5 under 21. Some may have been over 21 while they  
6 were still in my care.

7           Q     After you opened the pediatric  
8 transgender health clinic, did you receive any  
9 specialized training in the treatment of pediatric  
10 transgender individuals?

11          A     Just attendance at conferences and  
12 speaking to other endocrinologists who had had  
13 prior experience with transgender care.

14          Q     And in providing your treatment at VCU,  
15 did you rely on any standards of care or  
16 guidelines?

17          A     Yes. The Endocrine Society standards  
18 of care and WPATH guidelines.

19          Q     And in your treatment of transgender  
20 individuals at VCU, did you provide any mental  
21 health care?

22          A     No, not in my -- I didn't provide it.

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29

1 I worked with mental health providers who provided  
2 it.

3 Q Right. But you're not a licensed  
4 mental health provider?

5 A No.

6 Q And as you sit here now, do you  
7 remember the conferences that you attended  
8 concerning the treatment of transgender  
9 individuals while you were at VCU?

10 A The Pediatric Endocrine Society has a  
11 national conference and typically has a couple  
12 lectures that are about transgender care, and the  
13 Philadelphia Transhealth conference is an annual  
14 conference, and I attended that. I'd have to look  
15 back to see exactly what year it was. And they  
16 had a health care and medical path in that  
17 conference that I attended.

18 Q And your treatment of transgender  
19 individuals while you were at VCU, was that any  
20 different than your current treatment of these  
21 individuals now that you're at the Children's  
22 Specialty Group?

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1           A     I wanted a new position and felt like  
2     this position gave me more support as a  
3     specialist.

4           Q     Is the transgender health clinic still  
5     operating at VCU?

6           A     I believe so. The endocrinologist who  
7     came on after me, I think, has left VCU, so I'm  
8     not sure who's heading that now.

9           Q     So at least as of right now, you do not  
10    have any collaboration with VCU's transgender  
11    health clinic?

12          A     No.

13          Q     All right. Have you ever participated  
14    in any peer-reviewed research studies involving  
15    transgender individuals?

16          A     No.

17          Q     Have you ever participated in any  
18    peer-reviewed research studies involving gender  
19    identity disorder?

20          A     No.

21          Q     Have you ever participated in any  
22    peer-reviewed research studies involving gender

Transcript of Melinda Penn, M.D.  
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1 dysphoria?

2 A No.

3 Q As you sit here now, have you published  
4 any articles or literature or books related to the  
5 treatment of transgender individuals?

6 A No.

7 Q Have you published any articles,  
8 literature, or chapters in books regarding the  
9 treatment of gender dysphoria?

10 A No.

11 Q Have you published any articles,  
12 literature, or chapters in books related to the  
13 treatment of gender identity disorder?

14 A No.

15 Q Have you ever received any state or  
16 federal grant funding to conduct research into the  
17 treatment of transgender individuals?

18 A No.

19 Q All right. In your report, you state  
20 that you are a member of WPATH.

21 A Yes.

22 Q What is WPATH?

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35

1 Q Did you offer any comments on the  
2 development of the guidelines issued by the  
3 Pediatric Endocrine Society concerning the  
4 treatment of transgender individuals?

5 A No.

6 Q Is there a difference between a  
7 standard of care and a guideline?

8 A Not that I'm aware of.

9 Q So would you treat a standard of care  
10 as the same -- in the same manner as -- strike  
11 that. I'll be more specific.

12 Do you treat the standards of care  
13 issued by WPATH as -- in the same manner as you  
14 treat the guidelines issued by the Endocrine  
15 Society?

16 A I use them both as kind of guides for  
17 how to provide care for those patients. I tend to  
18 refer to the Endocrine Society guidelines more  
19 often because they specifically -- more  
20 specifically relate to what I'm doing.

21 Q Do you know whether the standards of  
22 care issued by WPATH were peer-reviewed by

Transcript of Melinda Penn, M.D.

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1 endocrine professionals?

2 A I do not.

3 Q Do you know who authored the standards  
4 of care?

5 A No.

6 Q Did you review the underlying  
7 literature that is used to support the WPATH  
8 standards of care?

9 A I have in the past.

10 Q And do you recall what literature it is  
11 that you reviewed?

12 A No.

13 Q Do you know whether WPATH took into  
14 consideration any contrary or dissenting views on  
15 the treatment of transgender individuals in  
16 creating their standards of care?

17 A I do not.

18 Q Do you know what methodology was used  
19 by WPATH in creating these standards of care?

20 A No.

21 Q And did you have any involvement in the  
22 adoption of the standards of care by WPATH?

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1 A No.

2 MR. CAPPS: Do you want to take a quick  
3 break? I'm going to transition into those --  
4 we're okay to take a quick break if you want.

5 (A recess was taken.)

6 (Penn Deposition Exhibit 1B was marked  
7 for identification and is attached.)

8 BY MR. CAPPS: (Continuing)

9 Q I'm showing you what's been marked as  
10 Exhibit 1B, which was attached to your expert  
11 report. Is that the most current standards of  
12 care issued by WPATH that you have been referring  
13 to?

14 A Yes.

15 Q And you agree that the WPATH standards  
16 of care are intended to be a flexible guideline?

17 A Yes.

18 Q And you agree that the WPATH standards  
19 of care state that treatment for gender dysphoria  
20 is intended to be individualized?

21 A Yes.

22 Q And the WPATH standards of care state

Transcript of Melinda Penn, M.D.

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1 that what helps one person alleviate gender  
2 dysphoria might be very different from what helps  
3 another person?

4 A Yes.

5 Q And is that true in your practice?

6 A Yes.

7 Q So in your practice, the treatment of  
8 transgender adolescents or children varies from  
9 one child to another?

10 A Yes.

11 Q And it may depend on what the parents  
12 want?

13 A I talk with the patients and the  
14 parents and come up with the best plan.

15 Q And that plan, though, may depend on  
16 what the parents want instead of what the child  
17 wants?

18 A In order to proceed with any  
19 treatments, I have to have -- I require that all  
20 parents or guardians agree to the plan.

21 Q And if a parent disagrees with the  
22 adolescent that you're treating, does that mean

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1 Q So there's not a diagnostic test that  
2 can be performed that would determine an  
3 individual's gender identity?

4 A No.

5 Q Is there a biological test that could  
6 determine gender identity?

7 A No.

8 Q As you sit here now, is there a  
9 biological basis for gender identity?

10 A Not a direct one.

11 MR. BLOCK: Can we stop for a second?

12 MR. CAPPS: Yes.

13 (A discussion was held off the record.)

14 BY MR. CAPPS: (Continuing)

15 Q In paragraph 18 of your report, you  
16 state that the terms "sex designated at birth" or  
17 "sex assigned at birth" are more precise than  
18 "biological sex."

19 A Yes.

20 Q Why is that?

21 A There are a number of different  
22 components that make up what is determined to be

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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.

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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.

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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

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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.

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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,

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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

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55

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

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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

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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.

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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?

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1 MR. CAPPS: Yes, that's fine. I don't  
2 mind you saying where you think in the document it  
3 is.

4 MR. BLOCK: All right. So I'll  
5 identify the points; I'll refer to the pages.

6 So, you might want to look at page 68.  
7 There's one other page you might want to look at.

8 MR. CAPPS: Document.

9 A On page 17 there's a section about the  
10 social transition in early childhood, and it just  
11 refers to the safe and supportive environment for  
12 their transitioning, that maintaining a safe and  
13 supportive environment in their transitioning  
14 child -- for example, in school, peer group  
15 settings. It doesn't specifically say restrooms  
16 but in general the environment.

17 Q Right. So on page 17 of a -- of the  
18 WPATH "Social Transition In Early" -- I'm sorry.  
19 I'm going to start over.

20 On page 17 of the WPATH standards of  
21 care under the title "Social Transition in Early  
22 Childhood," there is a section at the bottom of

Transcript of Melinda Penn, M.D.  
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1 the page that states, "If parents do allow their  
2 young child to make a gender role transition, they  
3 may need counseling to facilitate a positive  
4 experience for their child. For example, they may  
5 need support in using correct pronouns,  
6 maintaining a safe and supportive environment for  
7 their transitioning child (e.g. in school, peer  
8 group settings), and communicating with other  
9 people in their child's life."

10 Do you see that? Yes?

11 A Yes.

12 Q And that standard of care relates to  
13 the parents of a transgender child, correct?

14 A Yes.

15 Q And that standard of care does not  
16 state anything about the use of restrooms  
17 consistent with the child's expressed gender  
18 identity, correct?

19 A Not specifically.

20 Q And that standard of care does not  
21 relate to the use of a bathroom at a school --  
22 strike that. That standard of care -- strike

Transcript of Melinda Penn, M.D.  
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1 that.

2           Anywhere else in the document that you  
3 believe the standard of care expressed by WPATH  
4 references restroom use for transgender  
5 individuals?

6           A     There's a section in applicability of  
7 the standards of care to people living in  
8 institutional environments on page 68. It says  
9 that, "Housing and shower/bathroom facilities for  
10 transsexual, transgender, and gender nonconforming  
11 people living in institutions should take into  
12 account their gender identity and role, physical  
13 status, dignity, and personal safety."

14           Q     So the WPATH standard of care that you  
15 just referenced relates to transsexual,  
16 transgender, and gender nonconforming people  
17 living in institutional environments such as  
18 prisons, or long-term health care facilities,  
19 correct?

20           A     Yes.

21           Q     WPATH does not have a standard of care  
22 related to the use of restrooms by transgender

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Conducted on March 14, 2019

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1 students at schools, correct?

2 A Not that I see.

3 Q In Exhibit 1C, which is the Endocrine  
4 Treatment -- Clinical Practice Guidelines of  
5 Gender-Dysphoric/Gender-Incongruent Persons -- do  
6 you see that?

7 A Yes.

8 Q And you relied on this document in  
9 coming to your opinions, correct?

10 A Yes.

11 Q Do the guidelines issued by the  
12 Endocrine Society refer to the use of the  
13 restrooms by a transgender person?

14 A Let me review. It's mostly discussing  
15 the medical treatment, and I don't think that  
16 there's a lot of discussion about social, but let  
17 me review it again.

18 I don't think there's a specific  
19 reference to the bathroom facility.

20 Q All right. So you would agree, then,  
21 that there are no guidelines issued by the  
22 Endocrine Society related to transgender students

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

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1 using restrooms consistent with their gender  
2 identity in the school?

3 MR. BLOCK: Objection.

4 MR. CAPPS: What's the objection?

5 MR. BLOCK: "Related to" versus  
6 "specifically mentioned."

7 Q Okay. You would agree that the  
8 Endocrine Society has not issued clinical  
9 guidelines for the use of restroom facilities for  
10 transgender students consistent with their gender  
11 identity in schools?

12 A I believe there's a pediatric endocrine  
13 statement in support of transgender care, but I  
14 don't know if it specifically states restrooms.

15 Q What I'm asking is, in the guidelines  
16 that you relied on, you would agree that there is  
17 no guideline on the use of a restroom by a  
18 transgender student that is consistent with a  
19 student's gender identity in school?

20 A Yes, there's no specific reference to  
21 "restroom."

22 Q If, as part of the treatment plan for

Transcript of Melinda Penn, M.D.

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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.

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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.

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1 A Yes.

2 Q How many students?

3 A I couldn't estimate. We speak in  
4 general, but I don't always discuss specifically  
5 what bathrooms they're using.

6 Q And in those students that you treated,  
7 was there a continued social transition plan to  
8 address gender dysphoria?

9 A Yes.

10 Q In those patients that you were  
11 treating, did you see a lessening of the patient's  
12 gender dysphoria?

13 A Yes.

14 Q And in those patients, you saw an  
15 improvement in their gender dysphoria, correct?

16 A Yes. Most of my patients who have  
17 undergone some social transition relate that it  
18 leads to some gender dysphoria improvement.

19 Q Are you aware of any objective tests or  
20 diagnostic tools that measure the distress in a  
21 transgender student who is not able to use the  
22 restroom consistent with his gender identity in

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.

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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.

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1 density and health. So it was medically required  
2 to provide estrogen.

3 Q What about the other case?

4 A The other case was a transgender male,  
5 and -- and I don't recall if he had his ovaries  
6 removed, but he was continuing the testosterone to  
7 relieve gender dysphoria, because -- in order to  
8 continue to have masculinization, and for the  
9 masculinization, you need to continue the  
10 testosterone.

11 Q What happens if you stop taking  
12 testosterone?

13 A Over time, some of the physical changes  
14 will slowly revert back to more feminine features,  
15 but some of the changes are permanent and would  
16 remain.

17 Q Have you seen any studies or research  
18 which show that some transgender adolescents  
19 return to a gender identity that is consistent  
20 with their sex at birth?

21 A There've been case reports, but I'm not  
22 aware of any major studies.

Transcript of Melinda Penn, M.D.

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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,

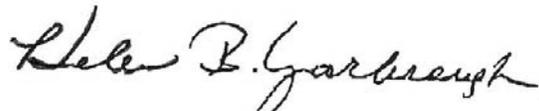
14 financial or otherwise, in its outcome.

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

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

20

21 My Commission Expires:

July 31, 2021

22

Notary Registration Number: 158897

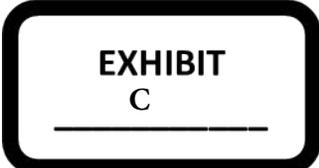
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IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NEWPORT NEWS DIVISION

-----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



Transcript of Dr. Quentin Van Meter

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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

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 States at the time.

2 Q This was in 1993, you said?

3 A Yes.

4 Q So that was the first transgender patient  
5 since your fellowship; is that correct?

6 A That's correct.

7 Q So when's the next time you treated a  
8 transgender patient?

9 A Approximately two years ago I began  
10 receiving referrals for transgender patients to my  
11 private practice office.

12 Q And so this was after you filed your  
13 declaration in Carcano versus McCorey?

14 A I might be off on the date. It might be  
15 that as of three years ago I started seeing  
16 transgender patients. It's in the past two years  
17 that the numbers have increased.

18 Q Did these patients all come to you after  
19 the American College of Pediatricians had published  
20 statements disagreeing with providing hormone  
21 therapy to transgender youth?

22 A They did.

Transcript of Dr. Quentin Van Meter

Conducted on March 18, 2019

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1 Q And so what sort of treatment do these  
2 people that come to you ask for?

3 A They ask for anything from hormone therapy  
4 to -- hormone therapy specifically, because that's  
5 in the purview of endocrinology.

6 Q In what context are these patients  
7 referred to you?

8 A It's usually a self-referral.

9 Q Are they familiar with your position on  
10 the American College of Pediatricians?

11 A None have stated so.

12 Q So what treatment do you provide these  
13 people?

14 A I evaluate their history, I evaluate their  
15 physical condition, their status in puberty, I  
16 review the -- in depth the family and social  
17 history, and then I request the ability to be able  
18 to talk to their counselors who have evaluated them  
19 in the first place. If they have not done so, I  
20 refer them to a general counselor in their area to  
21 evaluate the undercurrent emotional issues.

22 Q And then after that, what do you do? Do

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

1 you provide any treatment to them?

2 A I do not provide any hormone treatment.

3 Q So why make them go through this  
4 evaluation if you don't provide that treatment?

5 A Because that treatment is harmful. It's  
6 proven to be harmful. The vast majority of  
7 scientific literature looks at the side effects  
8 short-term and long-term, and mostly long-term, and  
9 indicates that there is potential damage.

10 So I explain to the parents that I am very  
11 much caring and compassionate for this child, and I  
12 will do everything I can to help them through and be  
13 sure that they have the appropriate evaluation of  
14 their mental health issues that are brewing beneath  
15 the surface. And I would say without question every  
16 single patient that has come in has significant  
17 emotional health history issues.

18 Q So you're not actually providing any  
19 treatment to the patients yourself; is that right?

20 A I am not providing hormone therapy. I am  
21 providing them information on what hormones do; I  
22 explain the physiology of hormones; I explain the

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

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1 adolescence in this country. I would think that  
2 it's inappropriate for a patient to be treated while  
3 they are still going through puberty.

4 Puberty goes up in boys -- the final  
5 stages of an average travel through puberty for a  
6 boy is 18 and for a girl is 16 and a half, so the  
7 hormonal changes that are happening in the process  
8 of puberty that is physiologic continues to that  
9 point. The development of the brain, however,  
10 continues up through age 25.

11 So there are things that are supposed to  
12 happen as a result of going through puberty. If it  
13 is altered, if it is stopped in any way, if it is  
14 then changed with cross-sex hormones, you are  
15 throwing into the human body hormones that are  
16 incompatible with the physical biologic body, and  
17 you are creating harm.

18 So I would say my purview of patients as  
19 far as I can make recommendations is up through the  
20 age of consent. If they come to me after, as one  
21 patient has, I still recommend to them that they  
22 consider carefully other options and pay attention

Transcript of Dr. Quentin Van Meter

Conducted on March 18, 2019

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1 to other options instead of doing hormone-affirming  
2 and surgical therapy. That's my advice to them at  
3 that point in time.

4 Q Dr. Zucker's published research on rates  
5 of persistence and desistance of gender dysphoria  
6 among children; is that right?

7 A Yes, he has.

8 Q And what's your understanding of what his  
9 research shows about the age at which persistence is  
10 more likely than desistance?

11 A A persistence occurs at the end of puberty  
12 as they have finished going through puberty.  
13 Desistance occurs anywhere along the way.

14 Q So it's your understanding of Dr. Zucker's  
15 research that rates of desistance remain high until  
16 boys reach the age of 21 or girls reach the age of  
17 16 or 16 and a half?

18 A No, there is a curve of slower amounts of  
19 desistance. The vast majority of patients who are  
20 allowed to go through natural puberty desist.

21 Q Yes, but for people who continue to have  
22 gender dysphoria once they start going through

Transcript of Dr. Quentin Van Meter

Conducted on March 18, 2019

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1     puberty, are you familiar with the rates of  
2     desistance for that group of people?

3             A     That group of people if left alone desist.  
4     It's a smaller percentage as they get older and  
5     farther along in puberty, but blocking puberty is  
6     not an appropriate thing to do because it's not  
7     physiologic.

8             So the desistance rates from his published  
9     work show that there are -- as you got older and  
10    older the desistance rate lessened, but that in the  
11    group of all the patients, including those who  
12    entered puberty, that desistance was remarkably  
13    high.

14            Puberty is a six-and-a-half-year event for  
15    a boy and about a five-year event for a girl. Five  
16    or six years. And so that is a time spectrum during  
17    which if you say if you enter puberty, he's talking  
18    about people that have been in puberty, who have  
19    been counseled, who have not had affirmation medical  
20    therapy, that the majority of those kids desist. A  
21    small percentage do not, and his recommendation  
22    personally, based on his experience, is those would

Transcript of Dr. Quentin Van Meter

Conducted on March 18, 2019

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1 be patients who would be candidates potentially for  
2 hormone therapy.

3 Q And do you know either way about whether  
4 he thinks the age where desistance rates are no  
5 longer high comes around age 15 or so?

6 A That -- his opinion has changed as far as  
7 I know. His first published studies in his paper in  
8 2012 indicated older age. I have not had a direct  
9 conversation with him but have had opportunity to  
10 know his opinions, and he is waffling a little bit  
11 on the upper end of that, saying that there are  
12 patients in late adolescence versus young adulthood.  
13 It's a matter of semantics more than anything else.

14 Q So but you disagree with his view that  
15 hormone therapy should be considered for transgender  
16 youth whose dysphoria persists until late  
17 adolescence; is that right?

18 A Yes, I do. I'm not -- he is not an  
19 endocrinologist. I am. I'm aware of the endocrine  
20 side effects and the long-term morbidity that's  
21 caused by cross-hormone therapy, and I could not  
22 recommend it for any adult.

Transcript of Dr. Quentin Van Meter

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1 professional organization, hopefully with a balanced  
2 approach so that the guidelines that they develop to  
3 become or be considered standards of care represents  
4 all aspects of the subject thoroughly reviewed and  
5 brought to the table for consideration.

6 BY MR. BLOCK:

7 Q And is it your understanding that  
8 standards of care are always supported by 30-year  
9 long-term research studies?

10 A They are a combination of longstanding  
11 review of literature, clinical research studies in  
12 the past, and then new studies that have -- that  
13 might be on the forefront of the issue.

14 Q So are there any standards of care  
15 representing the general consensus of practitioners  
16 that are not supported by long-term studies?

17 A Yes, the Endocrine Society guidelines are  
18 not supported by any long-term studies of quality.

19 Q So I'm talking about -- by "Endocrine  
20 Society guidelines" are you referring to guidelines  
21 regarding treatment of transgender people or in  
22 general Endocrine Society guidelines for other

Transcript of Dr. Quentin Van Meter

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1 conditions as well?

2 A The ones that I pay attention to are those  
3 that are published that are germane to children, and  
4 it just so happens having spent a lot of time  
5 looking specifically at the transgender guidelines I  
6 found, with critical review, that there was very  
7 little scientific basis for the recommendation.

8 I have not done the same thing in depth  
9 with every single one of the Endocrine Society  
10 guidelines because many of them deal with patient  
11 populations that are adult and disease states that  
12 are in adults that do not pertain specifically to  
13 children.

14 So in things like treatment of type 1  
15 diabetes and those types of things, those  
16 guidelines, again, are graded, and they generally  
17 are based on good scientific evidence.

18 Q Sitting here today, you don't -- you don't  
19 know whether the quality of research supporting the  
20 Endocrine Society guidelines for gender dysphoria is  
21 of higher or lower quality than the research of the  
22 Endocrine Society guidelines for other conditions?

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

1           A     In the guidelines that I have read, these  
2 guidelines have very low scientific evidence  
3 compared to the others that I reviewed.

4           Q     Which others have you reviewed?

5           A     Treatment of hypercortisolism, treatment  
6 of thyroid disease in the perinatal period. Those  
7 are some that come to the forefront in recent times.  
8 Treatment of disorders of sexual differentiation is  
9 another one.

10          Q     Treatment disorders of sexual  
11 differentiation guidelines are supported by  
12 long-term research?

13          A     Yes, they are.

14          Q     And I asked a question asking about  
15 standards of care, and you answered talking about  
16 the Endocrine Society guidelines, so I want to get  
17 an answer to my question about standards of care.

18                 So my question is: Is it your  
19 understanding that the standard of care with respect  
20 to a particular issue is always supported by  
21 long-term research?

22                 MR. CORRIGAN: Object to form.

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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1 psychological morbidity of that patient, which is  
2 proven to happen in the long-term studies of adults  
3 who have lived 20 to 30 years in a transgendered  
4 identity situation. Their mental health issues are  
5 still quite high.

6           So if you -- your -- anything you do that  
7 keeps the patient away from the therapy that they  
8 need -- and all of these patients -- and  
9 Dr. Zucker recommends exactly the same, despite  
10 whether or not they are given hormone therapy, they  
11 are never emotionally well, and they need long-term  
12 mental health.

13           So if you add something that is -- we're  
14 talking about -- in the case of the school system,  
15 we're talking about kids that would not have had  
16 surgery yet. So we're talking about kids that might  
17 have had cross-hormone therapy and been socially  
18 transitioned. At that point in time you are adding  
19 affirmation that that is a beneficial -- proven  
20 beneficial event to allow them to have a presence in  
21 the bathroom of the opposite of their biologic sex.

22           And there are no studies that say that

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1 that is true; there are no studies that say that  
2 that is not true. There are no studies in  
3 existence.

4 Q So you think -- in terms of adults you  
5 think that affirming an adult transgender person's  
6 gender identity is harmful to their health?

7 A I do.

8 Q Are there any long-term studies on the  
9 mental health outcomes of people who identify as  
10 being formerly transgender?

11 A No, they are beginning to develop at this  
12 point in time. They have not been available on  
13 those who have desisted subsequent to medical and  
14 surgical because these patients are just now  
15 beginning to come out to the forefront. A, it is  
16 the age with which they approach this, they have  
17 been transgendered long enough to recognize and to  
18 have the strength to return back to their biologic  
19 sexual identity and are now beginning to speak out,  
20 write, publish, gather like-minded people together  
21 so that they can publish their clinical experience.

22 But this is a brand-new group. This is

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1 preselected population, does not represent 100  
2 percent.

3           The only study that's published that has  
4 100 percent of participants evaluated at the end is  
5 the Swedish study, which is condemned outright  
6 because it says what it says. There is incredible  
7 amount of increase in mental health morbidity as a  
8 result of medical and surgical transitioning. It's  
9 the only study that had 100 percent of participants.

10           Q     Sorry. That's your understanding of what  
11 the Swedish study says, that as a result of  
12 receiving care affirming their identity, the mental  
13 outcomes are worse as a result of receiving that  
14 treatment?

15           A     It compares it to no one, unfortunately.  
16 That's the one downside to that is it did not have a  
17 control group of those who did not receive medical  
18 and surgical care. It was a review of 100 percent  
19 of the patients.

20                     So it's called into question without a  
21 control group to say that you're comparing itself to  
22 itself, but the statistics are there that there's a

Transcript of Dr. Quentin Van Meter

Conducted on March 18, 2019

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1 19-fold increase in completed suicides compared to  
2 the general Swedish population.

3 Q So but there are -- so for the type of  
4 treatment that you are recommending of just having  
5 counseling for underlying health issues, there is no  
6 scientifically valid study saying that those health  
7 outcomes are better than what the health outcomes  
8 would be if the same patient received  
9 gender-affirming care?

10 A That's absolutely correct. We have one  
11 study which is all affirmation which is Zucker's,  
12 and we have the one study all surgical and medical  
13 from Sweden, okay. We know Zucker reported all of  
14 his patients, not just some of his patients. Sweden  
15 reported all of their patients, not just some. What  
16 has not been done is a longitudinal study of  
17 side-by-side groups randomized to an arm of  
18 counseling only versus affirmation with counseling,  
19 medical treatment, and surgery.

20 No such study exists or has been designed.  
21 There needs to be that study, and until that study  
22 is completed and the results are evaluated 20 to 30

Transcript of Dr. Quentin Van Meter

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1 years post treatment, post beginning of treatment,  
2 we will not be able to say without question that one  
3 is better than the other in terms of long-term  
4 outcome.

5           What we do -- what we do know is that  
6 there are so many adverse side effects of the  
7 medical and surgical side that creates medical  
8 morbidity that would not otherwise exist that the  
9 logical assumption is we are creating a disease  
10 state by intervening that way, we are creating  
11 mentally healthy individuals by doing the  
12 affirmation pathway, and what we need to do is have  
13 an unbiased study that looks side-by-side, and no  
14 study exists.

15           Q     If that study were conducted and the  
16 evidence in that study showed that the mental health  
17 outcomes for people receiving affirming --  
18 gender-affirming care were better, would you then  
19 provide gender-affirming hormones in your medical  
20 practice?

21           A     I would -- there are two issues here:  
22 There's the mental health which is very important,

Transcript of Dr. Quentin Van Meter

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1 Ideology Harms Children, correct?

2 A That is correct.

3 Q And if you turn the page, there are --  
4 there's three authors it's attributed to, and one of  
5 them is you; is that correct?

6 A That's correct.

7 Q So at the very beginning of the document  
8 it says: The American College of Pediatricians  
9 urges healthcare professionals, educators, and  
10 legislators to reject all policies that condition  
11 children to accept as normal a life of chemical and  
12 surgical impersonation of the opposite sex.

13 Did I read that right?

14 A Yes, you did.

15 Q So according to this document, schools  
16 shouldn't be sending a message that gender  
17 transition is normal, right?

18 A That is correct.

19 Q And schools should be discouraging  
20 students from transitioning genders, correct?

21 A To their -- to their detriment to affirm.

22 Q So the schools should discourage it?

Transcript of Dr. Quentin Van Meter

Conducted on March 18, 2019

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1           A     It should not -- yeah, they should  
2 discourage it.

3           Q     Do you think that a school is acting in  
4 the best interest of a child by calling the child by  
5 pronouns that are different than the sex assigned to  
6 them at first?

7           A     We don't feel that that is appropriate or  
8 beneficial to the child.

9           Q     So you think it's harmful to the child?

10          A     Yes.

11          Q     And by agreeing to use the child's --  
12 changing a child's new name as consistent with their  
13 gender identity, you think that's harmful to the  
14 child also, right?

15          A     Yes.

16          Q     And go to -- are you aware -- are you  
17 aware about what Gloucester County School Board's  
18 policies are with respect to what pronouns it uses  
19 to refer to transgender children?

20          A     I was aware in this particular case that  
21 they allowed this patient to assume a new name and  
22 new pronouns.

Transcript of Dr. Quentin Van Meter  
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1 ideology that is programming the child to be  
2 confused and upset. And there are certainly  
3 clinical cases where that's happened, and the  
4 parents have brought legal action against school  
5 systems.

6 Q Let's look at the last -- the very end of  
7 the statement. So this is after the clarification  
8 at the bottom of the paragraph, the bottom line is  
9 the final sentence says: For this reason, the  
10 College maintains it is abusive to promote this  
11 ideology, first and foremost for the well-being of  
12 the gender dysphoric children themselves, and  
13 secondly, for all of their non-gender-discordant  
14 peers, many of whom will subsequently question their  
15 own gender identity, and face violations of their  
16 rights to bodily privacy and safety.

17 Did I read that right?

18 A You did.

19 Q What do you mean by it will cause many of  
20 their non-gender-discordant peers to question their  
21 own gender identity?

22 A Well, there is a phenomenon with the

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

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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

**EXHIBIT**  
**D**

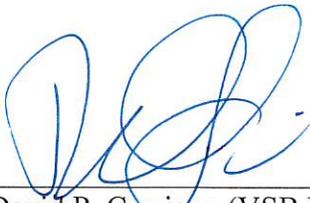
otherwise. The expert witness may render additional opinions or expound on the opinions listed in the reports at his depositions. The report and opinion testimony of the expert is incorporated in this Disclosure by reference.

Quentin L. Van Meter, M.D.  
1800 Howell Mill Road NW  
Suite 475  
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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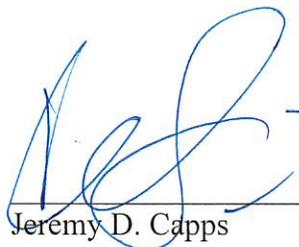
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26 February, 2019

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 births<sup>1</sup>

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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.<sup>2</sup>

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.<sup>3</sup> 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.<sup>4</sup>

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

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

<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8,9</sup> 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.<sup>10,11,12</sup> 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.<sup>13</sup>

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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.

8 Gu J, Kral R. What contributes to individual differences in brain structure? *Front Hum Neurosci* 2014;8:262.

9 Sale A, Eierardi N, Maffei L, Environment and Brain Plasticity: Towards an Endogenous Pharmacotherapy, *Physiol Rev* 2014; 94: 189 –234.

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](http://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."<sup>14</sup>

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.<sup>15</sup> 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.<sup>17</sup> His results were mirrored in studies from Europe.<sup>18,19</sup> 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.

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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.<sup>20</sup>

#### 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.<sup>21</sup> 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.<sup>22</sup>

#### Science vs. Pseudoscience

34. The advent of "centers of excellence" for gender-disordered patients<sup>23</sup> 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.<sup>24,25,26,27</sup> 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.

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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.<sup>28</sup> 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.<sup>29</sup>

The Pediatric Endocrine Society created their own guidelines<sup>30</sup> as did the American Academy of Pediatrics.<sup>31</sup> 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.

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28 Hembree WC et al, Endocrine Treatment of Transsexual Persons: and 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](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.<sup>32</sup> The mantra of “insistent, persistent and consistent” as a means to diagnose the entity of gender incongruence is not scientifically supported. The Nuremberg 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

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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.**  
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**updated 7 January 2019**  
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**PERSONAL**

Home Address: 1080 Peachtree St. NE #3507, Atlanta, GA 30309  
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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.  
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**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,  
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Van Meter, QL, Gareis FJ, Hayes, JW, Wilson, CB:  
"Galactorrhea in a 12 Year Old Boy with Chromophobe Adenoma,"  
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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.  
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Patients with Type-1 Diabetes," Comp Ther 1998; 24(2):93-101

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"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 6<sup>th</sup> 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. Bright<sup>1</sup>, W.V. Moore<sup>2</sup>, J. Nguyen<sup>3</sup>, G. Kletter<sup>4</sup>, B. S. Miller<sup>5</sup>, Q. L. Van Meter<sup>6</sup>, E. Humphriss<sup>1</sup>, J.A. Moore<sup>7</sup> and J.L. Cleland<sup>1</sup> 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. Moore<sup>1</sup>, Patricia Y. Fechner<sup>2</sup>, Huong Jil Nguyen<sup>3</sup>, Quentin L. Van Meter<sup>4</sup>, John S. Fuqua<sup>5</sup>, Bradley S. Miller<sup>6</sup>, David Ng<sup>7</sup>, Eric Humphriss<sup>8</sup>, R. W. Charlton<sup>8</sup>, George M. Bright<sup>8</sup>: 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. Miller<sup>1</sup>, Wayne V. Moore<sup>2</sup>, Patricia Y. Fechner<sup>3</sup>, Huong Jil Nguyen<sup>4</sup>, Quentin L. Van Meter<sup>5</sup>, John S. Fuqua<sup>6</sup>, David Ng<sup>7</sup>, Eric Humphriss<sup>8</sup>, R. W. Charlton<sup>8</sup>, George M. Bright<sup>8</sup>, 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

56<sup>th</sup> 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.

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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.

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

GAVIN GRIMM,

Plaintiff,

v.

GLOUCESTER COUNTY SCHOOL  
BOARD,

Defendant.

Civil No. 4:15-cv-00054-AWA-DEM

**PLAINTIFF'S EXPERT WITNESS IDENTIFICATION**

Plaintiff Gavin Grimm, pursuant to the Rule 16(b) Scheduling Order, identifies the following witnesses who will provide expert testimony. In accordance with the Rule 16(b) Scheduling Order, Plaintiff will provide the expert disclosures outlined in Rule 26(a)(2)(B) on January 28, 2019.

Melinda Penn, MD  
Pediatric Endocrinologist  
Children's Hospital of the King's Daughters  
601 Children's Ln  
Norfolk, VA 23518

Dr. Penn will provide expert testimony on the applicable standards of care and treatment guidelines for transgender youth.

Date: December 26, 2018



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*Counsel for Plaintiff Gavin Grimm*



## Gender Ideology Harms Children

*Updated September 2017*

The American College of Pediatricians urges healthcare professionals, educators and legislators to reject all policies that condition children to accept as normal a life of chemical and surgical impersonation of the opposite sex. Facts – not ideology – determine reality.

**1. Human sexuality is an objective biological binary trait: “XY” and “XX” are genetic markers of male and female, respectively – not genetic markers of a disorder.** The norm for human design is to be conceived either male or female. Human sexuality is binary by design with the obvious purpose being the reproduction and flourishing of our species. This principle is self-evident. The exceedingly rare disorders of sex development (DSDs), including but not limited to testicular feminization and congenital adrenal hyperplasia, are all medically identifiable deviations from the sexual binary norm, and are rightly recognized as disorders of human design. Individuals with DSDs (also referred to as “intersex”) do not constitute a third sex.<sup>1</sup>

**2. No one is born with a gender. Everyone is born with a biological sex. Gender (an awareness and sense of oneself as male or female) is a sociological and psychological concept; not an objective biological one.** No one is born with an awareness of themselves as male or female; this awareness develops over time and, like all developmental processes, may be derailed by a child’s subjective perceptions, relationships, and adverse experiences from infancy forward. 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.<sup>2,3,4</sup>

**3. A person’s belief that he or she is something they are not is, at best, a sign of confused thinking.** When an otherwise healthy biological boy believes he is a girl, or an otherwise healthy biological girl believes she is a boy, an objective psychological problem exists that lies in the mind not the body, and it should be treated as such. These children suffer from gender dysphoria. Gender dysphoria (GD), formerly listed as Gender Identity Disorder (GID), is a recognized mental disorder in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-5).<sup>5</sup> The psychodynamic and social learning theories of GD/GID have never been disproved.<sup>2,4,5</sup>

**4. Puberty is not a disease and puberty-blocking hormones can be dangerous.** Reversible or not, puberty- blocking hormones induce a state of disease – the absence of puberty – and inhibit growth and fertility in a previously biologically healthy child.<sup>6</sup>

**5. According to the DSM-5, as many as 98% of gender confused boys and 88% of gender confused girls eventually accept their biological sex after naturally passing through puberty.<sup>5</sup>**

**6. Pre-pubertal children diagnosed with gender dysphoria may be given puberty blockers as young as eleven, and will require cross-sex hormones in later adolescence to continue impersonating the opposite sex. These children will never be able to conceive any genetically related children even via artificial reproductive technology. In addition, cross-sex hormones (testosterone and estrogen) are associated with dangerous health risks including but not limited to cardiac disease, high blood pressure, blood clots, stroke, diabetes, and cancer.<sup>7,8,9,10,11</sup>**

**7. Rates of suicide are nearly twenty times greater among adults who use cross-sex hormones and undergo sex reassignment surgery, even in Sweden which is among the most LGBTQ – affirming countries.<sup>12</sup>** What compassionate and reasonable person would condemn young children to this fate

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knowing that after puberty as many as 88% of girls and 98% of boys will eventually accept reality and achieve a state of mental and physical health?

**8. Conditioning children into believing a lifetime of chemical and surgical impersonation of the opposite sex is normal and healthful is child abuse.** Endorsing gender discordance as normal via public education and legal policies will confuse children and parents, leading more children to present to “gender clinics” where they will be given puberty-blocking drugs. This, in turn, virtually ensures they will “choose” a lifetime of carcinogenic and otherwise toxic cross-sex hormones, and likely consider unnecessary surgical mutilation of their healthy body parts as young adults.

*Michelle A. Cretella, M.D.*

President of the American College of Pediatricians

*Quentin Van Meter, M.D.*

Vice President of the American College of Pediatricians

Pediatric Endocrinologist

*Paul McHugh, M.D.*

University Distinguished Service Professor of Psychiatry at Johns Hopkins Medical School and the former psychiatrist in chief at Johns Hopkins Hospital

**Originally published March 2016**

**Updated September 2017**

### **CLARIFICATIONS in response to FAQs regarding points 3 & 5:**

**Regarding Point 3:** “Where does the APA or DSM-5 indicate that Gender Dysphoria is a mental disorder?”

The APA (American Psychiatric Association) is the author of the [Diagnostic and Statistical Manual of Mental Disorders, 5th edition](#) (DSM-5). The APA states that those distressed and impaired by their GD meet the definition of a disorder. The College is unaware of any medical literature that documents a gender dysphoric child seeking puberty blocking hormones who is not significantly distressed by the thought of passing through the normal and healthful process of puberty.

From the [DSM-5 fact sheet](#):

*“The critical element of gender dysphoria is the presence of clinically significant distress associated with the condition.”*

*“This condition causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.”*

**Regarding Point 5:** “Where does the DSM-5 list rates of resolution for Gender Dysphoria?”

On page 455 of the DSM-5 under “Gender Dysphoria without a disorder of sex development” it states: “Rates of persistence of gender dysphoria from childhood into adolescence or adulthood vary. In natal males, persistence has ranged from 2.2% to 30%. In natal females, persistence has ranged from 12% to 50%.” Simple math allows one to calculate that for natal boys: resolution occurs in **as many as**  $100\% - 2.2\% = 97.8\%$  (approx. 98% of gender-confused boys). Similarly, for natal girls: resolution occurs in **as many as**  $100\% - 12\% = 88\%$  gender-confused girls.

**The bottom line is this:** Our opponents advocate a new scientifically baseless standard of care for children with a psychological condition (GD) that would otherwise resolve after puberty for the vast majority of patients concerned. Specifically, they advise: affirmation of children’s thoughts which are contrary to physical reality; the chemical castration of these children prior to puberty with GnRH agonists

(puberty blockers which cause infertility, stunted growth, low bone density, and an unknown impact upon their brain development), and, finally, the permanent sterilization of these children prior to age 18 via cross-sex hormones. There is an obvious self-fulfilling nature to encouraging young GD children to impersonate the opposite sex and then institute pubertal suppression. If a boy who questions whether or not he is a boy (who is meant to grow into a man) is treated as a girl, then has his natural pubertal progression to manhood suppressed, have we not set in motion an inevitable outcome? All of his same sex peers develop into young men, his opposite sex friends develop into young women, but he remains a pre-pubertal boy. He will be left psychosocially isolated and alone. He will be left with the psychological impression that something is wrong. He will be less able to identify with his same sex peers and being male, and thus be more likely to self-identify as “non-male” or female. Moreover, neuroscience reveals that the pre-frontal cortex of the brain which is responsible for judgment and risk assessment is not mature until the mid-twenties. Never has it been more scientifically clear that children and adolescents are incapable of making informed decisions regarding permanent, irreversible and life-altering medical interventions. For this reason, the College maintains it is abusive to promote this ideology, first and foremost for the well-being of the gender dysphoric children themselves, and secondly, for all of their non-gender-discordant peers, many of whom will subsequently question their own gender identity, and face violations of their right to bodily privacy and safety.

**For more information, please visit [this page](#) on the College website concerning sexuality and gender issues.**

#### **References:**

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11. Eyster AE, Pang SC, Clark A. LGBT assisted reproduction: current practice and future possibilities. *LGBT Health* 2014;1(3):151-156.

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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 TIFFANY DURR  
Glen Allen  
Wednesday, October 10, 2018  
9:36 a.m.

Job No.: 207625  
Pages 1 - 58  
Reported by: Lisa M. Blair, RMR



Transcript of Tiffany Durr  
Conducted on October 10, 2018

9

1 four years. I'm not sure exactly how many years  
2 had passed when he became my direct supervisor.

3 Q. But he was your direct supervisor at  
4 the time that Gavin Grimm was at --

5 A. Yes.

6 Q. -- Gloucester?

7 A. That is correct.

8 Q. Great. When did you first become  
9 aware of Gavin Grimm?

10 A. I first became aware of Gavin Grimm  
11 the summer prior to his sophomore year. He and  
12 his mother came to the high school, and he  
13 introduced himself to me.

14 Q. And did he or his mother contact you  
15 in advance to set up a meeting?

16 A. No. They actually just happened to  
17 come in and do a walk-in, and ask if they could  
18 speak with his counselor for the upcoming school  
19 year regarding some concerns they had.

20 Q. And you had already been assigned to  
21 be his counselor for the upcoming school year?

22 A. Yes, by then I had.

Transcript of Tiffany Durr  
Conducted on October 10, 2018

10

1 Q. What did they say when they met with  
2 you?

3 A. When they came in they shared that  
4 Gavin had recently had a name change, a legal name  
5 change, and they were wanting to -- they were  
6 inquiring about the process to change his name on  
7 the school documents.

8 Q. And did -- well, did they ask  
9 anything else?

10 A. At that time, I don't recall. I  
11 think that was the main purpose of their -- of  
12 them visiting, and to also just I guess kind of  
13 inquire about support and resources within the  
14 school.

15 Q. Now, at the time that they came to  
16 you for this meeting, had you had any experience  
17 before working with transgender students?

18 A. Yes.

19 Q. What experience was that?

20 A. I had a few students in the past who,  
21 you know, they identified not with their  
22 birth-assigned gender, yes.

Transcript of Tiffany Durr  
Conducted on October 10, 2018

1 any knowledge either way about whether either of  
2 those students experienced any distress as a  
3 result of not being able to use facilities that  
4 were consistent with their gender identity?

5 A. I do not recall.

6 Q. So when Gavin and his mom came to you  
7 at this meeting in the summer before his sophomore  
8 year, did they bring with them his name change  
9 order?

10 A. I don't remember. Usually our  
11 registrar handles that. They wouldn't have given  
12 that to me, and I can't recall if they brought  
13 that in. It really wasn't like an official  
14 meeting. It was kind of a drop in. They wanted  
15 to speak with me. So they were just kind of I  
16 guess briefing me on what had occurred. So I  
17 cannot recall if they brought in documentation.

18 Q. And can you recall if they brought in  
19 a letter from his treating mental health provider?

20 A. I do not remember.

21 Q. So after they came in and described  
22 the situation to you, what did you say to them?

Transcript of Tiffany Durr  
Conducted on October 10, 2018

15

1           A.       Well, I expressed, you know, that I  
2 was a resource in the school that the student  
3 could utilize, and the counseling office as a  
4 whole, and that if there were any concerns, to  
5 make sure to alert us.

6           Q.       Did you -- had you received any  
7 training on how to counsel transgender students?

8           A.       No.

9           Q.       Were you aware of any policies that  
10 the school had with respect to transgender  
11 students?

12          A.       No.

13          Q.       Did they express any concern about  
14 whether Gavin would be addressed by male pronouns?

15          A.       Yes.

16          Q.       What did they say?

17          A.       Well, Gavin stated that he, in  
18 addition to wanting everybody to identify him by  
19 his new name -- or the name change, that he also,  
20 of course, wanted to be identified by male  
21 pronouns.

22          Q.       And what did you say in response to

Transcript of Tiffany Durr  
Conducted on October 10, 2018

1 Q. Of course.

2 So when is the next time you spoke  
3 with Gavin Grimm after your meeting with him in  
4 August?

5 A. I don't recall.

6 Q. Okay. Did there come a point in time  
7 when Gavin or his mother asked you about whether  
8 he could start using the boys restrooms?

9 A. Yes, later, not in August, but it was  
10 later. He came in and met with me. When he came  
11 in, in August he had also informed us that he was  
12 getting ready to start hormone therapy. And so he  
13 came in and he, you know, shared with me that he  
14 was going to start hormone therapy at some point  
15 soon, and wanted to know, when he began his  
16 therapy, if he could start using the male  
17 restrooms.

18 Q. Now, did you have any other  
19 interactions with him between your first meeting  
20 with him in August and this meeting?

21 A. I can't recall specifics. I believe  
22 so, but I can't recall anything specific.

Transcript of Tiffany Durr  
Conducted on October 10, 2018

25

1 Q. Did you have any further discussions  
2 about what the response to Gavin's request should  
3 be?

4 A. I'm sorry, I'm not sure if I'm  
5 understanding your question.

6 Q. Sure. Did Mr. Collins then get back  
7 to you with his decision, or did he also have  
8 further discussions with you about what his  
9 decision should be?

10 A. I don't remember.

11 Q. Did you provide any input on what you  
12 thought Mr. Collins should decide?

13 A. I don't recall.

14 Q. Did you have any recommendation about  
15 whether Gavin should be allowed to use the boys  
16 restrooms?

17 A. I don't recall.

18 Q. Do you recall if Mr. Lord had any  
19 recommendation about whether Gavin should be able  
20 to use the restrooms?

21 A. I don't recall.

22 Q. So do you recall having any

Transcript of Tiffany Durr  
Conducted on October 10, 2018

26

1 discussions at all about whether Gavin should be  
2 allowed to use the restrooms?

3 A. I'm sorry, I don't recall.

4 Q. It's okay. So when -- when did you  
5 find out what Mr. Collins' decision was?

6 A. I don't remember the order, but I  
7 remember Mr. Collins informing me that -- sorry.  
8 Let me think. I just have to remember.

9 Mr. Collins didn't -- he did not  
10 necessarily give me a -- let's see. I remember --  
11 what I do remember is that Mr. Collins had  
12 consulted with the superintendent, and I do  
13 remember that we were told that, you know, Gavin  
14 would be allowed to use the male restroom;  
15 however, we would have to meet with Gavin and his  
16 mother and develop a safety plan and find out  
17 Gavin's needs.

18 Q. And during this meeting with Gavin,  
19 was Principal Collins there for this meeting where  
20 you developed a safety plan?

21 A. Yes. It was myself, Mr. Collins,  
22 Gavin, and his mother.

Transcript of Tiffany Durr  
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 16th  
15 day of October 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

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GAVIN GRIMM	:	
Plaintiff	:	CASE NO.
v.	:	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



Transcript of Nathan Collins  
Conducted on September 21, 2018

1 Q. So when Ms. Durr brought Gavin's  
2 request to your attention, what did she say?

3 MR. CORRIGAN: Object to the form.  
4 Which request are we talking about?

5 MR. BLOCK: Request to use the boys  
6 restroom.

7 THE WITNESS: Ms. Durr expressed to me  
8 that Gavin was no longer comfortable using the  
9 clinic restroom, and that he desired to use --  
10 to be allowed to use male restrooms at  
11 Gloucester High School.

12 BY MR. BLOCK:

13 Q. And did she have a recommendation as  
14 a counselor about what would be in Gavin's best  
15 interest?

16 A. I don't recall if she expressed that  
17 to me.

18 Q. Did she give any opinion on whether  
19 Gavin's request should be granted?

20 A. I can't recall.

21 Q. So after she made this -- after she  
22 passed on information about this request to you,

Transcript of Nathan Collins  
Conducted on September 21, 2018

1           A.       Mr. Lord provided me a couple of  
2 documents with recommendations for transgender  
3 students using the restrooms, and he recommended  
4 that Gavin be allowed to use the male restrooms.

5           Q.       Which documents did he provide you?

6           A.       I can't recall specifically.

7           Q.       What was the basis for his  
8 recommendation that Gavin be allowed to use male  
9 restrooms?

10           MR. CORRIGAN: Object to the form of the  
11 question.

12           THE WITNESS: I can't speak to that. I  
13 don't recall.

14 BY MR. BLOCK:

15           Q.       Was he saying it in his capacity as a  
16 school counselor?

17           MR. CORRIGAN: Object to the form. Go  
18 ahead.

19           THE WITNESS: Yes.

20 BY MR. BLOCK:

21           Q.       And you were asking for his opinion  
22 as a school counselor, right?

Transcript of Nathan Collins  
Conducted on September 21, 2018

1 by the school principal he may begin using student  
2 male bathrooms at Gloucester High School on  
3 October 20th, 2014, and a written plan for doing  
4 so was developed;" is that right?

5 A. That's correct, yes.

6 Q. So I'll show you another document.  
7 This document is marked GCSB 894. Is this the  
8 written plan referenced in your memo?

9 A. It is, yes.

10 MR. BLOCK: Great. I'd like to have  
11 this marked as Exhibit 8.

12 (Collins Exhibit Number 8 was marked for  
13 identification)

14 Q. So if we go to the bullet point that  
15 says restroom use, it says, "Gavin may go to any  
16 male student restroom at Gloucester High School.  
17 He will need a restroom stall with a door, one  
18 which will be selected by Gavin. Gavin will  
19 notify Ms. Durr if and when this need changes; is  
20 that right?

21 A. That's correct.

22 Q. Now, question about the sentence that

Transcript of Nathan Collins  
Conducted on September 21, 2018

1 says he will need a restroom stall with a door,  
2 one which will be selected by Gavin. What does  
3 that sentence -- why did you write that sentence?

4 A. To my recollection, that was Gavin's  
5 request at that time.

6 Q. That --

7 A. That he have a stall with a door.

8 Q. Okay. One which will be selected by  
9 Gavin would mean that Gavin would be selecting  
10 which restroom he uses?

11 A. Correct.

12 Q. So I just want to be clear on the  
13 interaction between the first sentence and the  
14 second sentence.

15 A. Sure.

16 Q. So the first sentence says Gavin may  
17 go to any male student restroom. And the second  
18 sentence indicates that he'll need a restroom with  
19 a door, one that will be selected by Gavin?

20 A. Uh-huh.

21 Q. So does that mean that Gavin would be  
22 selecting a particular restroom and then just be

Transcript of Nathan Collins  
Conducted on September 21, 2018

1 using that restroom, or does it mean that Gavin  
2 could continue to use whatever men's restroom he  
3 wants to?

4 A. Gavin was free to use any men's  
5 restroom he wanted to. If I recall correctly,  
6 there were some restrooms that did not have stall  
7 doors, and Gavin had made it clear that he wanted  
8 a stall with a door, I believe. So I wanted to  
9 make it clear that he could use any male restroom,  
10 but he would have to select based on where doors  
11 were available. Does that make sense?

12 Q. Yes, it does.

13 A. Thanks.

14 Q. Are there restrooms in Gloucester  
15 High School where doors aren't available?

16 A. Are there currently or were there?

17 Q. Were there?

18 A. I believe so, yes.

19 Q. Okay. Do you remember which ones  
20 those were?

21 A. I can't recall, sorry.

22 Q. So it's your understanding that Gavin

Transcript of Nathan Collins  
Conducted on September 21, 2018

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

1 MR. CORRIGAN: Object to the form,  
2 foundation.

3 THE WITNESS: Between classes  
4 specifically?

5 BY MR. BLOCK:

6 Q. Yes.

7 A. I can't recall an instance  
8 specifically during class when I saw a student  
9 exit a single user restroom.

10 Q. Now, have you had any other  
11 information, or inferences, or, you know, news  
12 come to you that would lead you to believe that  
13 students use the single stall restrooms between  
14 classes?

15 MR. CORRIGAN: Object to the form.

16 THE WITNESS: I know they were used,  
17 because they were dirty. They had to be  
18 cleaned. They clearly had been used, but I  
19 don't know -- I can't say specifically when  
20 during the day they were used.

21 MR. BLOCK: We can mark this as 20.  
22 (Collins Exhibit Number 20 was marked for

Transcript of Nathan Collins  
Conducted on September 21, 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 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  
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

28

1 whether you give an opinion on whether following  
2 what the documents say was the right thing to do?

3 MR. CORRIGAN: Object to form,  
4 foundation, legal conclusion.

5 THE WITNESS: And I suggested they  
6 follow them. That is me saying that that's the  
7 right thing to do, because that would be  
8 following what has already been, in my opinion  
9 in reading through the stuff, what had already  
10 been decided in courts.

11 BY MR. BLOCK:

12 Q. Well, I want to put aside the issue  
13 of what the law requires and just focus only on  
14 what a school counselor looks for in terms of  
15 well-being of a student. Did you express any  
16 opinion at the time, putting aside what the legal  
17 requirements were, and just focusing on your  
18 opinion about what would have been in the best  
19 interest of Gavin?

20 MR. CORRIGAN: Object to form,  
21 foundation, legal conclusion. Go ahead.

22 THE WITNESS: I don't remember at that

Transcript of Matthew R. Lord  
Conducted on October 10, 2018

1 time doing that, because my role in that was  
2 more as an administrator. Ms. Durr was his  
3 counselor. And so I perceived myself as more  
4 being as the director kind of working with  
5 these two people to help them navigate through  
6 the situation that was going on.

7 BY MR. BLOCK:

8 Q. So was there ever a time when you  
9 were asked for your opinion about whether being  
10 allowed to use the boys restroom was in the best  
11 interest of Gavin?

12 A. By whom?

13 Q. Well, let's start with by anyone in  
14 the administration.

15 A. If Mr. Collins had asked, I would  
16 have said yes. You know, in all the conversations  
17 that went on during that period, I am sure that  
18 that came up. And if it had, I would have said  
19 yes.

20 Q. And were you ever asked for your  
21 opinion about whether it was in Gavin's best  
22 interest by anyone from the School Board ever?

Transcript of Matthew R. Lord  
Conducted on October 10, 2018

30

1 A. No.

2 Q. Were you ever asked for your opinion  
3 about whether it was in Gavin's best interest by  
4 anyone in the superintendent's office?

5 A. Not that I remember.

6 Q. Were you ever asked for your opinion  
7 about whether using the boys restrooms was in  
8 Gavin's best interest by anyone else in the  
9 counseling department?

10 A. Yes.

11 Q. By whom?

12 A. By Ms. Durr.

13 Q. And what did you tell her?

14 MR. CORRIGAN: Object to form,  
15 foundation, legal conclusion. Go ahead.

16 THE WITNESS: Again, as the director, we  
17 discuss all kinds of stuff, whether it's cases  
18 about what students should apply to colleges  
19 and get them to do that in that direction, or  
20 whether it's more, you know, social/emotional  
21 issues. And so, counselors consult with me as  
22 a director often. I'm sure she did, and I'm

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.

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\_\_\_\_\_  
Lisa Blair, RMR

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**  
**K**

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,<sup>1</sup> 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, Kathryn Lindsay, 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, Stacie and Paul Martin, 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.

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<sup>1</sup> 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, Susannah Hogge 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, Jennifer Spears, 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, Season Palas, 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, Elisa Nelson, 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, Stuart and Seth Bunting, 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, Mary Diggs, 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, David Turner 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, Haley Poulson, 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, Kelly Williams, 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, Melissa Alexander, 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, Kelly Cooper, 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, Jenny Poole, 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, Mike Enz, 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, Heather Schott, 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, Tommie Thompson, 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, Paul Martin, 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, Chuck Thompson, 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, Clayton Rogers 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 Jena 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, Tim Tompkins 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, Kathryn Lindsay, 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, Paul Martin, 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, Kenneth Larson 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, Ginger Enz, 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, Leland Pike, 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, Florence Alpert, 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, Gina Thayer, 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, Lisa Wood, 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, Mike Enz, 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 Ginger emailed Mr. Burak regarding her opposition to a transgender student using the bathroom inconsistent with that student's biological sex.

- On December 11, 2014, Sharon Kass, 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, Tracey Parks Carter, 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, Cliff and Brandi Blackwood, 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, Steven Davis, 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, Jean Lassiter 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 Season Palas, 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, Ralph VanNess 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 Season and Andrew Palas, 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 "Mr. Wood," a parent of two boys enrolled in Gloucester County Public Schools. Mr. Burak does not recall the first name of Mr. Wood. Mr. Wood 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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Jeremy D. Capps  
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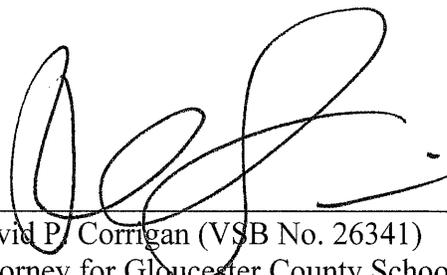
**CERTIFICATE**

I hereby certify that on the 11th day of January, 2019, I mailed and emailed the document to the following:

Joshua A. Block, Esq. (Pro hac vice)  
NYSB No. 4370573  
Leslie Cooper, Esq. (Pro hac vice)  
NYSB No. 2759835  
Shayna Medley-Warsoff, Esq. (Pro hac vice)  
NYSB No. 5558382  
American Civil Liberties Union  
125 Broad Street  
18th Floor  
New York, NY 10004  
212-549-2627 - Phone  
212-549-2593 - DD  
212-549-2650 - Fax  
jblock@aclu.org

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**Diane Gamache**

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**From:** Diane Gamache  
**Sent:** Wednesday, November 05, 2014 10:47 AM  
**To:** 'Carla Hook'; John Hutchinson; JoAnne Wright; Betty Jane Duncan; Anita Parker; Charles Records; Dr. Walter R. Clemons; Kevin Smith; Kevin's Phone; Kimberly Hensley; Randy Burak; Troy Andersen  
**Cc:** Carol Dehoux; Randy@Office  
**Subject:** Proceeding w/Agenda  
**Importance:** High

As I now understand it, REDACTED following the 10-30 closed meeting -- REDACTED  
REDACTED  
REDACTED

I believe that the Chair plans to determine if a majority of the Board wishes to revisit the matter, and if so, he will notify me of such. For now, I am going to proceed with publishing the agenda without the discussion being added.

Diane

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**From:** Carla Hook [mailto:hookc@cox.net]  
**Sent:** Tuesday, November 04, 2014 8:01 PM  
**To:** Diane Gamache; John Hutchinson; JoAnne Wright; Betty Jane Duncan; Anita Parker; Charles Records; Dr. Walter R. Clemons; Kevin Smith; Kevin's Phone; Kimberly Hensley; Randy Burak; Troy Andersen  
**Cc:** Shirley Chirch  
**Subject:** Re: Draft Agenda for November 11th Monthly SB Meeting

I think we need to add appropriate use of restroom/locker room facilities to the agenda, discuss and vote and be done with this issue for now.

On 11/4/2014 1:16 PM, Diane Gamache wrote:

Please let me know if you would like any additions or changes made as I plan to publish this tomorrow (Wednesday, November 5, 2014). Thanks!

Diane



**Subject:** Re: GHS Restrooms  
**From:** Carla Hook <hookc@cox.net>  
**Date:** 10/31/2014 8:34 AM  
**To:** REDACTED @gmail.com>

There was no vote in this matter, as we are not allowed to vote in closed session. The closed session last night was to discuss a particular student. Nonetheless, a majority has still declined to intervene in the current practice at the high school. I was in the minority in that regard with Mr. Records. I believe that females should use the female restroom and males should use the male restroom. If there is a student that has difficulty with this arrangement, I believe there are other appropriate alternatives that take into consideration the needs of all students.

However, we will be seeking a public vote on this practice at our next regularly scheduled meeting, Nov. 11 at TCW.

Thanks for checking--Carla

On 10/31/2014 7:46 AM, REDACTED wrote:

Good Morning, Carla,

I received an email from Charles Records this morning regarding the transgender restroom situation. For the record, as obviously, I disagree with this outcome, I would like to know precisely how you voted on this matter, as Charles mentioned the decision was not unanimous.

REDAC

**Subject:** Re: Issue at GHS  
**From:** Carla Hook <hookc@cox.net>  
**Date:** 10/27/2014 2:29 PM  
**To:** REDACTE @cox.net

I do not believe any plans exist to send home notification to parents.

Legal counsel is Reed Smith in Richmond. Like you, I questioned what legal basis there is to require this. This was an oral opinion given to the superintendent. We have asked for written opinion citing chapter and verse.

Thanks--Carla

On 10/27/2014 1:52 PM, REDACTED @cox.net wrote:

More thoughts:

1. Is the SB planning on formally notifying the parents of these boys that they are sharing their bathroom with a female? They have the right to know!
2. Exactly what "legal counsel" was questioned? What law or precedent was their decision based upon as I find no such precedent or law within VA?

Every parent except 1 that I have spoken to is OUTRAGED over this. A formal notice should be sent out from GHS informing the families at GHS what is occurring.

REDACTE

---- Carla Hook <hookc@cox.net> wrote:

Hi REDACTE.

As of right now, transgendered students are allowed to use the restroom of their self-identifying gender. This decision was made at the building level and before the issue was brought to the attention of the school board. However, the building administrators did consult with executive staff in the superintendent's office before making any decision (ie the superintendent and assistants). They in turn consulted legal counsel. When this was brought to the attention of the school board, the majority declined to take any action at this time but did agree to seek a formal written opinion from legal counsel.

Hope that helps clarify.

Carla

On 10/24/2014 2:07 PM, REDACTED @cox.net wrote:

First of all, let me thank you for replying. I have sent 2 emails and you are the ONLY person decent enough to take the time to reply. To say the least, I am disappointed in the lack of response from GHS, Clemons and the entire school board.

Certainly wish this brought me peace but it certainly does not. I appreciate your response and understand the steps that need to be taken.

However, on Wednesday I emailed Principal Collins and have yet to receive any response. My email was simple and was only asking for an answer to whether this young lady is using the boys bathroom. And if so, who gave her permission. I would appreciate those questions being answered as they are not confidential regarding a single student but impacts my son as he is in the boys bathroom.

Many thanks,

REDACTE

---- Carla Hook <hookc@cox.net> wrote:

Thanks REDACTED. The Board has taken no action on this issue as of this time. However, we have requested a legal opinion from counsel as to our legal obligations to transgendered students. There has been some suggestion that we may be legally obligated to allow cross-gendered use of restroom facilities. I find that difficult to believe, but we are checking into it.

I will also say that I oppose cross-gendered use of restroom facilities; however, mine is not the only opinion on the Board in this regard. I would strongly encourage you to attend the next meeting during public comment period, as well as any others concerned about this issue.

Thanks--Carla

On 10/24/2014 10:37 AM, REDACTED @cox.net wrote:  
Carla,

Just following up with you as you suggested regarding last nights meeting and what ultimately became of the situation at GHS.

Thanks,  
REDACTED

---- Carla Hook <hookc@cox.net> wrote:

There is nothing on the agenda tonight whereby this issue will be discussed in open session, and as I stated a policy change must be done in open session. We do have some student matters to discuss in closed session (after the regular work session) and given these emails and calls it is safe to assume such a student issue will be discussed.

As a work session, there is no public comment time, but there will be public comment time during our regular meeting in November.

Again, I would encourage you to contact us after the meeting. We cannot discuss specific students, but will be able to discuss policy implementation.

Carla

On 10/23/2014 10:49 AM, REDACTED @cox.net wrote:  
Carla,

Thanks for replying. Will this be discussed tonight? If so, will it be open or closed session? I would love to be a part of that conversation but both of my kids of athletic activities tonight. This is not a road we need to go down.

Thanks,  
REDACTED

---- Carla Hook <hookc@cox.net> wrote:  
REDACTED

Thank you for your email. I had not heard about this particular issue until a phone call from another parent last night.

While it is true that we only discuss specific students in closed session, any issues of a policy nature are only done in open session. If this rumor it true, I can assure you it is of tremendous concern to me as well. As you know, I also have two sons. Rumors, particularly among teenagers, can take on a life of their own, so I look forward to

getting all the facts.

I would encourage you to contact me or other Board members again after our meeting tonight.

Thanks--Carla

On 10/23/2014 9:57 AM, REDACTE@cox.net wrote:

I have been told by numerous individuals that there is currently a young lady either using the boys bathroom or requesting permission to use the boys bathroom. Apparently this young lady is uncomfortable in the girls bathroom and was allowed to use a private admin bathroom last year as she wants to be a boy.

Words can not express how dumbfounded I will be if this proves true. For respect of this email I will have to assume it is and express my utmost concern on this issue. I am the mother of a GHS son and an elementary aged daughter. This should not be allowed to happen for reasons I would assume would be obvious:

When does 1 students comfort level or rights come before an entire student body?

If she is still biologically a female she should be using the female restroom. There is certainly more privacy in there than they boys.

Have you considered the possible reactions of what could transpire with her in the boys bathroom? She could be humiliated or physically assaulted by boys in the bathroom. That is certainly a possibility in todays world and a can of worms I would pray you would try to avoid. She could also accuse of boy or boys of a verbal of physical assault that never happened and I am smart enough to know that boy would be guilty until proven innocent!

Are you ok with letting a boy in the same circumstance enter the girls bathroom with his God given genitalia?

What's next the locker rooms? Why not let a boy claiming to be a female trapped in a girls body change close and shower with the girls in their respective locker room? Why don't we send the same young lady in question into the boys locker room to change, She doesn't need a private area. She could certainly use their restroom, change in the presence and shower with them, right?

Please consider all aspects of this issue before making any judgment. This school system has SO many important issues and failures to deal with and correct that I would certainly hope this should be an easy decision to deny this young ladies request. When you start treating one child different and allowing special treatment for one over all others that is an ugly path that you won't want to go down.

Respectfully,  
REDACTED



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

REDACTED

Grade: 9  
Counselor: HARRIS  
Homeroom: HOMEBOUND

Course	Teacher	Q1	Q2	Q3	Q4	S2	Y1	ABS	TAR	Comment
HOMEBOUND	STAFF, GHS							0	0	
VLA HEALTH 9	WYATT, WENDY S		B					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.gc.k12.va.us

CONFIDENTIAL

Gloucester County Public Schools  
Report Card

Page Middle School  
6636 Short Lane  
Gloucester, VA 23061

School Year: 2012-2013

Report Card Printed on June 11, 2013

Reporting Period: Q4

REDACTED GRIMM - ;

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: 4.0000

Have a wonderful summer!

PROMOTED

CONFIDENTIAL

# Standards of Learning Assessment Data End-of-Course Reports

Student's Name GRIMM, REDACTED First  
 Date of Birth REDACTED 1999 Middle  
 County/School System Gloucester County ID Number

<b>GRIMM, GAVIN E.</b>		<b>Grade: 11</b>
DOB: REDAC 999	School: 0280 - GLOUCESTER HS	
Gender: Female	Division: 036 - GLOUCESTER COUNTY	
STI: 1012738050	Admin: <b>Writing 2015-2016</b>	
<b>Test</b>	<b>Performance Level</b>	<b>Scaled Score</b>
EOC Writing (2010 SOL)	Pass/Proficient	REDACTED

<b>GRIMM, REDACTED</b>		<b>Grade: 9</b>
DOB: REDAC 999	School: 0280 - GLOUCESTER HS	
Gender: Female	Division: 036 - GLOUCESTER COUNTY	
STI: 1012738050	Admin: <b>Spring 2014</b>	
<b>Test</b>	<b>Performance Level</b>	<b>Scaled Score</b>
Algebra I (2009) Earth Science (2010) World History I (2008)	Fail Pass/Proficient Pass/Proficient	REDACTED

<b>GRIMM, GAVIN E.</b>		<b>Grade: 10</b>
DOB: REDAC 999	School: 0280 - GLOUCESTER HS	
Gender: Female	Division: 036 - GLOUCESTER COUNTY	
STI: 1012738050	Admin: <b>Spring 2015</b>	
<b>Test</b>	<b>Performance Level</b>	<b>Scaled Score</b>
Algebra I (2009 SOL) Biology (2010 SOL) World History II (2008 SOL)	Pass/Proficient Pass/Proficient Pass/Proficient	REDACTED

<b>GRIMM, GAVIN E.</b>		<b>Grade: 11</b>
DOB: REDAC 999	School: 0280 - GLOUCESTER HS	
Gender: Female	Division: 036 - GLOUCESTER COUNTY	
STI: 1012738050	Admin: <b>Spring 2016</b>	
<b>Test</b>	<b>Performance Level</b>	<b>Scaled Score</b>
EOC Reading (2010 SOL) Geometry (2009 SOL) VA & US History (2008 SOL)	Advanced/College Path No Score (NS) No Score (NS)	REDACTED



WELCOME TO  
GLOUCESTER COUNTY PUBLIC SCHOOLS

Student Registration Form

School's Name: Bethel Elementary School

**CONFIDENTIAL**  
FOR OFFICE USE ONLY

Student ID#	_____
Entry Date:	_____
YOC:	_____
Entry Code: PK Code PK Time	_____
Homeroom #:	_____
Counselor/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  Botetourt  Petsworth  T.C. Walker  Page Middle  Peasley 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 1999 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: David + Derric Grimm

Name: \_\_\_\_\_

Address (if different from student): same

Address (if different from student): \_\_\_\_\_

Place of Empl: Norfolk Naval Shipyard Father  
mother

Place of Employment: \_\_\_\_\_

Work Phone #: **REDACTED**

Work Phone #: \_\_\_\_\_

Cell Phone #: \_\_\_\_\_

Cell Phone #: 703-231-1111

Email address: dgrimm@com.net

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 # (cell) 7 Relationship to Student: older sister

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REDACTED

Name of Student

Gamm

**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

CONFIDENTIAL

REDACTED



BETHEL ELEMENTARY  
School Name

Student ID #: REDACTED  
YOG: \_\_\_\_\_  
Conditional Enrollment: \_\_\_\_\_  
Entry Code: \_\_\_\_\_  
Homeroom #: \_\_\_\_\_  
Counselor/Teacher: \_\_\_\_\_  
Team: \_\_\_\_\_

### STUDENT REGISTRATION FORM

Former Student of Gloucester County Public Schools: YES / NO If yes, School Name: REDACTED

Student's Name: REDACTED  
First Name: \_\_\_\_\_ Middle Name: \_\_\_\_\_ Last Name: Grimm Nickname: \_\_\_\_\_

Social Security #: REDACTED Bus #: \_\_\_\_\_

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

Gender: (Circle) Male Female Date of Birth: 1999

Place of Birth: N.M. VA USA Birth Certificate #: REDACTED  
City/County State Country

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

Mailing Address: REDACTED City/State/Zip: Gloucester VA 23061

Home Phone #: REDACTED 911 Address: \_\_\_\_\_  
(If Different From Mailing Address)

Child Resides With (Circle)	Both Parents	One Parent	Legal Guardian(s)
Circle One: Mother <u>Father</u> Stepparent Guardian/Custodian			Circle One: <u>Mother</u> Father Stepparent Guardian/Custodian
Name: <u>David Grimm</u>			Name: <u>Dee Grimm</u>
Address (if different than student): _____			Address (if different than student): _____
Place of Employment: <u>Norfolk Naval Shipyard</u>			Place of Employment: <u>Riverside Home Care</u>
Work Phone #: _____			Work Phone #: REDACTED
Cell Phone/Pager #: _____			Cell Phone/Pager: _____
E-Mail Address: _____			E-Mail Address: _____
Education: <u>B.S. CED +</u>			Education: <u>B.S. + Nursing</u>

#### 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: Per Prosevere

Mailing Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_ Fax #: \_\_\_\_\_

PLEASE COMPLETE THE BACK OF THIS FORM

Other Children in the Family:

<u>Name</u>	<u>Living In Home</u>	<u>Date of Birth</u>	<u>Grade</u>	<u>Age</u>
<b>REDACTED</b>	YES / NO	<b>REDACTED</b>	10	15
	YES / NO		11	5
	YES / NO			
	YES / NO			

Others in the Home:

<u>Name</u>	<u>Relationship to Student</u>	<u>Place of Employment</u>

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.

Deirdre A. Openum  
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 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 W. Fox, Coordinator - Section 504 and Title IX - Gloucester County Public Schools - 6489 Main Street - Building Two, Suite F - Gloucester, VA 23061 - (804) 643-7856

REDACTED

Name of Child \_\_\_\_\_

GCSB

**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**

Form continues on next page

GCSB - 1154

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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. I will provide you any new information concerning my child as it occurs.**

Deirdre Grimes  
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 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 W. Fox, Coordinator - Section 504 and Title IX - Gloucester County Public Schools - 6489 Main Street - Building Two, Suite F - Gloucester, VA 23061 - (804) 643-7856





Knock Before Entering





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]
- [REDACTED] - Probably reliable
- [REDACTED]
- [REDACTED] - NOT reliable

-Amy Bergh

October 23, 2014

To: Dr. Walter R. Clemons, Superintendent  
From: Mr. Nate Collins, Gloucester High School Principal  
Subject: Transgender Student Background Information

This is in reference to a tenth grade student at Gloucester High School who is transgender, and identifies as male and his use of male restrooms at GHS. GHS school counseling staff provided information included here.

The student's middle school and ninth grade counselors reported meeting with the student frequently in eighth and ninth grade due to anxiety he experienced related to his identity. In ninth grade, because of the severe anxiety he experienced, the student was placed on homebound mid-year until the end of the 2013-2014 school year.

During the summer of 2014 the student provided the School Counseling Department at Gloucester High School with proof of a legal name change, in which the student's name was changed on school documents. The student stated by changing his name his identity is more accurately reflected. In addition to changing his name, the student requested that other students and staff identify him as "he" in oppose to "she". During the current academic school year, the student continues to report experiencing anxiety. The student has stated fear of not being identified by the correct pronoun(s) and possible lack of understanding by students and staff contributes to his anxiety at school. The student has also reported using the women's bathrooms is a concern as it relates to his identity.

At the beginning of the school year, a plan was put in place to accommodate the student's bathroom use concerns. An administrative decision was made and the student was informed by his school counselor he may use the bathroom in the school clinic. In the case of an emergency the student was given permission to use a staff bathroom on the D wing of the school, in which the majority of his classes are located. At the beginning of the school year, the student and his mother reported the student will begin hormone therapy during the month of October. In early October, prior to the anticipated date of the student beginning hormone therapy, the student met with his school counselor and requested permission to use male student bathrooms either before or once he begins hormone therapy. This request was brought to my attention. I consulted with Dr. Clemons and with school counseling staff members to review available legal references.

Redacted

Redacted

Redacted During a meeting with the school principal, school counselor, the student, and the student's mother, the student was informed by the school principal he may begin using student male bathrooms at Gloucester High School on October 20, 2014 and a written plan for doing so was developed.

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  
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



Transcript of Troy Andersen  
Conducted on March 12, 2019

1 restroom at the same time as plaintiff.

2 A No. My recollection is that there were no  
3 complaints that stemmed from a particular student  
4 being in the restroom at the same time as the  
5 plaintiff.

6 Q Thank you. Now, I have a couple of  
7 questions about the policy.

8 How does the school determine what a  
9 student's biological gender is for purposes of the  
10 policy?

11 A So we don't have any sort of process or  
12 procedure for that. We rely and continue to rely  
13 on social norms and binary sexes and people using  
14 the restroom that corresponds with their  
15 physiological sex.

16 Q Could you explain that, how those three  
17 things interrelate? You identified social norms,  
18 binary sexes, and people using the restroom  
19 associated with their physiological sex.

20 Is there ever any conflict between, for  
21 example, what the social norms are and what the  
22 Board thinks someone's physiological sex is?

Transcript of Troy Andersen  
Conducted on March 12, 2019

1 MR. CORRIGAN: Object to the form of the  
2 question.

3 Go ahead. That will happen occasionally,  
4 I'll object to the form of a question, but just go  
5 ahead and answer.

6 THE WITNESS: Okay. Are you talking about  
7 outside of this case? Because this would be the  
8 only example I can think of where those three  
9 things are at odds or in conflict.

10 BY MR. BLOCK:

11 Q I'm only talking for purposes of the  
12 Board's policy.

13 MR. CORRIGAN: Same objection.

14 Go ahead.

15 THE WITNESS: Can you ask the question one  
16 more time?

17 BY MR. BLOCK:

18 Q Sure. So I asked, how does the school  
19 determine what a student's biological gender is  
20 under the policy?

21 And you in your response said social norms  
22 and you also said people using the restroom

Transcript of Troy Andersen  
Conducted on March 12, 2019

1 associated with their physiological sex.

2 And so my question is whether there's ever  
3 any conflict between those two things under the  
4 Board's policy?

5 A With the exception of this particular  
6 case, no, there's no conflict that I'm aware of.

7 Q And so can you explain how there's a  
8 conflict in this particular case?

9 A In this case, we have a transgender  
10 student -- or had a transgender student at  
11 Gloucester County Public Schools who wished to use  
12 the bathroom of the gender they identified with  
13 instead of the gender corresponding to their  
14 physiological sex.

15 Q So these conflicts between social norms  
16 and what you describe as someone's physiological  
17 sex only occurred in the context of transgender  
18 students?

19 A I only have a sample size of one, but  
20 that's the only time I've been involved with any  
21 sort of conflict.

22 Q How does the Board determine what a

Transcript of Troy Andersen  
Conducted on March 12, 2019

1 student's physiological sex is under the policy?

2 A I would say that's tied back to just their  
3 student records. So the when you sign up for  
4 schools in Gloucester County Public Schools, you  
5 have to provide a birth certificate and what's on  
6 that birth certificate about the marking on your  
7 student records. Anything other than that,  
8 there's no policy or procedure.

9 Q So for purposes of the policy, a student's  
10 physiological sex is whatever the gender marker  
11 was on their birth certificate at the time they  
12 enrolled in the school?

13 A Yes, sir.

14 Q So if a student, let's say, moved to the  
15 school from a different state and that state  
16 allowed people to change the gender markers on  
17 their birth certificates without having any  
18 medical procedure, so at the time that the student  
19 moved to Gloucester County, they had already had  
20 an amended birth certificate from another state  
21 that listed their sex as being the one consistent  
22 with their identity instead of their sex assigned

Transcript of Troy Andersen  
Conducted on March 12, 2019

1 registration, not based on any assessment of the  
2 student's current physiology; is that right?

3 MR. CORRIGAN: Object to form -- go  
4 ahead -- and the other bases as well.

5 THE WITNESS: Can you restate that one  
6 more time, please?

7 BY MR. BLOCK:

8 Q Yeah. So a student's biological gender  
9 for purposes of the school's policy is determined  
10 by what is on the student's birth certificate at  
11 the time of registration and not based on any  
12 assessment of the student's current physiology; is  
13 that right?

14 A Correct.

15 Q And Gloucester County Public Schools  
16 doesn't keep track of what chromosomes each  
17 student has; is that right?

18 A Correct, we don't.

19 Q And Gloucester County Public Schools  
20 doesn't keep track of what each student's genitals  
21 look like; is that correct?

22 A That's correct, certainly don't.

Transcript of Troy Andersen  
Conducted on March 12, 2019

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

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

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

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 NOTARY PUBLIC IN AND FOR THE

21 COMMONWEALTH OF VIRGINIA

22 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-54

GLOUCESTER COUNTY SCHOOL  
BOARD,

Defendant.

**DECLARATION OF TROY ANDERSEN**

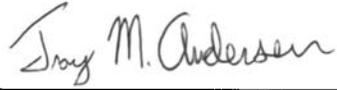
On this 25<sup>th</sup> day of March, 2019, I, Troy Andersen, make the following declaration pursuant to 28 U.S.C. § 1746:

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

CONFIDENTIAL

REDACTED

BETHEL ELEMENTARY  
School Name

Student ID #: \_\_\_\_\_  
YOG: \_\_\_\_\_  
Conditional Enrollment: \_\_\_\_\_  
Entry Code: \_\_\_\_\_  
Homeroom #: \_\_\_\_\_  
Counselor/Teacher: \_\_\_\_\_  
Team: \_\_\_\_\_



STUDENT REGISTRATION FORM

Former Student of Gloucester County Public Schools: YES / NO If yes, School Name: \_\_\_\_\_

Student's Name: REDACTED REDACTED  
First Middle Name Last Nickname

Social Security #: REDACTED Bus #: \_\_\_\_\_

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

Gender: (Circle) Male Female Grade K Date of Birth: REDACTED 1999

Place of Birth: N.M. VA USA Birth Certificate #: REDACTED  
City/County State Country

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

Mailing Address: REDACTED City/State/Zip: Gloucester VA 23061

Home Phone #: REDACTED 911 Address: \_\_\_\_\_  
(If Different From Mailing Address)

Child Resides With (Circle)	<u>Both Parents</u>	One Parent	Legal Guardian(s)
Circle One: Mother <u>Father</u> Stepparent Guardian/Custodian	Circle One: <u>Mother</u> Father Stepparent Guardian/Custodian		
Name: <u>David Grimm</u>	Name: <u>Dee Grimm</u>		
Address (if different than student): _____	Address (if different than student): _____		
Place of Employment: <u>Norfolk Naval Shipyard</u>	Place of Employment: <u>Riverside Home Care</u>		
Work Phone #: _____	Work Phone #: <u>REDACTED</u>		
Cell Phone/Pager #: <u>REDACTED</u>	Cell Phone/Pager: _____		
E-Mail Address: _____	E-Mail Address: _____		
Education: <u>B.S. CED +</u>	Education: <u>B.S. + Nursing</u>		

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: Per Prosevere  
Mailing Address: \_\_\_\_\_ Phone #: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ Fax #: \_\_\_\_\_

EXHIBIT  
1

PLEASE COMPLETE THE BACK OF THIS FORM

Other Children in the Family:

<u>Name</u>	<u>Living In Home</u>	<u>Date of Birth</u>	<u>Grade</u>	<u>Age</u>
<b>REDACTED</b>	YES / NO	<b>REDACTED</b>	10	15
	YES / NO		11	5
	YES / NO			
	YES / NO			

Others in the Home:

<u>Name</u>	<u>Relationship to Student</u>	<u>Place of Employment</u>

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.

Deirdre A. Openum  
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 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 W. Fox, Coordinator - Section 504 and Title IX - Gloucester County Public Schools - 6489 Main Street - Building Two, Suite F - Gloucester, VA 23061 - (804) 643-7856

Name of Child \_\_\_\_\_

GCSB

**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**

Form continues on next page

GCSB - 1154

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. I will provide you any new information concerning my child as it occurs.**

Deirdre Grimes  
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 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 W. Fox, Coordinator - Section 504 and Title IX - Gloucester County Public Schools - 6489 Main Street - Building Two, Suite F - Gloucester, VA 23061 - (804) 643-7856



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:	_____
Entry Code:	PK Code _____ PK Time _____
Homeroom #:	_____
Content 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  Botetourt  Patsworth  T. C. Walker  Park Middle  Peasley 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: 1999 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 + Dauric Grimm</u>	Name: _____
Address (if different from student): <u>same</u>	Address (if different from student): _____
Place of Employment: <u>Norfolk Naval Shipyard Center</u> <u>Business Services</u> <u>MOTHER</u>	Place of Employment: _____
Work Phone #: <b>REDACTED</b>	Work Phone #: _____
Cell Phone #: _____	Cell Phone #: <u>_____</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 #: (cell) 74 Relationship to Student: older sister

CONFIDENTIAL

REDACTED

Name of Student:

Grimm

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 [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

REDACTED GRIMM -

REDACTED

Grade: 9  
Counselor: HARRIS  
Homeroom: HOMEBOUND

Course	Teacher	Q1	Q2	Q3	Q4	S2	Y1	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	

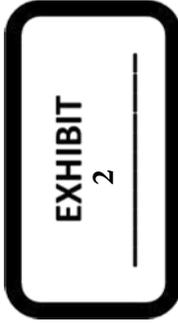
Total Daily Absences Q4: 0.000

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.gc.k12.va.us



GCSB - 1117



harman clayton corrigan wellman  
THE CIVIL LITIGATION FIRM



DAVID P. CORRIGAN  
804.762.8017  
dcorrigan@hccw.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 8 Correction of Education Records, to a hearing

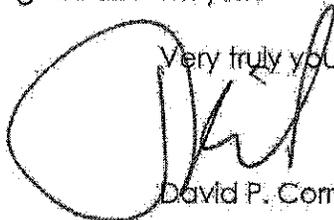
January 18, 2017

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 "D. Corrigan". The signature is written in a cursive style with a large, looped initial "D".

David P. Corrigan

DPC/kns  
Enclosures

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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 WALTER CLEMONS, PhD  
Glen Allen  
Friday, September 21, 2018  
2:08 p.m.

Job No.: 207622  
Pages 1 - 116  
Reported by: Lisa M. Blair, RMR

**EXHIBIT**  
**0**

Transcript of Walter Clemons, PhD  
Conducted on September 21, 2018

1 was that your answer?

2 A. Yes.

3 Q. Male or female. So what's your  
4 understanding of how to determine whether a  
5 student is male or female for purposes of the  
6 biological gender policy?

7 MR. CORRIGAN: Object to form.

8 THE WITNESS: Genitalia.

9 BY MR. BLOCK:

10 Q. So does Gloucester County Public  
11 Schools have a record of what each student's  
12 genitals look like?

13 A. Not that I'm aware of.

14 Q. And is it your understanding that if  
15 a student has had genital surgery, that that would  
16 alter their biological gender?

17 MR. CORRIGAN: Object to the form and  
18 foundation, legal conclusion.

19 THE WITNESS: I would speculate.

20 BY MR. BLOCK:

21 Q. So, then, do you want to change your  
22 answer that you understand you would determine

Transcript of Walter Clemons, PhD

Conducted on September 21, 2018

70

1 biological gender by a student's genitalia?

2 MR. CORRIGAN: Object to the form and  
3 foundation.

4 THE WITNESS: No. I mean, I meant male  
5 or female organs when I said genitalia.

6 BY MR. BLOCK:

7 Q. Internal organs?

8 A. Well, just organs.

9 Q. Well, so what is your understanding  
10 of the biological gender of someone who has  
11 androgen insensitivity disorder where they don't  
12 develop external genitals consistently with their  
13 chromosomes and internal anatomy?

14 MR. CORRIGAN: Object to the form and  
15 foundation, legal conclusion. Go ahead.

16 THE WITNESS: I really haven't given  
17 that thought.

18 BY MR. BLOCK:

19 Q. To the best of your knowledge, has  
20 anyone in the school district given that thought?

21 A. I would not have knowledge of that.

22 Q. Certainly no one has spoken to you

Transcript of Walter Clemons, PhD  
Conducted on September 21, 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 23rd  
15 day of September 2018.

16 My commission expires October 31, 2020.

17

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Lisa Blair, RMR

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

**PLAINTIFF'S SECOND SUPPLEMENT TO  
INITIAL DISCLOSURES**

Plaintiff Gavin Grimm, pursuant to Federal Rule of Civil 26 and Local Civil Rule 26,  
provides the following initial disclosures:

i. The following individuals are likely to have discoverable information that

Plaintiff may use to support its claims or defenses:

- a. Gavin Grimm and Deirdre Grimm are likely to have discoverable information regarding Gavin's gender identity and gender dysphoria; Gavin's transition-related care; their interactions with the Gloucester County School Board, agents or employees of the Gloucester County School District, and members of the community; Gavin's personal experiences and observations regarding his use of the restrooms before and after the Gloucester County School Board adopted the "biological gender" restroom policy.

*Gavin Grimm and Deirdre Grimm may be contacted through counsel*

- b. Troy M. Andersen, Charles B. Records, George R. (Randy) Burak, Carla B. Hook, Anita F. Parker, Kevin M. Smith, Kimberly E. Hensley, Walter R. Clemons, T. Nathan Collins, Tiffany Durr, Chuck Wagner, John Hutchinson, and Matthew R. Lord are likely to have discoverable information regarding Gavin's meetings with school officials, Gavin's use of the restrooms, complaints or communications regarding Gavin's use of the restrooms, the events leading up to the Board's promulgation of the "biological gender" policy, implementation of the "biological gender" policy, the restrooms at Gloucester High School, the treatment of

transgender students at Gloucester High School, and the motives and justifications for the “biological gender” policy.

Supplemental disclosure:

Wrenn Kibbler is likely to have discoverable information about an incident in which no restroom was available for Plaintiff to use.

*The individuals listed above are all current or former members of the Gloucester County School Board or employees or agents of the Gloucester County School District.*

- c. The following medical care providers are likely to have information regarding Gavin’s gender identity, gender dysphoria diagnosis, and transition-related care. Plaintiff reserves the right to invoke any applicable privileges or objections in response to particular discovery requests.

Melinda Penn, MD,  
Children’s Hospital of the King’s Daughters  
601 Children's Ln  
Norfolk, VA 23518  
(757) 668-7237

Lisa Griffin, PhD, Clinical Psychologist  
14 S. Auburn Ave.  
Richmond, VA 23221  
(704) 458-0433

Eva Abel, Psy. D.  
Chesapeake Counseling Associates  
7296 York Ave.  
PO Box 460  
Gloucester, VA 23061  
(804) 695-2557

Hope Sherie, MD, FACS  
The Cosmetic Concierge, PLLC  
325-B Arlington Ave.  
Charlotte, NC 28202  
(980) 938-0459

- d. The following individual(s) are likely to have information regarding their experience as administrators in school districts with policies that allow boys and girls who are transgender to use the same restrooms as other boys and girls.

Thomas Aberli  
Principal  
Atherton High School

Supplemental disclosure:

Diana Bruce  
Director of Health and Wellness  
District of Columbia Public Schools

*Thomas Aberli and Diana Bruce may be contacted through  
counsel:*

Cynthia Robertson  
Robert C. K. Boyd  
Pillsbury Winthrop Shaw Pittman LLP  
(202) 663-8000  
[cynthia.robertson@pillsburylaw.com](mailto:cynthia.robertson@pillsburylaw.com)  
[robert.boyd@pillsburylaw.com](mailto:robert.boyd@pillsburylaw.com)

**Supplemental disclosure:**

- e. Janet Rainey is the Virginia State Registrar and the Director of the Division of Vital Records. She is likely to have discoverable information regarding the authenticity of Mr. Grimm's birth certificate.**

**Virginia Department of Health, Division of Vital Records  
2001 Maywill Street  
Richmond, VA 23230  
(804) 662-6200**

ii. The following documents, electronically stored information, and tangible things are in the possession, custody, or control of Plaintiff and may be used to support his claims or defenses:

- a. All documents cited in Plaintiff's Amended Complaint and Opposition to Motion to Dismiss Amended Complaint.
- b. Documents produced by Defendants in response to Plaintiff's discovery requests.
- c. Amicus briefs filed in this case at the U.S. Court of Appeals for the Fourth Circuit and the Supreme Court.

- d. Documents filed as exhibits in connection with Gavin's motion for preliminary injunction in the district court and in support of Gavin's motion to expedite in the U.S. Court of Appeals for the Fourth Circuit.
- e. Medical records regarding Gavin's transition-related care, which have been produced as GRIMM 000001-000162.

iii. Plaintiff seeks \$1.00 as nominal damages for violations of his rights under Title IX and the Equal Protection Clause.

iv. There is no insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

**GAVIN GRIMM**

By Counsel

/s/Joshua A. Block

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Leslie Cooper, Esq. (Pro hac vice)  
Shayna Medley-Warsoff, Esq. (Pro hac vice)  
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