

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

GAVIN GRIMM,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Case No. 4:15-cv-54-AWA-DEM
	)	
GLOUCESTER COUNTY SCHOOL	)	
BOARD,	)	
	)	
Defendant.	)	
_____	)	

**PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

**TABLE OF CONTENTS**

TABLE OF CONTENTS ..... i

TABLE OF AUTHORITIES..... ii

INTRODUCTION..... 1

RESPONSE TO STATEMENT OF UNDISPUTED MATERIAL FACTS ..... 2

ARGUMENT ..... 8

I. Legal Standard..... 8

II. The Board’s Policy Violates Title IX. .... 9

    A. Discrimination Based on a Person’s Transgender Status Is Inherently  
    Discrimination “On the Basis of Sex” Under Title IX..... 9

    B. The Board’s Policy Discriminated Against Gavin Because He Is Transgender. .... 15

    C. The Board’s Policy Cannot Be Justified Based on Physiology. .... 17

    D. The Board Continued to Discriminate Against Gavin By Disregarding His Court  
    Order and Birth Certificate. .... 19

    E. The Restroom Regulation Does Not—and Cannot—Authorize Schools to  
    Discriminate in Violation of the Statutory Text..... 22

    F. *Pennhurst* Provides No Defense to Claims of Intentional Sex Discrimination. .... 26

III. The Board’s Policy Violates the Equal Protection Clause..... 27

    A. The Board’s Policy Is Subject to Heightened Scrutiny..... 27

    B. A Reasonable Factfinder Could Conclude that the Board’s Discrimination Against  
    Gavin Is Motivated By Irrational Animus or Moral Disapproval..... 34

IV. The Board’s Refusal to Update Gavin’s Transcript to Match His Birth Certificate Violates  
    Title IX and the Equal Protection Clause..... 35

V. Gavin’s Claims for Nominal Damages Are Not “Moot.” ..... 36

CONCLUSION ..... 37

CERTIFICATE OF SERVICE ..... 38

**TABLE OF AUTHORITIES**

**Cases**

*Adams by & through Kasper v. Sch. Bd. of St. Johns Cty., Fla.*,  
318 F. Supp. 3d 1293 (M.D. Fla. 2018) ..... 15, 16, 33

*Almendarez-Torres v. United States*,  
523 U.S. 224 (1998) ..... 13

*Bains LLC v. Arco Prod. Co., Div. of Atl. Richfield Co.*,  
405 F.3d 764 (9th Cir. 2005) ..... 17, 37

*Barr v. United States*, 324 U.S. 83 (1945) ..... 12

*Bauer v. Lynch*, 812 F.3d 340 (4th Cir. 2016) ..... 18

*Bruesewitz v. Wyeth LLC*, 562 U.S. 223 (2011) ..... 13

*California Fed. Sav. & Loan Ass’n v. Guerra*,  
479 U.S. 272 (1987) ..... 19

*Campbell v. CGI Techs. & Solutions, Inc.*,  
No. 118CV707AJTMSN, 2019 WL 1375583 (E.D. Va. Mar. 27, 2019)..... 34

*Cannon v. University of Chicago*,  
441 U.S. 677 (1979) ..... 27

*Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*,  
511 U.S. 164 (1994) ..... 13

*City of Cleburne, Tex. v. Cleburne Living Ctr.*,  
473 U.S. 432 (1985) ..... 35

*City of L.A., Dep’t of Water & Power v. Manhart*,  
435 U.S. 702 (1978) ..... 9, 19

*City of Los Angeles. v. Patel*,  
135 S. Ct. 2443 (2015) ..... 16

*Davis v. Monroe Cty. Bd. of Educ.*,  
526 U.S. 629 (1999) ..... 11

*Doe by & through Doe v. Boyertown Area Sch. Dist.*,  
897 F.3d 518 (3d Cir. 2018) ..... 15, 31, 33

*EEOC v. R.G. & G.R. Harris Funeral Homes, Inc.*, 884 F.3d 560 (6th Cir. 2018) ..... 9, 11, 13, 15

*EEOC v. Sears Roebuck & Co.*, 243 F.3d 846 (4th Cir. 2001) ..... 34

*Fabian v. Hosp. of Cent. Conn.*,  
172 F. Supp. 3d 509 (D. Conn. 2016) ..... 11

*Finkle v. Howard Cty., Md.*,  
12 F. Supp. 3d 780 (D. Md. 2014)..... 9

*Flack v. Wis. Dep’t of Health Servs.*,  
328 F. Supp. 3d 931 (W.D. Wis. 2018)..... 11

*Flanigan’s Enterprises, Inc. of Georgia v. City of Sandy Springs, Georgia*,  
868 F.3d 1248 (11th Cir. 2017)..... 36

*G.G. ex rel. Grimm v. Gloucester Cnty. Sch. Bd.*,  
822 F.3d 709 (4th Cir. 2016)..... 10, 24, 25

*Glenn v Brumby*, 663 F.3d 1312 (11th Cir. 2011) ..... 9, 14

*Gonzaga University v. Doe*, 536 U.S. 273 (2002) ..... 36

*Henson v. Santander Consumer USA Inc.*,  
137 S. Ct. 1718 (2017) ..... 26

*Hicks ex rel. Hicks v. Mellis*, 275 Va. 213 (2008) ..... 21

*Hively v. Ivy Tech Cmty. Coll. of Ind.*,  
853 F.3d 339 (7th Cir. 2017)..... 12, 13

*In re Brown*, 289 Va. 343, 349 (2015)..... 21

*Ins. Servs. of Beaufort, Inc. v. Aetna Cas. & Sur. Co.*,  
966 F.2d 847 (4th Cir. 1992)..... 17

*Jackson v. Birmingham Bd. of Educ.*,  
544 U.S. 167 (2005) ..... 10, 11, 27

*Johnston v. University of Pittsburgh of the Com. Sys. of Higher Educ.*,  
97 F. Supp. 3d 657 (W.D. Pa. 2015) ..... 15

*Lewis v. City of Chi.*, 560 U.S. 205 (2010) ..... 12

*M.A.B. v. Bd. of Educ. of Talbot Cty.*,  
286 F. Supp. 3d 704 (D. Md. 2018)..... passim

*Marks v. City of Chesapeake, Va.*,  
883 F.2d 308 (4th Cir. 1989)..... 34

*Marvin M. Brandt Revocable Tr. v. United States*,  
572 U.S. 93 (2014) ..... 13

*Massachusetts v. EPA*, 549 U.S. 497 (2007) ..... 12, 14

*McWilliams v. Fairfax Cty. Bd. of Supervisors*,  
72 F.3d 1191 (4th Cir. 1996)..... 12

*Mercer v. Duke Univ.*,  
190 F.3d 643 (4th Cir. 1999)..... 23

*Minn. Lawyers Mut. Ins. Co. v. Batzli*,  
442 F. App'x 40 (4th Cir. 2011)..... 37

*Oncale v. Sundowner Offshore Services, Inc.*,  
523 U.S. 75 (1998) ..... 11, 12

*Parents for Privacy v. Dallas Sch. Dist. No. 2*,  
326 F. Supp. 3d 1075 (D. Or. 2018)..... 33

*Penn. Dep't of Corr. v. Yeskey*,  
524 U.S. 206 (1998) ..... 27

*Pennhurst State School & Hospital v. Halderman*,  
451 U.S. 1 (1981) ..... 26

*Price v. City of Charlotte, N.C.*,  
93 F.3d 1241 (4th Cir. 1996)..... 16

*Ret. Comm. of DAK Americas LLC v. Brewer*,  
867 F.3d 471 (4th Cir. 2017)..... 8

*Robbins v. Bentsen*, 41 F.3d 1195 (7th Cir. 1994)..... 23

*Roberts v. U.S. Jaycees*, 468 U.S. 609 (1984) ..... 16

*Schroer v. Billington*,  
577 F. Supp. 2d 293 (D.D.C. 2008)..... 15

*Sessions v. Morales-Santana*,  
137 S. Ct. 1678 (2017) ..... 27, 28

*Solid Waste Agency v. U.S. Army Corps of Eng'rs*,  
531 U.S. 159 (2001) ..... 14

*Suesz v. Med-1 Sols., LLC*,  
757 F.3d 636 (7th Cir. 2014)..... 24

*Talk Am., Inc. v. Mich. Bell Tel. Co.*,  
564 U.S. 50 (2011) ..... 23

*Time Warner Ent. Co. v. Everest Midwest Licensee, LLC*,  
381 F.3d 1039 (10th Cir. 2004)..... 23

*Tuan Anh Nguyen v. INS*, 533 U.S. 53 (2001) ..... 27

*Union Bank v. Wolas*, 502 U.S. 151 (1991)..... 12

*United States v. Biocic*, 928 F.2d 112 (4th Cir. 1991) ..... 30

*United States v. Craft*, 535 U.S. 274 (2002) ..... 14

*United States v. Marte*, 356 F.3d 1336 (11th Cir. 2004)..... 25

*United States v. Virginia*, 518 U.S. 515 (1996). ..... passim

*Wengler v. Druggists Mut. Ins. Co.*,  
446 U.S. 142 (1980) ..... 28

*West v. Gibson*, 527 U.S. 212 (1999)..... 12

*Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*,  
858 F.3d 1034 (7th Cir. 2017)..... passim

*Wisconsin. Cent. Ltd. v. United States*,  
138 S. Ct. 2067 (2018) ..... 12

*Zarda v. Altitude Express, Inc.*,  
883 F.3d 100 (2d Cir. 2018) ..... 12, 13, 23

**Statutes**

18 U.S.C. § 249(a)(2)..... 13

20 U.S.C. § 1221(d) ..... 35

20 U.S.C. § 1681(a) ..... 10, 22, 23, 26

20 U.S.C. § 1681(a)(2)-(9)..... 22, 23

20 U.S.C. § 1686..... 23

28 U.S.C. § 1738..... 21

42 U.S.C. § 13925(b)(13)(A) ..... 13

Va. Code Ann. § 32.1-269(E) ..... 21

**Other Authorities**

34 C.F.R. § 106.33 ..... 22, 23, 26

Civil Rights Uniformity Act of 2017,  
H.R. 2796, 115th Cong. § 3(b) ..... 14

OED Online, Oxford University Press..... 10

Title IX Clarification Act of 2016,  
H.R. 5307, 114th Cong. § 2..... 14

## INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56, Plaintiff Gavin Grimm (“Gavin”) respectfully submits this Memorandum of Law in Opposition to the Gloucester County School Board’s (the “Board’s”) Motion for Summary Judgment, ECF No. 191.

The Board not only fails to demonstrate that it is entitled to judgment as a matter of law, it fails to create even a triable question of fact. The Board relies on legal arguments that this Court previously rejected, and the Board fails to introduce any evidence to support its assertions that banning Gavin from using the same restrooms as other boys was substantially related to its asserted governmental interest in protecting student privacy related to nudity.

Even worse, the Board’s arguments in support of summary judgment blatantly contradict prior assertions of counsel and the sworn testimony provided by its 30(b)(6) witness just a few weeks ago. The Board indulges in speculation about locker rooms, directly contradicting counsel’s representations during the 30(b)(6) deposition when he objected to questions about locker rooms as irrelevant and directed the witness not to answer any questions on the topic. The Board speculates about the effect of Gavin’s claims on sex-separated sports teams, even though the Board is well aware that the Virginia High School League already has a policy in place allowing transgender students to participate on teams consistent with their gender identity. And the Board asserts that there is no objective way for schools to evaluate a student’s sincerity in claiming to be transgender, even though the proposal that arose out of the settlement conference with Magistrate Judge Miller—and was then publicly rejected by the Board—had provisions to address this very issue.

The Board’s reasons for disregarding Gavin’s legal documents have also continued to evolve. In addition to challenging the authenticity of Gavin’s birth certificate, the Board now

seeks to collaterally attack Gavin's legal court order by arguing that Gavin's chest reconstruction surgery should not legally qualify as a "gender reassignment surgery" under Virginia law. At its 30(b)(6) deposition the Board explicitly disavowed this argument, which is both wrong as a matter of Virginia law and foreclosed by the Full Faith and Credit Clause. But the Board nevertheless seeks to override the decisions of Gavin's medical providers, the Virginia State Registrar, and the Circuit Court for Gloucester County based on the Board's own beliefs about what a boy should look like.

Enough is enough. The Board's motion for summary judgment should be denied in its entirety, and Plaintiff's motion for summary judgment should be granted.

#### **RESPONSE TO STATEMENT OF UNDISPUTED MATERIAL FACTS**

1. Disputed as phrased, with respect to the terminology that Gavin was "born a female." It is undisputed that Gavin was born with genitalia and reproductive organs typically associated with females. It is undisputed that Gavin was issued a birth certificate listing his sex as female.

2. Disputed as phrased and not supported by the proffered evidence. It is undisputed that *in most cases* males have XY chromosomes and females have XX chromosomes. But both parties' expert witnesses testified that chromosomes do not always determine a person's sex. The Board's expert witness, Dr. Van Meter, states, "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[.]" Van Meter Rep. ¶ 12, ECF No. 192-7. Dr. Van Meter also stated that some individuals have intersex conditions that can create the "appearance of female external genitalia in an XY male" and the "appearance of male external genitalia in an XX female." *Id.* ¶ 16. Gavin's expert witness, Dr. Penn, also testified that there are "times when you can have a

portion of the Y be present in an XX individual,” and “times that you have an XY individual who won’t respond to testosterone and therefore would look very feminine on the outside.” Penn Dep. 49:13-18 (Medley-Warsoff Decl. 4/9/19 Ex. A).

It is undisputed that *in most cases* a person’s sex assigned at birth is determined by external genitalia. But Dr. Van Meter stated that “there are variations of the degree of hormonally driven changes that... prevent assigning of a specific classification as either male or female at birth.” Van Meter Rep. ¶ 16, ECF No. 192-7. Dr. Penn also testified that “the appearance of the genitalia are not always aligned” and “internal reproductive organs” are also “not always” determinative of sex. Penn Dep. 50:10-17.

3. Disputed as phrased, with respect to the terminology that Gavin “enrolled [in school]... as a girl.” It is undisputed that Gavin enrolled in the Gloucester County school system with a female gender marker on his birth certificate. It is undisputed that Gavin was not yet out as transgender at the beginning of ninth grade. Gavin Grimm Decl. ¶¶ 17-18, ECF No. 186 at 4.

4. Disputed that Principal Collins was at the August 2014 meeting with Gavin, his mother, and his guidance counselor. Collins Dep. 26:15-18, ECF No. 192-9; Durr Dep. 9:10-19, ECF No. 192-11; Gavin Grimm Decl. ¶ 26. The remainder of the paragraph is undisputed.

5. Undisputed.

6. Undisputed.

7. Undisputed.

8. Undisputed except for the assertion that Gavin was involved in an “altercation,” which is disputed and not supported by admissible evidence. In support of that assertion, the Board relies on an email to Principals Collins from one of Gavin’s teachers, Amy Bergh. The statements in the email are hearsay and not admissible for the truth of the matter asserted.

The text of the email also does not support the assertion that the incident was an “altercation.” According to the email, Gavin and another student were “yelling.” Amy Bergh email to Nate Collins dated 10/28/2014 (Medley-Warsoff Decl. 4/9/19 Ex. E). The teacher’s statement that she thought they were “ready to physically fight” is inadmissible hearsay, and Gavin testified that he had no intention of physically fighting. According to Gavin’s undisputed testimony, the yelling began because the other student was loudly talking about Gavin’s genitals and calling him “disgusting” and “freaky.” Grimm Dep. 91:12-92:11, 93:3-17 (Medley-Warsoff Decl. 4/9/19 Ex. B).

It is undisputed that the Board received the emails and oral communications referenced in School Board Supplemental Answer to Interrogatory No. 1, but the content of those emails is hearsay and not admissible for the truth of the matter asserted.

9. Undisputed.

10. Undisputed.

11. Undisputed.

12. Undisputed except for the assertion that the single-stall restrooms were “not just for transgender students,” which is disputed as phrased. It is undisputed that any student is *allowed* to use the single-stall restrooms, but only transgender students are *required* to use them.

13. Disputed that “a secondary governmental interest” for the Board’s policy “was student safety,” which is not supported by the proffered evidence. When asked whether the Board’s policy was being justified based on a governmental interest in student safety, the Board’s 30(b)(6) witnesses stated: “That’s more of a subjective thing that each individual board member may feel differently about. But from a policy perspective, it was focused on privacy.” Anderson Dep. 22:18-23:1, ECF No. 192-13. It is undisputed that the Board seeks to justify the

policy based on an asserted governmental interest in protecting privacy, but Plaintiff disputes that the policy is actually “focused to ensure” that students do “not hav[e] to share a restroom with someone from an opposite physiological sex.” The Board’s 30(b)(6) witness testified that the policy defines “biological sex” as the gender marker on a student’s current birth certificate, not based on their physiology. Anderson Dep. 21:8-12, ECF No. 192-13.

There is also a disputed question of fact with respect to whether that asserted governmental interest is a pretext for discrimination based irrational fear and moral disapproval. A reasonable finder of fact could infer that the Board acted with an invidious motive based on its shifting and internally inconsistent arguments regarding Gavin’s birth certificate. *See* Pl’s Statement of Undisputed Facts (“SUMF”) ¶¶ 64-68, 71-72, 82-84, 86-92, ECF No. 185. A reasonable finder of fact could also infer that the Board acted based on the fears and moral disapproval of some of its constituents. *See* Pl’s SUMF ¶¶ 28, 43-44, 79-81. And a reasonable finder of fact could also infer animus from the testimony of the Board’s designated expert, who testified that a *benefit* of excluding a transgender student from the restroom that aligns with their identity is that it sends the message to the student’s peers that gender transition is not normal and prevents the spread of a “social contagion” that would cause other students to become transgender. Van Meter Dep. 150:6-18, 156:17-22, ECF No. 192-14.

14. Disputed as phrased. The DSM-V states that: “Individuals with gender dysphoria have a marked incongruence between the gender they have been assigned to (usually at birth, referred to as their *natal gender*) and their experienced/expressed gender,” and, “[t]here must also be evidence of distress about this incongruence.” DSM-V at 453 (Medley-Warsoff Decl. 4/9/19 Ex. D).

It is also disputed that the DSM-V purports to “define” sex. The DSM-V notes that there

are “a proliferation of terms whose meanings vary over time and within and between disciplines.” DSM-V at 451 (Medley-Warsoff Decl. 4/9/19 Ex. C). It is undisputed that the DSM-V states that “[i]n this chapter, *sex* and *sexual* refer to the biological indicators of male and female . . . such as in sex chromosomes, gonads, sex hormones, and nonambiguous internal and external genitalia.” *Id.*

It is also disputed that there is “no objective test to diagnose gender dysphoria.” There are standardized “guidelines and criteria that you have to meet for the diagnosis of gender dysphoria.” Penn Dep. 54:20-22. “In order to be diagnosed with gender dysphoria, the incongruence must have persisted for at least six months and be accompanied by clinically significant distress or impairment in social, occupational, or other important areas of functioning.” Penn Expert Rep. & Decl. ¶ 21, ECF No. 192-7.

15. Disputed as phrased, with respect to the terminology that transgender people “[c]hoos[e] [a] gender identity.” Gender identity “refers to a person’s innate sense of belonging to a particular gender” and is “deeply rooted early in life.” Penn Expert Rep. & Decl. ¶¶ 17, 20. It is undisputed that one’s gender identity does not, on its own, cause physical changes. It is disputed, as phrased, that transgender people “generally do not have intersex conditions.” It is disputed, as phrased, that “[t]ransgender individuals remain biologically men or biologically women.” “[T]he Endocrine Society warns practitioners that the terms ‘biological sex’ and ‘biological male or female’ are imprecise and should be avoided.” Penn Expert Rep. & Decl. ¶ 18.

16. Disputed as phrased. It is undisputed that using restrooms consistent with one’s gender identity is not the only aspect of social transition that can help treat gender dysphoria, but the ability to socially transition in other ways does not fully mitigate the harm caused by

excluding the transgender student from the same restroom as their peers. Rather, “patients who have the most positive outcomes are those who are supported and respected as the gender they identify by their families, peers, and school,” including “being able to participate in activities and access facilities consistent with their gender identity.” Penn Expert Rep. & Decl. ¶ 38. “[F]orcing transgender students to [use a private restroom] can be harmful to their wellbeing by calling them out as different and rejecting their gender.” Penn Expert Rep. & Decl. ¶ 39.

17. It is undisputed that Gavin underwent chest reconstruction surgery in June 2016. It is disputed as phrased that the physical change resulting from chest-reconstruction surgery is not a “biological change.” It is also disputed that “[s]urgical gender reassignment procedures cannot be completed until the transgender individual is at least 18 years of age.” Chest-reconstruction surgery is a form of gender affirming surgery that can be completed before a person is 18. The Endocrine Society Guidelines “suggest that clinicians delay gender-affirming genital surgery involving gonadectomy and/or hysterectomy until the patient is at least 18 years old or legal age of majority,” Endocrine Society Guidelines at 3872, ECF No. 192-6. *See also* WPATH Standards of Care at 21, ECF No. 192-5; Penn Expert Rep. & Decl. ¶ 33. It is disputed that “Grimm remains biologically and anatomically female.” The Endocrine Society advises the term “biological male or female” is “imprecise and should be avoided.” Penn Expert Rep. & Decl. ¶ 18. Transgender boys like Gavin who receive gender-affirming hormones “develop the phenotypic features of non-transgender boys such as muscle mass, fat distribution, facial and body hair, along with lower vocal pitch.” Penn Expert Rep. & Decl. ¶ 32.

18. Disputed that Gavin’s birth certificate “was not issued in conformity with Virginia law.” *See* Rainey Decl. ¶¶ 2-3, ECF No. 195 at 1. It is also disputed that the reason the School Board declined to update Gavin’s school records was truly “because the information that

Gavin provided was at odds with the process and procedures outlined by Virginia law and the Virginia Administrative Code.” There is a disputed question of fact as to whether that asserted reason was developed post hoc as pretext. There is no evidence that the Board or any school administrator had concerns about the authenticity of Gavin’s birth certificate when he presented it to them in November 2016. Both Principal Collins and the head of counseling, Mr. Lord, were aware that Gavin obtained a birth certificate reflecting his sex as male. Collins Dep. 151:14-17, ECF No. 192-9; Lord Dep. 47:5-12, ECF No. 192-12. Principal Collins was also aware Gavin obtained a court order to that effect. Collins Dep. 151:18-152:3, ECF No. 192-9. Neither Collins nor Lord testified to being told that the Board’s failure to amend Gavin’s records was because it questioned the validity of Gavin’s legal documents. The Board made this assertion—for the first time—on the last day of discovery via its 30(b)(6) witness.

19. Disputed as phrased that “[t]he School Board informed Grimm that he had a right to a hearing related to the School Board’s decision not to amend Grimm’s official transcript and educational records.” The Board provided a response to Gavin’s attorneys, but did not respond to Gavin directly.

20. Undisputed.

21. Undisputed.

## **ARGUMENT**

### **I. Legal Standard.**

Summary judgment is warranted when “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” *Ret. Comm. of DAK Americas LLC v. Brewer*, 867 F.3d 471, 479 (4th Cir. 2017) (quoting Fed. R. Civ. Pro. 56(a)). “A dispute is genuine if a reasonable jury could return a verdict for the

nonmoving party, and a fact is material if it might affect the outcome of the suit under the governing law.” *Id.* (internal quotation marks and brackets omitted).

## **II. The Board’s Policy Violates Title IX.**

### **A. Discrimination Based on a Person’s Transgender Status Is Inherently Discrimination “On the Basis of Sex” Under Title IX.**

In its May 22, 2018 ruling, “[t]his Court join[ed] the District of Maryland and several other appellate courts in concluding that ‘claims of discrimination on the basis of transgender status are per se actionable under a gender stereotyping theory’ under Title IX.” ECF No. 148 at 20 (quoting *M.A.B. v. Bd. of Educ. of Talbot Cty.*, 286 F. Supp. 3d 704, 715 (D. Md. 2018)).

Indeed “a person is defined as transgender precisely because” that person “transgresses gender stereotypes.” *Glenn v Brumby*, 663 F.3d 1312, 1316 (11th Cir. 2011); accord *EEOC v. R.G. & G.R. Harris Funeral Homes, Inc.*, 884 F.3d 560, 577 (6th Cir. 2018), *petition for cert. filed*, No. 18-107 (U.S. June 24, 2018); *Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1048 (7th Cir. 2017). “[A]ny discrimination against transsexuals (as transsexuals)—individuals who, by definition, do not conform to gender stereotypes—is [thus] discrimination on the basis of sex[.]” *Finkle v. Howard Cty., Md.*, 12 F. Supp. 3d 780, 788 (D. Md. 2014).

To be sure, most boys had a male sex assigned to them at birth and have chromosomal, anatomical, and hormonal characteristics that are all typically associated with boys. It is only a small group of boys for whom this is not the case. But protections from sex discrimination are not limited to “myths and purely habitual assumptions,” and extend to generalizations that are “unquestionably true.” *City of L.A., Dep’t of Water & Power v. Manhart*, 435 U.S. 702, 707 (1978). Sex discrimination is prohibited by Title IX and other statutes precisely because “[p]ractices that classify [students] in terms of ... sex tend to preserve traditional assumptions about groups rather than thoughtful scrutiny of individuals.” *Id.* at 709. Generalizations that are

accurate for most boys cannot justify discrimination against boys who fall “outside the average description.” *United States v. Virginia*, 518 U.S. 515, 550 (1996).

Instead of engaging with Gavin’s actual claims or the Court’s prior analysis, the Board begins its legal argument with a falsehood: “Throughout this litigation, Grimm has pressed an interpretation of Title IX that ‘sex’ is determined solely according to ‘gender identity,’ meaning ‘a person’s deeply felt, inherent sense of one’s gender.’” Def.’s Mem. at 10. The Board cannot cite any filing in which Gavin has made that legal argument, and Gavin has repeatedly explained that the Board’s assertion is incorrect. *See* Pl.’s Mem. in Opp. to Mot. to Dismiss, ECF 139 at 22; Pl.’s Mem. in Opp. to Mot. to Dismiss, ECF 120 at 19; Grimm Supp. Reply Br., No. 15-2056 (4th Cir.), ECF 225 at 8.<sup>1</sup>

This case is not about the definition of “sex” in the abstract. It is about the meaning of “discrimination . . . on the basis of sex.” 20 U.S.C. § 1681(a). “‘Discrimination’ is a term that covers a wide range of intentional unequal treatment; by using such a broad term, Congress gave the statute a broad reach.” *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167, 175 (2005). “[D]iscrimination on the basis of gender stereotypes, or on the basis of being transgender, or intersex, or sexually indeterminate, constitutes discrimination on the basis of the properties or characteristics typically manifested in sum as male and female—and that discrimination is

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<sup>1</sup> As the Fourth Circuit previously recognized, the ordinary definition of “sex,” both when Title IX was passed in 1972 and today, includes *both* physical attributes of sex, as well as cultural and behavioral ones. *See G.G. ex rel. Grimm v. Gloucester Cty. Sch. Bd.*, 822 F.3d 709, 722 (4th Cir. 2016) (collecting dictionary definitions); *Fabian*, 172 F. Supp. 3d at 526 (same); “sex, n. 4a,” OED Online, Oxford University Press (defining sex as “a social or cultural phenomenon, and its manifestations” and collecting definitions dating back to 1651). Far from excluding reference to physiological characteristics, a person’s transgender status reflects the *interrelationship* between a person’s gender identity and the physiological characteristics that caused that person to be assigned a different sex at birth.

literally discrimination ‘because of sex.’” *Fabian v. Hosp. of Cent. Conn.*, 172 F. Supp. 3d 509, 527 (D. Conn. 2016).<sup>2</sup>

Aside from the Board’s litany of dictionary definitions demonstrating that the term “sex” includes physiological and anatomical characteristics—a fact that Gavin has never disputed—the Board falls back on its own assumptions about legislative intent. Def.’s Mem. 10-13, 18-20. But the Supreme Court rejected that approach to statutory interpretation long ago. As Justice Scalia explained on behalf of a unanimous Court in *Oncale v. Sundowner Offshore Services, Inc.*: “[S]tatutory prohibitions often go beyond the principal evil to cover reasonably comparable evils, and it is ultimately the provisions of our laws rather than the principal concerns of our legislators by which we are governed.” 523 U.S. 75, 79 (1998). Here, too, the legislators who passed Title IX may have been principally motivated “to end discrimination against women in university admissions and appointments,” Def.’s Mem. 12, but they wrote a statute that “broadly prohibits a funding recipient from subjecting any person to ‘discrimination’ ‘on the basis of sex.’” *Jackson*, 544 U.S. at 173. Sex-based discrimination that harms transgender individuals is a “reasonably comparable evil” that falls squarely within the statute’s plain text. *Oncale*, 523 U.S. at 79; *see also Harris Funeral Homes*, 884 F.3d at 577; *Whitaker*, 858 F.3d at 1048.

The plain meaning of “discrimination” “on the basis of sex” cannot be narrowed to reach only the particular forms of sex discrimination recognized by Congress in 1972. The statute protects students from sexual harassment even though “the concept of ‘sexual harassment’ as gender discrimination had not been recognized or considered by the courts” when Congress

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<sup>2</sup> *See also Flack v. Wis. Dep’t of Health Servs.*, 328 F. Supp. 3d 931, 949 (W.D. Wis. 2018) (“[D]iscriminating on the basis that an individual was going to, had, or was in the process of changing their sex—or the most pronounced physical characteristics of their sex—is *still* discrimination based on sex.”).

enacted the statute. *Davis v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629, 664 (1999) (Kennedy, J., dissenting). The statute also extends to harassment between members of the same sex even though many judges have stated they “cannot believe that Congress ... could have intended it to reach such situations.” *McWilliams v. Fairfax Cty. Bd. of Supervisors*, 72 F.3d 1191, 1196 (4th Cir. 1996), *abrogated by Oncale*, 523 U.S. at 75; *see also Zarda v. Altitude Express, Inc.*, 883 F.3d 100, 114 (2d Cir. 2018) (en banc) (discussing how “sexual harassment and hostile work environment claims” “were initially believed to fall outside the scope of Title VII’s prohibition”). “It is quite possible that these interpretations may also have surprised some who served in” Congress when the statute was enacted. *Hively v. Ivy Tech Cmty. Coll. of Ind.*, 853 F.3d 339, 345 (7th Cir. 2017) (en banc). But “[i]t is not for [the courts] to rewrite the statute so that it covers only what [they] think is necessary to achieve what [they] think Congress really intended.” *Lewis v. City of Chicago*, 560 U.S. 205, 215 (2010).

These principles of statutory interpretation are not unique to Title VII and Title IX. “While every statute’s *meaning* is fixed at the time of enactment, new *applications* may arise in light of changes in the world.” *Wis. Cent. Ltd. v. United States*, 138 S. Ct. 2067, 2074 (2018); *accord West v. Gibson*, 527 U.S. 212, 218 (1999). “The fact that Congress may not have foreseen all of the consequences of a statutory enactment is not a sufficient reason for refusing to give effect to its plain meaning.” *Union Bank v. Wolas*, 502 U.S. 151, 158 (1991). “[I]f Congress has made a choice of language which fairly brings a given situation within a statute, it is unimportant that the particular application may not have been contemplated by the legislators.” *Barr v. United States*, 324 U.S. 83, 90 (1945); *cf. Massachusetts v. EPA*, 549 U.S. 497, 532 (2007) (Clean Air Act covers carbon dioxide emissions even though legislators “might not have appreciated the possibility that burning fossil fuels could lead to global warming”).

Unable to find support in the statutory text, the Board contends that sex discrimination against transgender people is implicitly excluded from Title IX because Congress passed unrelated statutes in 2009 and 2013 that explicitly protect individuals based on “gender identity.” *See* Def.’s Mem. 19-20 (citing 18 U.S.C. § 249(a)(2) and 42 U.S.C. § 13925(b)(13)(A)). But “presumptions that terms are used consistently and that differences in terminology denote differences in meaning” carry less force when applied to “different statutes passed by different Congresses in different decades.” *Zarda*, 883 F.3d at 130. Congress’s use of the term “gender identity” in different statutes passed in 2009 and 2013 says nothing about the meaning of “sex” in a statute adopted by Congress in 1972. *Cf. Marvin M. Brandt Revocable Tr. v. United States*, 572 U.S. 93, 109 134 S. Ct. 1257, 1268 (2014) (“The statutes the Government cites do not purport to define (or redefine) the [terms of an earlier statute].”); *accord Almendarez-Torres v. United States*, 523 U.S. 224, 237 (1998) (“These later enacted laws . . . do not [purport to] declare the meaning of earlier law.”). By using the overlapping terms of “sex” and “gender identity” in statutes passed in 2009 and 2013, Congress simply “cho[se] to use both a belt and suspenders to achieve its objectives.” *Harris Funeral Homes, Inc.*, 884 F.3d at 578 (quoting *Hively*, 884 F.3d at 578).

The Board also notes that Congress has failed to pass several bills that would have explicitly protected transgender people from discrimination based on gender identity. This “[p]ost-enactment legislative history (a contradiction in terms) is not a legitimate tool of statutory interpretation,” *Bruesewitz v. Wyeth LLC*, 562 U.S. 223, 242 (2011), because “[c]ongressional inaction cannot amend a duly enacted statute.” *Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 186 (1994). *cf. Massachusetts*, 549 U.S. at

529-30 (“That subsequent Congresses have eschewed enacting binding emissions limitations to combat global warming tells us nothing about what Congress meant . . . in 1970 and 1977.”).

Even if it were permissible to interpret an earlier statute based on post-enactment legislative history, “failed legislative proposals are a particularly dangerous ground on which to rest an interpretation of a prior statute.” *United States v. Craft*, 535 U.S. 274, 287 (2002) (internal quotation marks omitted). “A bill can be proposed for any number of reasons, and it can be rejected for just as many others.” *Solid Waste Agency v. U.S. Army Corps of Eng’rs*, 531 U.S. 159, 170 (2001). Indeed, at the same time that Congress has failed to act on bills that would explicitly include protections for transgender individuals as part of federal protections from sex discrimination, Congress has also failed to act on bills that would expressly *exclude* transgender individuals from those statutory protections. *See* Civil Rights Uniformity Act of 2017, H.R. 2796, 115th Cong. § 3(b) (proposing that “No Federal civil rights law shall be interpreted to treat gender identity or transgender status as a protected class, unless such law expressly designates ‘gender identity’ or ‘transgender status’ as a protected class.”); Title IX Clarification Act of 2016, H.R. 5307, 114th Cong. § 2 (proposing an amendment to Title IX stating that “the term ‘sex’ means with respect to an individual the biological sex of such individual”).

By 2010, when Congress first considered the Student Non-Discrimination Act, H.R. 4530, 111th Cong. (2010), which included express protection for “gender identity,” lower courts had already held that transgender individuals are protected by existing statutes prohibiting sex discrimination. *See Glenn*, 663 F.3d at 1317-19 (collecting cases). In this context, “another reasonable interpretation of that legislative non-history is that some Members of Congress believe that . . . the statute requires, not amendment, but only correct interpretation.” *Schroer v.*

*Billington*, 577 F. Supp. 2d 293, 308 (D.D.C. 2008); *see also Harris Funeral Homes, Inc.*, 884 F.3d at 578; *Whitaker*, 858 F.3d at 1047-48.

**B. The Board’s Policy Discriminated Against Gavin Because He Is Transgender.**

In its order denying the Board’s Motion to Dismiss the Amended Complaint this Court concluded “that a policy that requires transgender students to use bathrooms not in conformity with their gender identity subjects ‘a transgender student ... to different rules, sanctions, and treatment than non-transgender students,’ and amounts to discrimination on the basis of transgender status in violation of Title IX.” ECF No. 148 at 22 (quoting *Whitaker*, 858 F.3d at 1049-50). In support of its motion for summary judgment, however, the Board continues to assert that its “biological gender” policy “does not discriminate against any class of students.” Def.’s Mem. 31. This Court found that argument to be “resoundingly unpersuasive” when it denied the Board’s Motion to Dismiss the Amended Complaint. ECF No. 148 at 30. And it has not grown more persuasive in the interim.<sup>3</sup>

On its face the policy explicitly targets transgender students. The policy begins with the preface, “Whereas the [Board] recognizes that some students question their gender identities.” The policy then concludes with the declaration, “therefore,” the use of common restrooms “shall be limited to the corresponding biological genders” and students with “gender identity issues” will be provided “an alternative ... facility.” Pl’s SUMF ¶ 36. The change in policy had no effect

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<sup>3</sup> The Board continues to rely heavily on *Johnston v. University of Pittsburgh of the Com. Sys. of Higher Educ.*, 97 F. Supp. 3d 657, 670, 676 (W.D. Pa. 2015). Def.’s Mem. 35-36. But as this Court explained in denying the Board’s Motion to Dismiss the Amended Complaint, the overwhelming majority of courts over the past four years have rejected *Johnston*’s analysis. ECF No. 148 at 10 (collecting cases decided since 2015). And, as the district court in *Adams* explained “the Third Circuit’s recent [*Doe by & through Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518 (3d Cir. 2018)] decision (which rejected claims by cisgender students that transgender students in the restrooms violated Title IX and Pennsylvania privacy law), likely eviscerates any persuasive value *Johnston* retained.” *Adams*, 318 F. Supp. 3d at 1319.

on other students, all of whom continued to use the same restrooms they used before. The policy's only function was to subject Gavin, "as a transgender student, to different rules, sanctions, and treatment than non-transgender students." *Whitaker*, 858 F.3d at 1049; *accord M.A.B.*, 286 F. Supp. 3d at 723 (explaining that a similar policy "treats M.A.B. differently from the rest of the High School's students"); *cf. City of Los Angeles v. Patel*, 135 S. Ct. 2443, 2451 (2015) ("The proper focus of the ... inquiry is the group for whom the law is a restriction, not the group for whom the law is irrelevant.").

Moreover, despite the Board's arguments to the contrary, Gavin's claims for declaratory relief and nominal damages are not based on the Board's refusal to facilitate his treatment plan or on the Board's exacerbation of his gender dysphoria. Def.'s Mem. 41-43. His claims are based on the physical pain and discomfort of being unable to use the restroom and "the deprivation of personal dignity that surely accompanies denials of equal access to public establishments." *Roberts v. U.S. Jaycees*, 468 U.S. 609, 625 (1984) (internal quotation marks omitted). The district court's decision in *Adams by & through Kasper v. Sch. Bd. of St. Johns Cty., Fla.*, 318 F. Supp. 3d 1293, 1326-27 (M.D. Fla. 2018), is directly on point. The school board in *Adams* argued that in light of a transgender boy's "pre-existing medical conditions . . . it is hard to say that not using the boys' restroom is really the cause of his distress." *Id.* at 1326. The court rejected that argument and awarded \$1,000 in compensatory damages, explaining that, even without expert testimony, the evidence established that the student "suffered emotional damage, stigmatization and shame from not being permitted to use the boys' restroom at school." *Id.* at 1327; *accord Price v. City of Charlotte, N.C.*, 93 F.3d 1241, 1251-52 (4th Cir. 1996) (clarifying that "a plaintiff's testimony, standing alone, can support an award of compensatory damages" if "the evidence of the emotional distress" is "demonstrable, genuine, and adequately explained").

The inquiry in this case is even simpler than in *Adams*. This Court does not have to parse out the precise amount of incremental harm Gavin experienced as a result of being stigmatized and humiliated at school because Gavin is not seeking compensatory damages at all. He seeks only nominal damages, which are “particularly appropriate to vindicate the violation of a right. . . where injury is shown but damages cannot be proven.” *Ins. Servs. of Beaufort, Inc. v. Aetna Cas. & Sur. Co.*, 966 F.2d 847, 853 (4th Cir. 1992); *see also Bains LLC v. Arco Prod. Co., Div. of Atl. Richfield Co.*, 405 F.3d 764, 772 (9th Cir. 2005) (“An award of nominal damages does not mean that there were not actual economic damages, just that the exact amount of damages attributable to the improper conduct was not proven.”). No additional expert testimony is required to establish that Gavin was, indeed injured by the Board’s discriminatory policy. *See* Pl.’s Mem. in Support of Summary Judgment, ECF No. 185 at 35-38.

**C. The Board’s Policy Cannot Be Justified Based on Physiology.**

The Board once again attempts to defend its restroom policy by arguing it is permissible to discriminate based on physiological differences between males and females. Def.’s Mem. 22-25. The Board made the same argument in support of its Motion to Dismiss the Amended Complaint, but the Board’s 30(b)(6) witness subsequently testified that the restroom policy defines “biological gender” according to birth certificates, not according to physiology. Pl.’s SUMF ¶ 87. Thus, an 18-year-old transgender teenage girl who has not obtained an updated birth certificate would have to use the boys’ restroom even if she has fully developed breasts as a result of hormone therapy and a vagina as a result of genital surgery. Anderson Dep. 96:9-21, ECF No. 192-13. And a transgender boy who *has* obtained an updated birth certificate (from Virginia or elsewhere) would be able to use the boys’ restroom, regardless of his physiology. *Id.* at 75:13-76:3. The Board’s newfound “reliance upon a birth certificate’s sex-marker” as an

inaccurate proxy for a transgender student's physiology further "demonstrates the arbitrary nature of the policy." *Whitaker*, 858 F.3d at 1054.

Even before the Board claimed to follow the gender marker on birth certificates, the Board's arguments based on physiology were internally inconsistent. As this Court recognized in its prior opinion, "attempting to draw lines based on physiological and anatomical characteristics proves unmanageable," ECF No. 148 at 14, because for many transgender students, including Gavin, the "physical aspects of maleness and femaleness... may not be in line with each other," Endocrine Society Guidelines at 3875. Gavin himself has a typically male chest, facial hair, and testosterone affecting his bone and muscle structure. Pl.'s SUMF ¶ 64. Boys and girls who are transgender and who have received puberty blockers and hormone therapy have physiological and anatomical characteristics—including breasts in girls who are transgender, facial and body hair in boys who are transgender, muscle and bone structure—that align with their gender identity, not the sex designated for them at birth. *Id.* at ¶ 85. Forcing transgender boys to use the girls' restroom and forcing transgender girls to use the boys' restroom does not create "spaces available to members of one anatomical and physiological sex and off-limits to the other." Def.'s Mem. 29.

In any event, there is no general exception in Title IX (or other civil rights statutes) for discrimination based on physiological characteristics. "Physical differences between men and women" may be taken into account to promote equality but cannot be used "for denigration of the members of either sex or for artificial constraints on an individual's opportunity." *Virginia*, 518 U.S. at 533. For example, in *Bauer v. Lynch*, 812 F.3d 340 (4th Cir. 2016), the Fourth Circuit held that the Federal Bureau of Investigation could use different physical-fitness standards for male and female employees without violating Title VII because the standards were

designed to treat employees equally by measuring the same overall levels of physical fitness for everyone regardless of sex. Nothing in *Bauer* supports the notion that schools or employers can use physical differences as a basis for unequal and stigmatizing treatment that has no remedial function. *Cf. Cal. Fed. Sav. & Loan Ass'n v. Guerra*, 479 U.S. 272, 289 (1987) (finding a California law taking into account physical differences resulting from pregnancy treats employees equally because it “allows women, as well as men, to have families without losing their jobs”).<sup>4</sup>

**D. The Board Continued to Discriminate Against Gavin By Disregarding His Court Order and Birth Certificate.**

The Board continued to exclude Gavin from the same restrooms as other boys even after he received a Virginia court order and Virginia birth certificate declaring that his sex is male. The Board has offered shifting and contradictory reasons for disregarding Gavin’s legal documents, and the Board contradicts itself yet again in its brief in support of summary judgment. The Board initially contended that Gavin’s legal documents were “not relevant.” Pl.’s SUMF ¶ 73. Then, at its 30(b)(6) deposition, the Board asserted that it had doubts about the validity of Gavin’s birth certificate because of how it looked. *Id.* ¶ 88.

Now, the Board argues that the Virginia Circuit Court was wrong to issue an order legally declaring Gavin’s sex to be male because the Board thinks that Gavin’s chest-reconstruction surgery does not legally qualify as a “surgical gender reassignment procedure.” Def.’s Mem. 45 (quoting 12 VAC 5-550-320). *But see* DSM-V at 453 (including “mastectomy” as an example of

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<sup>4</sup> The Board similarly misrepresents the holding in *Manhart*, which it quotes for the proposition that “[t]here are both real and fictional differences between women and men.” Def.’s Mem. 24 (quoting *Manhart*, 435 U.S. at 707). But the Court went on to explain that Title VII nevertheless prohibits sex discrimination even when it is based on a generalization that is “unquestionably true.” *Id.* “Even a true generalization about the class is an insufficient reason for disqualifying an individual to whom the generalization does not apply.” *Id.* at 708.

“gender reassignment surgery”). The Board’s latest argument directly contradicts the Board’s sworn testimony at the 30(b)(6) deposition when the Board specifically disavowed any claim that Gavin’s chest-reconstruction surgery was legally insufficient:

[Q]: So does the school board contend that the medical procedures that Gavin has undergone are insufficient to change the gender marker on his birth certificate under Virginia law?

A: No, that’s not one of our arguments.

Q: Okay. So you’re not contending that his chest surgery did not qualify as surgery that warrants changing a birth certificate under Virginia law?

A: No, not one of our arguments and not within our purview as a school board to determine.

Andersen Dep. 73:3-15. If the Board’s witness had not explicitly disavowed such an argument, Gavin’s counsel would have asked the Board to explain what specific surgeries the Board demands that its students must have before their legal court orders will be respected at Gloucester High School. Hysterectomy? Salpingo-oophorectomy? Vaginectomy? Metoidioplasty? Scrotoplasty? Phalloplasty? Gavin’s counsel would also have asked whether the Board also independently reviews the legal basis for students’ custody orders and other legal documentation, or are court orders related to gender transition the only ones that the Board attempts to collaterally attack?

The Board has no legal basis for refusing to recognize Gavin’s legal court order based on its own beliefs about what “physiological characteristics the Board believe[s] that a male or female student *should* have.” ECF No. 148 at 15. The Board cites no legal authority in support of its argument that the Circuit Court misapplied Virginia law.<sup>5</sup> Indeed, the DMS-V specifically

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<sup>5</sup> The Board cites to the Virginia Administrative Code, which applies to the Department of Vital Records, but does not cite to the statute applied by the Circuit Court, which requires “the sex of an individual” to be “changed by medical procedure and upon request of such person.”

includes “mastectomy” as an example of “gender reassignment surgery.” DMS-V at 453. But even assuming for the sake of argument that the Circuit Court erred, “[a] challenge to an order based on a trial court’s misapplication of a statute generally raises a question of court error, not a question of the court’s jurisdiction” and, therefore, is “not subject to collateral attack.” *Hicks ex rel. Hicks v. Mellis*, 275 Va. 213, 219-20 (2008). Gavin’s order from the Circuit Court of Gloucester County was issued by a court of competent jurisdiction and entitled to full faith and credit in this Court under 28 U.S.C. § 1738.

The Board’s attempts to collaterally attack Gavin’s birth certificate are similarly baseless. Def.’s Mem. 43-45. The Board falsely asserts that “[t]he certificate that Grimm or his mother presented to Gloucester High School was marked ‘void.’” Def.’s Mem. 45 n.18. It was not. Gavin’s mother testified that she gave the Gloucester High School counseling department an original copy of the birth certificate with a raised seal. Deirdre Grimm Decl. ¶ 27, ECF No. 187 at 5-6. The *photocopy* of the birth certificate transmitted from Gloucester High School to the Board and its attorney was marked void because birth certificates are printed on security paper.

The Board also argues that Gavin’s birth certificate was not marked as “amended” and did not contain other notations the Board contends that amended birth certificates should have. Def.’s Mem. 44-45. The Virginia Registrar and Director of the Department of Vital Records has confirmed that Gavin’s birth certificate is authentic. Rainey Decl. ¶ 3. The Board complains that “[n]o person reviewing that certificate would perceive the slightest indication that it is an

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Va. Code Ann. § 32.1-269(E); *see In re Brown*, 289 Va. 343, 349 (2015) (“[B]y enacting Code § 32.1-269(E), the General Assembly has already recognized that a shift in a person’s gender is a valid reason to change one’s name and to amend that person’s vital records.”). Unlike the administrative code, the statute does not require a surgical procedure, further undermining the Board’s assertion that some unspecified genital surgery is the only acceptable medical treatment under Virginia law to amend an individual’s birth certificate.

amended, altered, or ‘corrected’ certificate.” Def.’s Mem. 45. But as noted at the bottom of every birth certificate issued to the public, the birth certificate document is just “a reproduction *or abstract* of the official record filed with the Virginia Department of Health.” Gavin Grimm Decl. Ex. D, ECF No. 186-4 (emphasis added).

The Board apparently disagrees with the Department of Vital Records’ interpretation of Virginia law regarding what information should be included on birth certificates issued to the public. But the Board does not explain how the appearance of Gavin’s birth certificate has any relevance for which restroom he uses at school. The Board merely offers a list of post hoc *excuses* for its decision to disregard Gavin’s birth certificate, not a logical *reason* for doing so.

**E. The Restroom Regulation Does Not—and Cannot—Authorize Schools to Discriminate in Violation of the Statutory Text.**

The Board argues that its discriminatory policy is immunized from review under Title IX because one of the implementing regulations states that schools may “provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.” 34 C.F.R. § 106.33. That regulation does not—and cannot—create an exception from the statutory text, which provides that no person shall “be excluded from participation in, be denied the benefits of, or be subjected to discrimination” at school. 20 U.S.C. § 1681(a). When Congress intended to completely lift that prohibition on discrimination or authorize unequal treatment, it did so explicitly in the statutory text by stating that that the prohibition on discrimination “shall not apply.” *See* 20 U.S.C. § 1681(a)(2)-(9). Unlike those statutory exemptions, the restroom regulation does not state that the statute’s ban on sex-based discrimination “shall not apply” to

restrooms.<sup>6</sup> *See Mercer v. Duke Univ.*, 190 F.3d 643, 647 (4th Cir. 1999) (contrasting broad statutory exemptions in 20 U.S.C. § 1681(a)(2)-(9) with narrower scope of exemptions in Title IX regulations). The agency would lack authority to create such an exemption because a regulation cannot conflict with its implementing statute. *See Talk Am., Inc. v. Mich. Bell Tel. Co.*, 564 U.S. 50, 62 (2011).<sup>7</sup>

Properly interpreted, the restroom regulation thus allows schools “to provide separate toilet facilities . . . on the basis of sex,” 34 C.F.R. § 106.33, as long as they do not do so in a manner that causes students to “be excluded from participation in, be denied the benefits of, or be subjected to discrimination” at school, 20 U.S.C. § 1681(a). *Cf. Zarda*, 883 F.3d at 118 (explaining that sex-separated restrooms are compatible with Title VII if they do not create “disadvantageous terms or conditions of employment”). That premise is reinforced by the regulation’s caveat that when schools establish sex-separated restrooms, they must provide access to “comparable” restrooms for all students. 34 C.F.R. § 106.33. The regulation does not authorize a school to adopt whatever sex-based restroom policy it chooses, no matter how discriminatory or harmful.<sup>8</sup>

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<sup>6</sup> Similarly, the statutory provision authorizing schools to “maintain[] separate living facilities for the different sexes,” 20 U.S.C. § 1686, does not declare that the prohibition on discrimination “shall not apply.”

<sup>7</sup> *See Time Warner Ent. Co. v. Everest Midwest Licensee, LLC*, 381 F.3d 1039, 1050 (10th Cir. 2004) (“[A] regulation must be interpreted in such a way as to not conflict with the objective of its organic statute.”); *Robbins v. Bentsen*, 41 F.3d 1195, 1198 (7th Cir. 1994) (“Regulations cannot trump the plain language of statutes, and we will not read the two to conflict where such a reading is unnecessary.”).

<sup>8</sup> Although the Board attempts to draw support from *Virginia*, 518 U.S. at 550 n.19 (*see* Def.’s Mem. 22), the case only undermines its argument. The parties in *Virginia* agreed that including women in the Virginia Military Institute would require adjustments such as “locked doors and coverings on windows.” *Id.* at 588. The Court nevertheless concluded that these minor changes to provide “privacy from the other sex” would not disrupt the essential nature of the program and could not justify excluding women from admission. *Id.* at 550 n.19. The teaching of

Instead of harmonizing the regulation with the underlying statute, the Board asserts that the “plain meaning” of the regulation allows schools to exclude transgender students from restrooms based on anatomical or physiological characteristics. As the Fourth Circuit previously explained, however, “[t]he plainness or ambiguity of language is determined by reference to (1) the language itself, (2) the specific context in which that language is used, and (3) the broader context of the statute or regulation as a whole.” *G.G.*, 822 F.3d at 720. The relevant term in this regulation is not the word “sex” in the abstract, but the phrase “provide separate toilet . . . facilities on the basis of sex.” As the Fourth Circuit noted, in the vast majority of cases, that phrase is not complicated to understand and apply. But it does not follow that there was a similarly plain “ordinary, contemporary, common meaning” in 1972 for how to “provide separate toilet . . . facilities on the basis of sex” when a student is transgender. “[T]erms that seem plain and easy to apply to some situations can become ambiguous in other situations.” *Suesz v. Med-1 Sols., LLC*, 757 F.3d 636, 639 (7th Cir. 2014) (en banc).

It is impossible to identify the “ordinary, contemporary, common meaning” in 1972 for how to “provide separate toilet . . . facilities on the basis of sex” to a transgender student because transgender individuals inherently fail to conform the “ordinary” or “common” expectation that a person’s sex-based characteristics will all align in the same direction. It is hardly self-evident that an ordinary speaker of the English language in 1972 or today would expect that a boy who is transgender who has typically male bone and muscle structure, a typically male chest, and facial hair would use the girls’ restroom (or that a transgender girl who has typically female breasts and typically female bone and muscle structure would use the boys’ restroom). Nor is it self-evident

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the case is not that privacy concerns justify discrimination. It is that privacy interests, where actually implicated, must be accommodated in a manner that does not exclude individuals from accessing equal educational opportunities. *See id.* at 555 n.20.

that an ordinary speaker of the English language would think that if a boy who is transgender uses the boys' restroom, then the restrooms are no longer provided "on the basis of sex." After all, when Gavin used women's restrooms before transitioning, people perceived him as a boy who was using the wrong restroom. Gavin Grimm Decl. ¶ 13. Since he transitioned, Gavin has used men's restrooms in public venues wherever he goes without disruption. *Id.* at ¶ 37.

Indeed, the Board's argument that the regulation has an "ordinary, contemporary, common meaning" in the context of transgender students is undermined by its own failure to explain what that plain meaning is. The Board continues to talk about separating students based on "anatomical and physiological" differences with an occasional reference to chromosomes, *see, e.g.*, Def.'s Mem. 37, but its own 30(b)(6) witness testified that the Board's policy is not actually based on an assessment of students' past or present physiology. It is based on their birth certificate. Anderson Dep. 21:8-14, ECF No. 192-13. In its litany of dictionary definitions, the Board has not found one that defines the ordinary meaning of "sex" as the gender marker on a person's birth certificate.

Although the Board accuses Gavin of seeking to "update" the regulation to address new social problems, Gavin simply argues that the regulation does answer the relevant question. Because there is no "ordinary, contemporary, common meaning" for providing restrooms on the basis of sex to transgender students, the regulation must be interpreted within "the broader context of the statute or regulation as a whole," and the statute's underlying prohibition on discrimination. *G.G.*, 822 F.3d at 720; *see United States v. Marte*, 356 F.3d 1336, 1341 (11th Cir. 2004) ("When a regulation implements a statute, the regulation must be construed in light of the statute" it implements). Before the Board passed its new policy, Gloucester High School provided Gavin access to sex-separated restrooms in a manner that was consistent with the

statute’s prohibition on discrimination. The Board then intervened and adopted a new policy designed to exclude boys and girls who are transgender from the common restrooms used by other boys and girls. Unlike the previous policy, the Board’s new policy improperly “excluded [Gavin] from participation in,” “denied [Gavin] the benefits of,” and subjected [Gavin] to discrimination” at school in violation of Title IX, 20 U.S.C. § 1681(a).

In truth, the Board is the party requesting a judicial “update.” As the Board itself argues, “[n]ot a shred of legislative history suggests that Congress” or the drafters of 34 C.F.R. § 106.33 “considered the concept of ‘gender identity’ at all” as something distinct from physiological and anatomical sex characteristics. There is similarly not a shred of legislative history suggesting that Congress or the drafters of 34 C.F.R. § 106.33 considered how the regulation would apply to transgender students, who often have physiological sex characteristics that do not all align with the sex assigned to them at birth. The Board is asking the Court to update 34 C.F.R. § 106.33 to provide a broad exemption from Title IX’s prohibition on “discrimination,” but the courts may not “rewrite constitutionally valid statutory [or regulatory] text under the banner of speculation about what Congress [or the administrative agency] might have done had it faced a question that, on everyone’s account, it never faced.” *Henson v. Santander Consumer USA Inc.*, 137 S. Ct. 1718, 1725 (2017).

**F. *Pennhurst* Provides No Defense to Claims of Intentional Sex Discrimination.**

In its decision denying the Board’s Motion to Dismiss, this Court rejected the Board’s argument “that Title IX must explicitly refer to discrimination against transgender students to fulfill the notice requirements of *Pennhurst State School & Hospital v. Halderman*, 451 U.S. 1 (1981).” ECF No. 148 at 20 n.11. Although the Board once again invokes *Pennhurst*, the Board gives no reason for revisiting this Court’s prior ruling. Def.’s Mem. 29-30. “Title IX funding

recipients ‘have been on notice that they could be subjected to private suits for intentional sex discrimination under Title IX since 1979,’ when the Supreme Court decided *Cannon v. University of Chicago*, 441 U.S. 677, 691 (1979), and ‘have been put on notice by the fact that . . . cases since *Cannon* . . . have consistently interpreted Title IX’s private cause of action broadly to encompass diverse forms of intentional sex discrimination.’” ECF No. 148 at 20 n.11 (quoting *Jackson*, 544 U.S. at 183); *cf. Penn. Dep’t of Corr. v. Yeskey*, 524 U.S. 206, 212 (1998) (“[T]he fact that a statute can be applied in situations not expressly anticipated by Congress does not demonstrate ambiguity. It demonstrates breadth.”) (internal quotation marks omitted).

### **III. The Board’s Policy Violates the Equal Protection Clause.**

#### **A. The Board’s Policy Is Subject to Heightened Scrutiny.**

In its May 22, 2018 ruling, this Court concluded that discrimination against transgender individuals is subject to heightened scrutiny under the Equal Protection Clause. ECF No. 148 at 25-26. Under heightened scrutiny, the Board must show “at least that the challenged classification serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives.” *Sessions v. Morales-Santana*, 137 S. Ct. 1678, 1690 (2017) (brackets omitted). “The burden of justification is demanding and it rests entirely on the State.” *Virginia*, 518 U.S. at 533.<sup>9</sup>

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<sup>9</sup> Relying on *Tuan Anh Nguyen v. INS*, 533 U.S. 53 (2001), the Board argues that any different treatment based on “biological differences” is not the type of “gender-based stereotype” that violates equal protection. Def.’s Mem. 19-20. But the Court’s analysis in *Nguyen* did not begin and end with biology. In *Nguyen*, the Supreme Court upheld a statute that provided different procedures for unmarried mothers and unmarried fathers to transmit U.S. citizenship to their children because mothers, by virtue of having given birth, automatically had a biological connection to the child and an opportunity to form a meaningful relationship. *Nguyen*, 533 U.S. at 73. At the same time, the Court emphasized that the policy was tailored so that it imposed only a “minimal” burden that could be easily met with a written acknowledgement of paternity under oath. *Id.* at 70. The Court also emphasized that the statute was not “marked by misconception and prejudice” or “disrespect.” *Id.* at 73.

In its brief in support of summary judgment, the Board not only fails to prove as a matter of law that its policy satisfies heightened scrutiny, but it fails to submit sufficient evidence to create even a triable issue of fact. The Board's 30(b)(6) witness testified that the Board was relying *solely* on an asserted governmental interest in protecting privacy related to nudity. Anderson Dep. 22:1-14, 27:2-5, ECF No. 192-13. The Board fails to present any evidence or explanation for how those interests are not fully addressed by the added privacy protections in the restrooms and the availability of single-stall restrooms for anyone who wants greater privacy. *See M.A.B.*, 286 F. Supp. 3d at 725 ("Defendants do not provide any explanation for why completely barring M.A.B. from the boys' locker room protects the privacy of other boys changing there, while the availability of single-use restrooms or locker room stalls does not."); *cf. Wengler v. Druggists Mut. Ins. Co.*, 446 U.S. 142, 151 (1980) (invalidating a sex-based classification where a sex-neutral approach would completely serve the needs of both classes). Protecting bodily privacy related to nudity is an important governmental interest, but the Board has not even attempted to show "that the discriminatory means employed" of banishing boys and girls who are transgender from the same restrooms used by other boys and girls "are substantially related to the achievement of those objectives." *Morales-Santana*, 137 S. Ct. at 1690.

Even worse, the Board's arguments in support of summary judgment blatantly contradict prior assertions of counsel and the sworn testimony provided by its 30(b)(6) witness just a few weeks ago. The Board once again talks about how allowing Gavin to use the boys' restrooms would threaten students' privacy interests in locker rooms. Def.'s Mem. 27. But when Gavin's attorneys attempted to ask the 30(b)(6) witness about how its "biological gender" policy actually

protected privacy in locker rooms, the Board's counsel declared the questions to be irrelevant and instructed the witness not to answer:

Q How about in the locker room, if [a transgender girl is] using the boys' locker room and has to change clothes, you know, and expose her breasts in the process, does that violate the privacy of boys in the boys' locker room?

MR. CORRIGAN: Let me object further on this one that this case is not about locker rooms. In fact, it's expressly not about locker rooms, so I'm not going to have him answer any locker room questions. He's not prepared, it's not part of the 30(b)(6) designation, and he's not going to answer questions about locker rooms.

MR. BLOCK: David, the policy applies to restrooms and locker rooms, and locker rooms have been repeatedly brought up in legal briefs. So if there is a relevancy objection, I don't think that's grounds for instructing the witness not to answer.

MR. CORRIGAN: Did you put it in your 30(b)(6) designation that we were going to talk about locker rooms?

MR. BLOCK: I asked about the biological gender under the policy, and the policy applies to locker --

MR. CORRIGAN: I understand. But you have made a vivid point of not including locker rooms in the case. It's not part of the case. You've said so, talk about on brief and every other way, so I don't think we should talk about locker rooms.

MR. BLOCK: So are we stipulating here that the Board will not rely on implications for locker rooms as part of its defense of the policy?

MR. CORRIGAN: Yeah, I think the case is about -- this is a case, a specific case about Gavin Grimm and this policy and restrooms. And you've made it that, and I don't think we have any choice but to say that's what the case is about.

MR. BLOCK: Okay. So, yes, you're stipulating that the Board is not relying on implications that this case would have for locker rooms as one of the bases for defending its policy?

MR. CORRIGAN: I'm stipulating that this case is only about restrooms, that's what I'm stipulating.

Anderson Dep. 39:9-41:10, ECF No. 192-13. As a result, the 30(b)(6) witness never explained how having a transgender teenage girl change her shirt in the boys' locker room could possibly advance a governmental privacy interest related to preventing the exposure of physiological and

anatomical sex characteristics.<sup>10</sup> In any event, even in the context of locker rooms, courts have found that there are many non-discriminatory ways to enhance student privacy without banishing transgender students from the facilities. *See M.A.B.*, 286 F. Supp. 3d at 724.

Similarly, the Board argues that non-transgender students would experience discrimination if they have to use separate single-stall facilities to protect their “adolescent modesty, personal sensitivities, or religious scruples” about using the same restroom as a transgender student. Def.’s Mem. 26-27. But the Board’s 30(b)(6) witness testified that the separate single-stall restrooms provided an acceptable alternative for the “adolescent modesty, personal sensitivities, or religious scruples” of girls who do not want to be in the same restrooms as boys who are transgender (and for boys who do not want to be in the same restrooms as girls who are transgender):

[Q:] So the policy doesn’t provide any protection for a girl who does not want to share a restroom with someone who is a transgender boy, meaning that they were assigned a female sex at birth but live as a boy and have facial hair and a lot of muscles?

MR. CORRIGAN: Object to form, foundation. Go ahead.

THE WITNESS: Let’s take it back since the focus of this is at the high school. Yes, the policy -- well, the implications of the policy do allow an alternate which is the single-stall restrooms we added, so that’s the relief there. So they can be used by anybody. Those single-stall unisex restrooms are available for all students use.

BY MR. BLOCK:

Q So the girl who is uncomfortable using the girls restroom with a transgender boy has the option of using one of those single-stall restrooms instead; is that right?

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<sup>10</sup> Indeed, one of the cases cited by Board as “recognizing anatomical differences between men and women, for purposes of equal protection analysis” Def.’s Mem. 37, is a case about a public indecency ordinance that required women but not men to cover their breasts in public, *United States v. Biocic*, 928 F.2d 112, 115-16 (4th Cir. 1991). Does the Board think that the ordinance does not apply to women with breasts who are transgender?

A Absolutely.

Q And so a boy who is uncomfortable using the boys restroom with a transgender girl who has fully developed breasts can use the single-user restrooms instead; is that right?

A Correct.

Andersen Dep. 44:10-45:14. The Board provides no explanation for why the single-user restrooms provide sufficient privacy accommodations for boys who are uncomfortable sharing a restroom with a transgender girl but are insufficient for boys who are uncomfortable sharing a restroom with another boy who is transgender. As the Court already recognized when it denied the Board's Motion to Dismiss the Amended Complaint, providing all students an option to use separate restrooms to enhance their own privacy is not the same thing as forcing a transgender student to use separate restrooms because someone else objects to their presence. *See* ECF No. 148 at 29 n.12 (citing *M.A.B.*, 286 F. Supp. 3d at 724-25); *accord Doe by & through Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 530 (3d Cir. 2018) ("Nothing in the record suggests that cisgender students who voluntarily elect to use single-user facilities to avoid transgender students face the same extraordinary consequences as transgender students would if they were forced to use them.").

The Board also continues to speculate that transgender students will threaten "girls and women in school sports." Def.'s Mem. 27. But, as the Board is well aware, Gloucester County Public Schools already follow the Virginia High School League's policy for including transgender students in sports. Collins Dep. 133:11-22, ECF No. 192-9; Video recording of the Feb. 19, 2019 Gloucester County School Board meeting (Medley-Warsoff Decl. 4/9/19 ¶ 6). The Virginia High School League policy demonstrates that actual or perceived physiological differences between most girls and most boys can be addressed without categorically excluding transgender students from sports teams.

Worst of all, the Board once again asserts that there is no objective way to confirm that a student is transgender without encountering “serious practical problems.” Def.’s Mem. 28. According to the Board, school administrators would have to “evaluate access to restrooms, locker rooms, and showers based on the subjective sincerity of a student’s desire to adopt an ‘identity’ at odds with his or her anatomy and physiology” or based on sex stereotypes about how masculine or feminine the student looks. *Id.* at 27. As a result, the Board warns, “although a school might wish to keep boys and girls in separate [facilities], in practice any given [facility] would be open to members of both sexes.” *Id.* at 28.

The Board thus continues to “misrepresent[] [Gavin’s] claims and dismiss[] his transgender status.” *Whitaker*, 858 F.3d at 1050. Gavin did not seek to use the boys’ restrooms based on his subjective, internal perception of being a boy. He sought to use the boys’ restrooms because he transitioned and was *living* in accordance with his identity. At the time the Board’s policy was passed, Gavin had supplied school administrators with a “treatment documentation letter” from his psychologist, he had legally changed his name, and he was preparing to undergo hormone therapy. By the time Gavin graduated, he had undergone hormone therapy and chest reconstruction surgery, and he had received a state I.D. card and birth certificate stating that he is male. But the Board has bent over backwards to ignore these “objective” forms of proof in favor of its own unscientific (and constantly changing) definition of “biological gender.”<sup>11</sup>

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<sup>11</sup> The district court in *Adams* similarly explained:

The evidence has established that Drew Adams is a transgender boy. Adams has undergone social, medical, and legal transitions to present himself as a boy. Adams wears his hair short; he dresses like a boy; his voice is deeper than a girl’s; his family, peers, classmates and teachers use male pronouns to refer to him; he takes hormones which suppress menstruation and make his body more masculine, including the development of facial hair and typical male muscle development; he has had a double mastectomy so his body looks more like a boy; the state of Florida has provided him with a birth certificate and driver’s license

The Board is well aware that its speculation about “practical problems” has no basis in fact because the Board held a public hearing on a proposed policy that would have addressed this very issue. Under the proposed policy that arose out of settlement discussions with Magistrate Judge Miller, transgender students would have been able to use the restrooms aligning with their identity if

- (1) the student has appropriate medical documentation from a licensed, treating healthcare provider who specializes in the treatment of transgender individuals; and
- (2) the student has consistently asserted the student’s gender identity for a period of at least six months; and
- (3) the student has undergone treatment recommended by the student’s healthcare provider, which may include social transition or hormonal therapy for at least six months.

Pl’s SUMF ¶ 78. The Board’s attorney told the audience that “[a] significant issue raised previously was that a student could just, on a whim, decide for a day to use the restroom of the opposite sex. This resolution eliminates that possibility.” *Id.* at ¶ 79.

The proposed policy would have fully addressed any alleged “practical difficulties.” Indeed, the policy was far more restrictive than the policies of many other schools. *See* Pl’s SUMF ¶ 24.<sup>12</sup> But the Board abandoned the settlement proposal after hearing opposition from

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which state he is a male; and when out in public, Adams uses the men’s restroom. As a transgender boy, Adams must be permitted to use the boys’ restroom at school.

*Adams*, 318 F. Supp. 3d at 1326.

<sup>12</sup> *See also Boyertown*, 897 F.3d at 524 (involving a school policy permitting transgender students to use restrooms and locker rooms consistent with their gender identity after a meeting with a school counselor); *Parents for Privacy v. Dallas Sch. Dist. No. 2*, 326 F. Supp. 3d 1075, 1084 (D. Or. 2018) (involving a school plan that permitted a transgender boy to “use any of the bathrooms in the building to which he identifies”); School Administrators Amicus at 19-21, ECF No. 192-39 (stating concerns that transgender students would “change their minds” or that “non-transgender students might falsely claim to be transgender” “have not materialized,” and it is

constituents at the February 19th hearing. Pl’s SUMF ¶¶ 80-81. On this evidentiary record, the only “practical problems” are political ones.

**B. A Reasonable Factfinder Could Conclude that the Board’s Discrimination Against Gavin Is Motivated By Irrational Animus or Moral Disapproval.**

Because the Board’s policy is discriminatory on its face, and because the Board’s various justifications for its policy are facially insufficient, the Court can and should grant summary judgment for Gavin without making factual findings about the Board’s true motives in enacting and perpetuating its discriminatory policy. But if summary judgment is denied and the Court holds a bench trial, a reasonable finder of fact could conclude that the Board’s arguments are not just meritless, but also pretexts to justify a course of conduct against Gavin rooted in animus or moral disapproval.

A reasonable finder of fact could infer that the Board acted with an invidious motive based on its shifting and internally inconsistent arguments. *Cf. Campbell v. CGI Techs. & Solutions, Inc.*, No. 118CV707AJTMSN, 2019 WL 1375583, at \*4 (E.D. Va. Mar. 27, 2019) (when an “employer offer[s] differing explanations for the adverse employment actions at different times . . . such shifting explanations are ‘in and of itself, probative of pretext.’” (quoting *EEOC v. Sears Roebuck & Co.*, 243 F.3d 846, 852-53 (4th Cir. 2001))).

A reasonable finder of fact could also infer that the Board acted based on fears and moral disapproval of some of its constituents. *See Marks v. City of Chesapeake, Va.*, 883 F.2d 308, 313 (4th Cir. 1989) (“The necessary and obvious inference—given the Council members’ explicit

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“easy to identify genuine requests” with “reasonable assessments of individual requests for accommodation” rather than rigid criteria); Amicus Brief of Fairfax Cty. Sch. Bd. et al., ECF No. 199 (E.D. Va.) at 7-15 (explaining that administrators across Virginia have successfully “address[ed] requests by transgender students [to use restrooms consistent with their gender identity] on a case-by-case basis”).

concessions at trial that they were in fact influenced by the public’s expressions of concern—is that their deliberations were impermissibly tainted by ‘irrational neighborhood pressure’ manifestly founded in religious prejudice.”); *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 448 (1985) (explaining that government “may not avoid the strictures of [the Equal Protection] Clause by deferring to the wishes or objections of some fraction of the body politic”).

And a reasonable finder of fact could infer animus from the testimony of the Board’s designated expert who testified that schools that affirm transgender students’ identities are contributing to “a social contagion” that causes other students to question their gender identity. Van Meter Dep. 156:17-22, ECF No. 192-14. Dr. Van Meter thinks it is schools’ responsibility to send a message that being transgender is not normal. *Id.* at 150:15-151:2. He likewise opposes schools “promoting homosexuality as normal.” *Id.* at 172:6-20; 142:6-15.

#### **IV. The Board’s Refusal to Update Gavin’s Transcript to Match His Birth Certificate Violates Title IX and the Equal Protection Clause.**

The Board also fails to present any argument or evidence justifying its refusal to update the gender marker on Gavin’s official school records to match his birth certificate. As discussed above, the Board’s attempt to collaterally attack the legality of Gavin’s court order and birth certificate are meritless. The Board’s argument that Gavin must exhaust administrative remedies under the Family Educational Rights and Privacy Act (“FERPA”) fares no better. Def.’s Mem. 45-46. This Court already rejected the same argument when it granted Gavin permission to file his Second Amended Complaint. The Court explained that “FERPA explicitly provides that ‘[n]othing in this chapter shall be construed to affect the applicability of. . . [T]itle IX of the Education Amendments of 1972... or other statutes prohibiting discrimination.’” ECF No. 176 at 3 (quoting 20 U.S.C. § 1221(d)). The Court also explained that the procedural protections in

FERPA diverge from the Equal Protection Clause's substantive protections from discrimination. *See id.* at 4.

Moreover, in light of the Board's current position that Gavin must have some unspecified additional surgery before the Board is willing to accept the rulings of the Virginia Circuit Court, any further request for a FERPA hearing would have been futile. The Board asserts that FERPA would allow Gavin to subsequently challenge the Board's decisions in federal court, *see* Def.'s Mem. 46, but the decisions cited by the Board were all issued before the Supreme Court held in *Gonzaga University v. Doe*, 536 U.S. 273, 287 (2002), that FERPA does not provide a private right of action.

**V. Gavin's Claims for Nominal Damages Are Not "Moot."**

Finally, the Board reasserts that Gavin's claims related to the restroom policy are "moot" because Gavin seeks only nominal damages and declaratory relief for those claims. Def.'s Mem. 47. As the Board acknowledges, this Court has already rejected that argument as foreclosed by binding Fourth Circuit precedent. ECF No. 132.

But even if this Court were free to disregard Fourth Circuit precedent in favor of the Eleventh Circuit's decision in *Flanigan's Enterprises, Inc. of Georgia v. City of Sandy Springs, Georgia*, 868 F.3d 1248, 1263 (11th Cir. 2017) (en banc), Gavin's claims would not be moot under the *Flanigan's* standard either. The *Flanigan's* court noted that its decision "does not foreclose the exercise of jurisdiction in all cases where a plaintiff claims only nominal damages." *Id.* at 1264 n.12. Rather, the court determined that because the plaintiffs were challenging an ordinance that was repealed before it was ever actually applied to them, the plaintiffs "have already won," and nominal damages "would serve no purpose other than to affix a judicial seal of approval to an outcome that has already been realized." *Id.* at 1264.

The posture of this case is obviously different. The Board enforced its policy against Gavin for almost three years of high school, and the Board has still not repealed it. The Board inflicted real harm on Gavin, and nominal damages are an appropriate way of redressing that injury. As the Fourth Circuit has recognized:

“The term ‘nominal damages’ describes two types of awards: (1) those damages recoverable where a legal right is to be vindicated against an invasion that has produced no actual, present loss of any kind; and (2) the very different allowance made when actual loss or injury is shown, but the plaintiff fails to prove the amount of damages.”

*Minn. Lawyers Mut. Ins. Co. v. Batzli*, 442 F. App’x 40, 51 (4th Cir. 2011) (quoting 22 Am. Jur. 2d Damages § 8 (2003)); *see also Bains LLC.*, 405 F.3d at 772. Gavin’s claim for nominal damages falls into the second category, and those types of nominal damages cannot be deemed “moot” even under the position adopted by the Eleventh Circuit.

### CONCLUSION

For all these reasons, Defendant’s Motion for Summary Judgment should be denied, and Plaintiff’s Motion for Summary Judgment should be granted.



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

GAVIN GRIMM, ,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Case No. 4:15-cv-54
	)	
GLOUCESTER COUNTY SCHOOL	)	
BOARD,	)	
	)	
Defendant.	)	
_____	)	

**DECLARATION OF SHAYNA MEDLEY-WARSOFF**

I, Shayna Medley-Warsoff, submit the following declaration in support of Plaintiff Gavin Grimm’s opposition to Defendant’s motion for summary judgment. I am one of the attorneys for Gavin Grimm, and I have personal knowledge of the facts in this attorney declaration. If called upon to testify, I could competently testify to the matters set forth in this declaration.

1. A copy of the deposition of Dr. Melinda Penn is attached to this Declaration as Exhibit 1.
2. A copy of the deposition of Gavin Grimm is attached to this Declaration as Exhibit 2.
3. A copy of page 451 of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders Fifth Edition (DSM-V), originally produced as Exhibit L to Defendant’s Motion for Summary Judgment, is attached to this Declaration as Exhibit 3.
4. A copy of pages 452-53 of the DSM-V is attached to this Declaration as Exhibit 4.

5. A copy of the email from Amy Bergh to Nate Collins dated October 28, 2014, originally produced as GCSB 03541 and attached as Exhibit 1 to the deposition of Gavin Grimm, is attached to this Declaration as Exhibit 5.

6. I have reviewed the video recording of the Gloucester County School Board meeting dated February 19, 2019, which is available online at [http://gloucester.granicus.com/MediaPlayer.php?view\\_id=10&clip\\_id=2043](http://gloucester.granicus.com/MediaPlayer.php?view_id=10&clip_id=2043). At 11:03, David Corrigan, attorney for the Gloucester County School Board, says, "This standard that is under consideration is based on upon what the Virginia High School League, of which all of Gloucester County schools are members, already has in place with respect to athletic competition involving transgender students among the members of the VHSL."

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: April 9, 2019



Shayna Medley-Warsoff



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# Transcript of Melinda Penn, M.D.

**Date:** March 14, 2019

**Case:** Grimm -v- Gloucester County School Board

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

1	3
<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE EASTERN DISTRICT OF VIRGINIA</p> <p>3 NEWPORT NEWS DIVISION</p> <p>4 -----X</p> <p>5 GAVIN GRIMM, :</p> <p>6 Plaintiff, :</p> <p>7 v. : CASE NO.:</p> <p>8 GLOUCESTER COUNTY SCHOOL : 4:15-cv-54</p> <p>9 BOARD, :</p> <p>10 Defendant. :</p> <p>11 -----X</p> <p>12</p> <p>13 Deposition of MELINDA PENN, M.D.</p> <p>14 Richmond, Virginia</p> <p>15 Thursday, March 14, 2019</p> <p>16</p> <p>17 10:15 a.m.</p> <p>18</p> <p>19</p> <p>20 Job No.: 234511</p> <p>21 Pages 1 - 92</p> <p>22 Reported by: Helen B. Yarbrough, RPR, CCR</p>	<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 ON BEHALF OF PLAINTIFF GAVIN GRIMM:</p> <p>4 JOSHUA A. BLOCK, ESQUIRE</p> <p>5 LESLIE COOPER, ESQUIRE (Via Telephone)</p> <p>6 SHAYNA MEDLEY-WARSOFF, ESQUIRE</p> <p>7 AMERICAN CIVIL LIBERTIES UNION</p> <p>8 125 Broad Street, 18th Floor</p> <p>9 New York, New York 10004</p> <p>10 212-549-2500</p> <p>11 and</p> <p>12 JENNIFER SAFSTROM, ESQUIRE</p> <p>13 AMERICAN CIVIL LIBERTIES UNION</p> <p>14 701 East Franklin Street, Suite 1412</p> <p>15 Richmond, Virginia 23219</p> <p>16 804-644-8080</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
2	4
<p>1 Deposition of MELINDA PENN, M.D., held at the</p> <p>2 offices of:</p> <p>3</p> <p>4 ACLU OF VIRGINIA</p> <p>5 701 East Franklin Street, Suite 1412</p> <p>6 Richmond, Virginia 23219</p> <p>7</p> <p>8</p> <p>9</p> <p>10 Pursuant to agreement, before Helen B.</p> <p>11 Yarbrough, RPR, CCR, Notary Public in and for the</p> <p>12 Commonwealth of Virginia.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 A P P E A R A N C E S (Continued)</p> <p>2</p> <p>3 ON BEHALF OF DEFENDANT GLOUCESTER COUNTY</p> <p>4 SCHOOL BOARD:</p> <p>5 JEREMY D. CAPPS, ESQUIRE</p> <p>6 HARMAN, CLAYTOR, CORRIGAN &amp; WELLMAN</p> <p>7 4951 Lake Brook Drive, Suite 100</p> <p>8 Glen Allen, Virginia 23060</p> <p>9 804-747-5200</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

<p style="text-align: right;">5</p> <p style="text-align: center;">I N D E X</p> <p style="text-align: right;">PAGE</p> <p>EXAMINATION OF MELINDA PENN, M.D.</p> <p>By Mr. Capps 6</p> <p style="text-align: center;">E X H I B I T S</p> <p style="text-align: right;">PAGE</p> <p>Exhibit 1 Expert Report 10</p> <p>Exhibit 1A Curriculum Vitae 11</p> <p>Exhibit 1B WPATH Standards of Care 37</p> <p>Exhibit 1C Endocrine Society Guidelines 41</p> <p>Exhibit 2 Rebuttal Expert Report and Declaration 86</p>	<p style="text-align: right;">7</p> <p><b>1 A Yes.</b></p> <p>2 Q So you're familiar with the ground</p> <p>3 rules. If I ask you a question that you don't</p> <p>4 understand, please feel free to stop me, and I'll</p> <p>5 try to rephrase it.</p> <p>6 I will be sometimes inarticulate in</p> <p>7 medical terminology. You are welcome to correct</p> <p>8 me if you want, and we'll make sure that we are on</p> <p>9 the same page. Okay?</p> <p><b>10 A Okay.</b></p> <p>11 Q Who engaged you for this case?</p> <p><b>12 A Josh Block.</b></p> <p>13 Q And when were you engaged?</p> <p><b>14 A I believe it was over the summer, 2018.</b></p> <p>15 Q And have you reviewed any materials in</p> <p>16 preparing your expert report?</p> <p><b>17 A Yes.</b></p> <p>18 Q What did you review?</p> <p><b>19 A The Endocrine Society guidelines on</b></p> <p><b>20 transgender care and the WPATH guidelines and then</b></p> <p><b>21 various articles that have been published about</b></p> <p><b>22 transgender adolescence.</b></p>
<p style="text-align: right;">6</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>Whereupon,</p> <p style="text-align: center;">MELINDA PENN, M.D.,</p> <p>being first duly sworn or affirmed to testify to</p> <p>the truth, the whole truth, and nothing but the</p> <p>truth, was examined and testified as follows:</p> <p style="text-align: center;">EXAMINATION BY COUNSEL FOR THE DEFENDANT</p> <p>BY MR. CAPPS:</p> <p>Q Dr. Penn, my name is Jeremy Capps. I</p> <p>represent the Gloucester County School Board in a</p> <p>lawsuit that was brought by Gavin Grimm.</p> <p>You have been disclosed as an expert in</p> <p>this case. Are you aware of that?</p> <p><b>14 A Yes.</b></p> <p>Q Can you state your full name for the</p> <p>record?</p> <p><b>17 A Melinda Penn.</b></p> <p>Q And have you testified as an expert</p> <p>before?</p> <p><b>20 A No.</b></p> <p>Q Have you ever given deposition</p> <p>testimony before?</p>	<p style="text-align: right;">8</p> <p>1 Q As you sit here today, can you remember</p> <p>2 what articles you've reviewed?</p> <p><b>3 A Not specifically. It's different ones</b></p> <p><b>4 on medical health outcome and mental health</b></p> <p><b>5 concerns in transgender adolescence.</b></p> <p>6 Q Did you print those articles out after</p> <p>7 you reviewed them and save them?</p> <p><b>8 A Not specifically for this case. I have</b></p> <p><b>9 articles that I have for my patients and for</b></p> <p><b>10 endocrinology care.</b></p> <p>11 Q But as you sit here now, you are not</p> <p>12 able to name the titles of those articles?</p> <p><b>13 A No.</b></p> <p>14 Q Did you review the second amended</p> <p>15 complaint for this case?</p> <p><b>16 A Is that from Dr. Van Meter?</b></p> <p>17 Q That would be Dr. Van Meter's report.</p> <p><b>18 A Yes.</b></p> <p>19 Q So you reviewed Dr. Van Meter's report;</p> <p>20 is that correct?</p> <p><b>21 A Yes.</b></p> <p>22 Q Did you review the lawsuit, the paper</p>

<p style="text-align: right;">9</p> <p>1 that was filed by Gavin Grimm?</p> <p>2 <b>A No.</b></p> <p>3 Q Did you review any discovery in this</p> <p>4 case?</p> <p>5 <b>A No.</b></p> <p>6 Q Other than your original report and the</p> <p>7 rebuttal report that you prepared, have you</p> <p>8 prepared any other materials related to Gavin</p> <p>9 Grimm's lawsuit against Gloucester County School</p> <p>10 Board?</p> <p>11 <b>A No.</b></p> <p>12 Q As you sit here now, do you know how</p> <p>13 many hours of time you have put into this case</p> <p>14 serving as an expert?</p> <p>15 <b>A Not exactly. I've written down when</b></p> <p>16 <b>I've spoken about the case, but I haven't added it</b></p> <p>17 <b>up yet.</b></p> <p>18 Q And you're charging \$300 an hour; is</p> <p>19 that correct?</p> <p>20 <b>A Yes.</b></p> <p>21 Q Do you have a ballpark figure about how</p> <p>22 much time you have in it?</p>	<p style="text-align: right;">11</p> <p>1 that refer to or relate to Gavin Grimm?</p> <p>2 MR. BLOCK: Objection.</p> <p>3 <b>A Can you state that question again?</b></p> <p>4 Q Sure. You agree that in your report,</p> <p>5 you don't mention Gavin Grimm?</p> <p>6 <b>A Yes.</b></p> <p>7 Q And you agree that in the opinion</p> <p>8 section of your report, you have not expressed any</p> <p>9 opinions specific to Gavin Grimm?</p> <p>10 <b>A Yes.</b></p> <p>11 (Penn Deposition Exhibit 1A was marked</p> <p>12 for identification and is attached.)</p> <p>13 Q You can go ahead and put that to the</p> <p>14 side for the moment. We'll get back to it.</p> <p>15 I'm going to show you what's been</p> <p>16 marked as Exhibit 1A. That is the Attachment A to</p> <p>17 the binded report that I received. Is that your</p> <p>18 current CV?</p> <p>19 <b>A Yes.</b></p> <p>20 Q Are there any additions to your CV</p> <p>21 since you provided it back in January?</p> <p>22 <b>A I have done some additional</b></p>
<p style="text-align: right;">10</p> <p>1 <b>A Probably under ten hours.</b></p> <p>2 Q Have you reviewed the Gloucester County</p> <p>3 School Board Restroom Resolution?</p> <p>4 <b>A No.</b></p> <p>5 Q Have you received any information from</p> <p>6 Mr. Grimm's attorneys that you relied on in</p> <p>7 forming your opinions in this case?</p> <p>8 <b>A We've reviewed my expert --</b></p> <p>9 Q I'm not asking you that, and I'm not</p> <p>10 asking you for the comments on your report. What</p> <p>11 I'm asking is, did they -- did Mr. Grimm's lawyers</p> <p>12 give you any factual information that you relied</p> <p>13 on in coming to your opinions?</p> <p>14 <b>A No.</b></p> <p>15 (Penn Deposition Exhibit 1 was marked</p> <p>16 for identification and is attached.)</p> <p>17 Q I'm going to show you what's been</p> <p>18 previously marked as Exhibit 1. Is that the</p> <p>19 expert report that you prepared in this case?</p> <p>20 <b>A Yes.</b></p> <p>21 Q And in looking at that report, you</p> <p>22 agree that there are not any specific opinions</p>	<p style="text-align: right;">12</p> <p>1 <b>presentations locally at EVMS and CHKD, Eastern</b></p> <p>2 <b>Virginia Medical School and Children's Hospital of</b></p> <p>3 <b>the King's Daughters.</b></p> <p>4 Q What are the presentations that you</p> <p>5 gave?</p> <p>6 <b>A I gave a presentation for the pediatric</b></p> <p>7 <b>residents about transgender health care, and I</b></p> <p>8 <b>presented at a recent safe zone presentation for</b></p> <p>9 <b>the Children's Hospital.</b></p> <p>10 Q The presentation to the pediatric</p> <p>11 residents, when was that?</p> <p>12 <b>A That was, I believe, November or</b></p> <p>13 <b>December of 2018.</b></p> <p>14 Q And the safe zone?</p> <p>15 <b>A That was last week.</b></p> <p>16 Q And have you published any articles or</p> <p>17 chapters that are not included on your current CV?</p> <p>18 <b>A No.</b></p> <p>19 Q I asked you if you had ever -- I'm not</p> <p>20 sure what I asked, what my first question was</p> <p>21 about an expert. I think I asked if you'd ever</p> <p>22 served as an expert before. Have you ever served</p>

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.**

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?

15

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

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.**

<p style="text-align: right;">17</p> <p>1 Q I'm sorry. Did I misstate it?</p> <p>2 A <b>Uh-huh.</b></p> <p>3 Q So you had your fellowship from</p> <p>4 July 2007 through August of 2010; is that correct?</p> <p>5 A <b>Yes.</b></p> <p>6 Q What was your fellowship in?</p> <p>7 A <b>Pediatric endocrinology.</b></p> <p>8 Q And what is pediatric endocrinology?</p> <p>9 A <b>It's the study of hormones and hormone</b></p> <p>10 <b>disorders.</b></p> <p>11 Q In persons under the age of 18?</p> <p>12 A <b>Yes. Well, we continue up until about</b></p> <p>13 <b>21.</b></p> <p>14 Q So in your practice in pediatric</p> <p>15 endocrinology, you would treat patients up to</p> <p>16 approximately the age of 21?</p> <p>17 A <b>Yes.</b></p> <p>18 Q And during your fellowship in pediatric</p> <p>19 endocrinology, did you receive any training on the</p> <p>20 treatment of transgender individuals?</p> <p>21 A <b>We didn't have formal education, but</b></p> <p>22 <b>there was discussion.</b></p>	<p style="text-align: right;">19</p> <p>1 <b>that I had attended.</b></p> <p>2 Q And as you sit here today, do you</p> <p>3 remember any conferences that you attended on --</p> <p>4 during your fellowship that involved the treatment</p> <p>5 of transgender individuals?</p> <p>6 A <b>Yes.</b></p> <p>7 Q What were those?</p> <p>8 A <b>Dr. Norman Spack from Boston Children's</b></p> <p>9 <b>has a gender clinic and spoke at -- I believe it</b></p> <p>10 <b>was a Pediatric Endocrine Society meeting.</b></p> <p>11 Q Do you remember when that occurred?</p> <p>12 A <b>Not specifically.</b></p> <p>13 Q Other than the conference with</p> <p>14 Dr. Norman Spack --</p> <p>15 Can you spell that?</p> <p>16 A <b>S-P-A-C-K.</b></p> <p>17 Q -- that Dr. Norman Spack presented, do</p> <p>18 you recall any other conferences that you attended</p> <p>19 that involved the treatment of transgender</p> <p>20 individuals?</p> <p>21 A <b>I believe at the Endocrine Society</b></p> <p>22 <b>national conference I attended some discussions</b></p>
<p style="text-align: right;">18</p> <p>1 Q And so when you say you had discussion,</p> <p>2 what did that involve?</p> <p>3 A <b>Speaking about patients and discussing</b></p> <p>4 <b>the care that was occurring at other facilities.</b></p> <p>5 Q And is that -- would that be like on</p> <p>6 rounds, presenting on special --</p> <p>7 A <b>Yes.</b></p> <p>8 Q I'm sorry.</p> <p>9 -- presenting on individual patients?</p> <p>10 A <b>As we came across them in outpatient</b></p> <p>11 <b>clinic or inpatient, and then just discussing in</b></p> <p>12 <b>general the literature that was coming out.</b></p> <p>13 Q During your fellowship, did you have</p> <p>14 any medical training on the treatment of gender</p> <p>15 identity disorder?</p> <p>16 A <b>No.</b></p> <p>17 Q Did you have, during your fellowship,</p> <p>18 any medical training on the treatment of gender</p> <p>19 dysphoria?</p> <p>20 A <b>Just in what I just stated.</b></p> <p>21 Q The discussion?</p> <p>22 A <b>Just the discussions and conferences</b></p>	<p style="text-align: right;">20</p> <p>1 <b>about gender dysphoria.</b></p> <p>2 Q Did you have any formal education other</p> <p>3 than those conferences on gender dysphoria?</p> <p>4 A <b>No.</b></p> <p>5 Q During your fellowship, did you</p> <p>6 participate in any research studies on gender</p> <p>7 dysphoria or transgender individuals?</p> <p>8 A <b>No.</b></p> <p>9 Q During your fellowship, did you</p> <p>10 participate in preparing any articles or</p> <p>11 literature on gender dysphoria or transgender</p> <p>12 individuals?</p> <p>13 A <b>No.</b></p> <p>14 MR. BLOCK: Jeremy, is now a good time</p> <p>15 to call Leslie?</p> <p>16 MR. CAPPS: Yes. Let's take a break.</p> <p>17 I meant to say if you want a break at any time,</p> <p>18 tell me.</p> <p>19 (A recess was taken.)</p> <p>20 (Ms. Cooper joins the deposition by</p> <p>21 telephone.)</p> <p>22</p>

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.

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

23

1 diabetes and transgender care.

2 Q How long have you been at the

3 Children's Specialty Group?

4 A I have been there since July of 2018.

5 Q And since you joined Children's

6 Specialty Group, what's the percentage of your

7 patients that you treat who are transgender?

8 A It's hard to estimate since it's a new

9 practice for me. I see several a month. But

10 because all of the patients are new to me and I'm

11 building the practice, it's difficult to determine

12 exactly how many I'm seeing currently.

13 Q So are you able to say how many

14 transgender children or adolescents that you've

15 treated since you've gone to Children's Specialty

16 Group?

17 A I would estimate that currently I've

18 had probably about 25 patients.

19 Q And what is your involvement in the

20 treatment of those patients?

21 A When I joined Children's Specialty

22 Group, there was a previous pediatric

24

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

25	<p>1 means that we will provide estrogen or</p> <p>2 testosterone to have feminizing or masculinizing</p> <p>3 effects.</p> <p>4 Q Does your practice now involve any</p> <p>5 other types of care other than -- strike that.</p> <p>6 Does your practice now, involving</p> <p>7 transgender individuals, provide any other type of</p> <p>8 medical treatment other than the hormone therapy</p> <p>9 that you just described?</p> <p>10 A So, when I see patients who are</p> <p>11 transgender and have gender dysphoria, some choose</p> <p>12 not to proceed with any treatment; and some</p> <p>13 patients, I'm just meeting with and giving them</p> <p>14 the options of what's available. So there are</p> <p>15 patients that I see and I follow who haven't</p> <p>16 decided to embark on hormone therapy. But if they</p> <p>17 want endocrine care, then that's what's provided.</p> <p>18 Q All right. And before you went to the</p> <p>19 Children's Specialty Group, you worked at Virginia</p> <p>20 Commonwealth University?</p> <p>21 A Yes.</p> <p>22 Q And you started at VCU when you ended</p>	27	<p>1 specialized in LGBT adolescent care, and she had</p> <p>2 adult hormone providers but no pediatric hormone</p> <p>3 providers in the area, and the adult providers</p> <p>4 knew of me and recommended that she speak with me,</p> <p>5 so I started discussions with her.</p> <p>6 Q And who is the local psychologist?</p> <p>7 A Dr. Lisa Griffin.</p> <p>8 Q And it says on your CV that you --</p> <p>9 maybe it was in your report -- but, that you</p> <p>10 started a pediatric transgender health clinic at</p> <p>11 VCU?</p> <p>12 A Yes.</p> <p>13 Q And who did you start that with?</p> <p>14 A Dr. Susan Jones, a child and adolescent</p> <p>15 psychiatrist.</p> <p>16 Q Were there any other endocrinologists</p> <p>17 associated with the program?</p> <p>18 A When I left VCU, another</p> <p>19 endocrinologist joined and took part in the</p> <p>20 program. But while I was there, I was the only</p> <p>21 endocrinologist taking care of the transgender</p> <p>22 patients.</p>
26	<p>1 your fellowship?</p> <p>2 A Yes. September 2010.</p> <p>3 Q So that was your first job out of --</p> <p>4 after your fellowship?</p> <p>5 A Yes.</p> <p>6 Q And what did you do at VCU?</p> <p>7 A I provided pediatric endocrine care for</p> <p>8 patients.</p> <p>9 Q And while you were at VCU, did you</p> <p>10 receive any training on the treatment of</p> <p>11 transgender individuals?</p> <p>12 A I attended workshops and conferences</p> <p>13 that discussed transgender care.</p> <p>14 Q Have you had any formal education</p> <p>15 during your time at VCU on the treatment of</p> <p>16 transgender individuals?</p> <p>17 A Just the attendance of conferences.</p> <p>18 Q When did you begin treating transgender</p> <p>19 individuals?</p> <p>20 A I believe it was 2013.</p> <p>21 Q And tell me, how did that come about?</p> <p>22 A There was a local psychologist who</p>	28	<p>1 Q When you took care of the transgender</p> <p>2 patients at VCU, were they all under 21, or were</p> <p>3 there adults?</p> <p>4 A When I began their care, they were</p> <p>5 under 21. Some may have been over 21 while they</p> <p>6 were still in my care.</p> <p>7 Q After you opened the pediatric</p> <p>8 transgender health clinic, did you receive any</p> <p>9 specialized training in the treatment of pediatric</p> <p>10 transgender individuals?</p> <p>11 A Just attendance at conferences and</p> <p>12 speaking to other endocrinologists who had had</p> <p>13 prior experience with transgender care.</p> <p>14 Q And in providing your treatment at VCU,</p> <p>15 did you rely on any standards of care or</p> <p>16 guidelines?</p> <p>17 A Yes. The Endocrine Society standards</p> <p>18 of care and WPATH guidelines.</p> <p>19 Q And in your treatment of transgender</p> <p>20 individuals at VCU, did you provide any mental</p> <p>21 health care?</p> <p>22 A No, not in my -- I didn't provide it.</p>

29	<p><b>1 I worked with mental health providers who provided</b></p> <p><b>2 it.</b></p> <p>3 Q Right. But you're not a licensed</p> <p>4 mental health provider?</p> <p><b>5 A No.</b></p> <p>6 Q And as you sit here now, do you</p> <p>7 remember the conferences that you attended</p> <p>8 concerning the treatment of transgender</p> <p>9 individuals while you were at VCU?</p> <p><b>10 A The Pediatric Endocrine Society has a</b></p> <p><b>11 national conference and typically has a couple</b></p> <p><b>12 lectures that are about transgender care, and the</b></p> <p><b>13 Philadelphia Transhealth conference is an annual</b></p> <p><b>14 conference, and I attended that. I'd have to look</b></p> <p><b>15 back to see exactly what year it was. And they</b></p> <p><b>16 had a health care and medical path in that</b></p> <p><b>17 conference that I attended.</b></p> <p>18 Q And your treatment of transgender</p> <p>19 individuals while you were at VCU, was that any</p> <p>20 different than your current treatment of these</p> <p>21 individuals now that you're at the Children's</p> <p>22 Specialty Group?</p>	31
30	<p>1 <b>A No.</b></p> <p>2 Q Same type of hormone therapy treatment,</p> <p>3 endocrine treatment?</p> <p>4 <b>A Yes.</b></p> <p>5 Q While you were at VCU, did you</p> <p>6 participate in any research studies involving</p> <p>7 transgender individuals?</p> <p>8 <b>A No.</b></p> <p>9 Q Did you track in any formal way the</p> <p>10 progress of the transgender individuals that you</p> <p>11 treated at the pediatric transgender health clinic</p> <p>12 at VCU?</p> <p><b>13 A Not in any formal way.</b></p> <p>14 Q Did you participate in any research --</p> <p>15 strike that.</p> <p>16 Did you participate in any -- in</p> <p>17 preparing any written articles or literature</p> <p>18 involving the treatment of transgender individuals</p> <p>19 while you were at VCU?</p> <p><b>20 A No.</b></p> <p>21 Q How did you leave VCU to go to the</p> <p>22 Children's Specialty Group?</p>	32
31	<p>1 <b>A I wanted a new position and felt like</b></p> <p><b>2 this position gave me more support as a</b></p> <p><b>3 specialist.</b></p> <p>4 Q Is the transgender health clinic still</p> <p>5 operating at VCU?</p> <p><b>6 A I believe so. The endocrinologist who</b></p> <p><b>7 came on after me, I think, has left VCU, so I'm</b></p> <p><b>8 not sure who's heading that now.</b></p> <p>9 Q So at least as of right now, you do not</p> <p>10 have any collaboration with VCU's transgender</p> <p>11 health clinic?</p> <p><b>12 A No.</b></p> <p>13 Q All right. Have you ever participated</p> <p>14 in any peer-reviewed research studies involving</p> <p>15 transgender individuals?</p> <p><b>16 A No.</b></p> <p>17 Q Have you ever participated in any</p> <p>18 peer-reviewed research studies involving gender</p> <p>19 identity disorder?</p> <p><b>20 A No.</b></p> <p>21 Q Have you ever participated in any</p> <p>22 peer-reviewed research studies involving gender</p>	33
32	<p>1 dysphoria?</p> <p><b>2 A No.</b></p> <p>3 Q As you sit here now, have you published</p> <p>4 any articles or literature or books related to the</p> <p>5 treatment of transgender individuals?</p> <p><b>6 A No.</b></p> <p>7 Q Have you published any articles,</p> <p>8 literature, or chapters in books regarding the</p> <p>9 treatment of gender dysphoria?</p> <p><b>10 A No.</b></p> <p>11 Q Have you published any articles,</p> <p>12 literature, or chapters in books related to the</p> <p>13 treatment of gender identity disorder?</p> <p><b>14 A No.</b></p> <p>15 Q Have you ever received any state or</p> <p>16 federal grant funding to conduct research into the</p> <p>17 treatment of transgender individuals?</p> <p><b>18 A No.</b></p> <p>19 Q All right. In your report, you state</p> <p>20 that you are a member of WPATH.</p> <p><b>21 A Yes.</b></p> <p>22 Q What is WPATH?</p>	34

33

1     **A**   **It's an international society for**  
2 **people who provide health care for transgender**  
3 **individuals.**  
4     Q    What is the purpose of the WPATH  
5 organization?  
6     **A**   **I don't know exactly what their stated**  
7 **purpose is, but it's to promote education about**  
8 **transgender health care.**  
9     Q    Is it a medical organization?  
10    **A**   **It's a professional society.**  
11    Q    What's that mean?  
12    **A**   **I believe you have to be a health care**  
13 **provider to join it, but that can include mental**  
14 **health providers as well.**  
15    Q    Do you know, as you sit here now, what  
16 the qualifications are to be a member of WPATH?  
17    **A**   **I believe you had to have a medical**  
18 **license of some sort or some sort of professional**  
19 **licensure.**  
20    Q    Did you fill out an application to be a  
21 member?  
22    **A**   **Yes.**

34

1     Q    And are there annual dues to be a  
2 member?  
3     **A**   **Yes.**  
4     Q    What are the annual dues?  
5     **A**   **I don't recall.**  
6     Q    Have you participated in preparing the  
7 standards of care issued by WPATH?  
8     **A**   **No.**  
9     Q    You also state that you are a member of  
10 the Pediatric Endocrine Society?  
11    **A**   **Yes.**  
12    Q    What is that?  
13    **A**   **It's a professional society for**  
14 **pediatric endocrinologists in the U.S.**  
15    Q    And do you have to be a pediatric  
16 endocrinologist to join?  
17    **A**   **Yes.**  
18    Q    And did you participate in preparing  
19 the Pediatric Endocrine Society guidelines  
20 concerning the treatment of transgender  
21 individuals?  
22    **A**   **No.**

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

36

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?

37

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

38

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

39

1 you don't proceed with the treatment?  
 2 **A Yes.**  
 3 Q And if the child that you're treating  
 4 disagrees with how the parents want the treatment  
 5 to proceed, does that mean you don't provide the  
 6 medical treatment to the individual?  
 7 MR. BLOCK: Objection. You said  
 8 "child," and we previously talked about children  
 9 versus adolescents, so I wanted to clarify.  
 10 Q Maybe I got my terms confused. Are you  
 11 treating adolescents or children?  
 12 **A If I'm providing medical hormone**  
 13 **therapy, then they would be adolescents.**  
 14 Q And you treat children in your practice  
 15 that are -- that you would not consider to be  
 16 adolescents?  
 17 **A In my endocrine practice. And I do see**  
 18 **some transgender children as initial consults, but**  
 19 **I don't provide any medical treatment for them**  
 20 **until they've had some degree of puberty.**  
 21 Q So let me see if I can get my question  
 22 out right.

40

1 MR. BLOCK: Sorry.  
 2 MR. CAPPS: That's all right.  
 3 Q If the transgender adolescent that  
 4 you're treating does not agree with the parents'  
 5 preferred method of medical treatment, does that  
 6 mean you do not provide medical treatment to the  
 7 adolescent?  
 8 **A In order to get treatment, the parents**  
 9 **have to have agreed, as well as the adolescent, to**  
 10 **proceed with treatment.**  
 11 Q Are you aware of any formal studies,  
 12 scientific studies, that have documented the  
 13 prevalence of transgender adolescents?  
 14 **A There have been some research studies,**  
 15 **but I don't think that we have any current ones**  
 16 **that adequately address the current population of**  
 17 **transgender patients.**  
 18 Q Do you know who participated in  
 19 creating the clinical guidelines for the Endocrine  
 20 Society?  
 21 **A There are a number of endocrinologists**  
 22 **from different areas across the U.S. and**

41	<p><b>1 internationally that were consulted.</b>                  2 (Penn Deposition Exhibit 1C was marked                  3 for identification and is attached.)                  4 Q I'm going to show you what's been                  5 marked as Exhibit 1C. Is that the Pediatric                  6 Endocrine Society guidelines that you rely on?                  7 MR. BLOCK: Objection. It's not the                  8 Pediatric Endocrine Society. It's the Endocrine                  9 Society.                  10 Q Sorry. The Endocrine Society                  11 guidelines that you rely on?  <b>12 A Yes.</b>                  13 Q Are there guidelines that are specific                  14 to pediatric transgender patients?  <b>15 A Within the Endocrine Society</b>  <b>16 guidelines, they specifically discuss pediatric</b>  <b>17 care.</b>                  18 Q Are you a member of the Endocrine                  19 Society?  <b>20 A I'm not currently an Endocrine Society</b>  <b>21 member, but I'm a member of the Pediatric</b>  <b>22 Endocrine Society.</b></p>	43
42	<p>1 Q Has the Pediatric Endocrine Society put                  2 out guidelines for the treatment of transgender                  3 pediatric patients?  <b>4 A They have supported these Endocrine</b>  <b>5 Society guidelines.</b>                  6 Q Do you know what the scientific                  7 methodology was used -- strike that.                  8 Do you know what scientific methodology                  9 was used in creating the Pediatric Endocrine                  10 Society guidelines?  <b>11 A They reviewed studies that are</b>  <b>12 available and came up with best practices.</b>                  13 Q And do you know what percentage of                  14 Endocrine Society members agreed with the                  15 guidelines?  <b>16 A No.</b>                  17 Q Do you know whether the guidelines were                  18 adopted by a vote?  <b>19 A No.</b>                  20 Q In your report, in paragraph 9 you                  21 stated that in the five -- the past five years,                  22 you've treated approximately -- well, you've</p>	44
	<p>1 treated over a hundred transgender youth and                  2 adolescents in Virginia?  <b>3 A Yes.</b>                  4 Q Have you done any follow-up studies on                  5 the patients, the individuals -- transgender --                  6 strike that, and I'm going to try again.                  7 Have you done any follow-up studies on                  8 the transgender individuals that you have treated                  9 in the last five years?  <b>10 A No, only through clinical follow-up.</b>                  11 Q You have not documented their outcomes                  12 after you have provided your treatment; is that                  13 correct?  <b>14 A I document as I'm seeing them</b>  <b>15 clinically, but I haven't collected that data.</b>                  16 Q Have you, in your practice over the                  17 last five years, conducted any studies to                  18 determine the benefits to the transgender                  19 individuals -- strike that.                  20 Have you conducted any studies to                  21 determine the benefits of your medical treatment                  22 to any of the transgender individuals that you</p>	
	<p>1 have provided care to?  <b>2 A No.</b>                  3 Q I know I'm jumping around, but if you                  4 look at your report at paragraph 12, you stated,                  5 "In preparing this report, I relied on . . .                  6 scientific literature on this topic."                  7 Do you see that?  <b>8 A Yes.</b>                  9 Q What is the scientific literature that                  10 you relied on?  <b>11 A Some of the studies that are referred</b>  <b>12 to in the guidelines.</b>                  13 Q And as you sit here now, can you tell                  14 me what studies those are?  <b>15 A Can I refer to the guidelines?</b>                  16 Q Yeah, of course.  <b>17 A The ones that we referred to in my</b>  <b>18 document are ones that I've referred to</b>  <b>19 specifically.</b>                  20 Q So the literature that you relied on is                  21 set out in your expert report; is that correct?  <b>22 A Yes. And in addition, I've reviewed</b></p>	

45

**1 other documents that are referred to in the**  
**2 guidelines. Specifically for my report, those are**  
**3 documented in here.**  
 4 Q So looking at your opinions, if you  
 5 look at paragraph 17, you state that, "The term  
 6 'gender identity' refers to a person's innate  
 7 sense of belonging to a particular gender."  
**8 A Yes.**  
 9 Q Where did you get that definition?  
**10 A The endocrine guidelines.**  
 11 Q And you then state that the precise  
 12 etiology of gender identity is unknown?  
**13 A Yes.**  
 14 Q What do you mean by that?  
**15 A There are no precise causes that have**  
**16 been identified that guarantee your gender**  
**17 identity.**  
 18 Q So does that mean there's no scientific  
 19 data that can determine an individual's gender  
 20 identity?  
**21 A Yes. There's no specific test that you**  
**22 can do.**

46

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**

47

**1 the sex at birth, and the biological sex is**  
**2 imprecise and doesn't address all of those.**  
 3 Q So you would agree that a -- that sex  
 4 is determined by chromosomal makeup and  
 5 reproductive organs, correct?  
 6 MR. BLOCK: Objection.  
**7 A Those are two components that can**  
**8 contribute to the sex that's assigned at birth,**  
**9 but there's chromosomal, hormonal, anatomic**  
**10 conditions that all have to align to help with the**  
**11 sex assigned at birth.**  
 12 Q Have you ever, as a pediatrician, been  
 13 asked to determine the sex of an infant at birth?  
**14 A Yes. As a pediatric endocrinologist,**  
**15 we are involved with the diagnosis of children**  
**16 with ambiguous genitalia.**  
 17 Q Is that different than the phrase  
 18 "intersex"?  
**19 A That's related to intersex.**  
 20 Q Outside of a case where an infant has  
 21 ambiguous genitalia, are you asked to recognize  
 22 the sex at birth as a pediatrician?

48

**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.**

49

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.

50

1 Q And in situations where you look to the  
2 reproductive organs to determine the sex of an  
3 infant born at birth, that is a biological basis  
4 for your determination, correct?  
5 A Can you say that again?  
6 Q When you look to the reproductive  
7 organs to determine the sex of an infant born at  
8 birth, that is a biological basis for your  
9 determination, correct?  
10 A Yes. But there are cases where just  
11 the appearance of the genitalia are not always  
12 aligned and appropriate.  
13 Q I was talking about the internal  
14 reproductive organs that you discussed.  
15 A Not always.  
16 Q That's not always a biological basis?  
17 A Yes.  
18 Q And how is that?  
19 A There are cases where there are people  
20 who have XY chromosomes but don't respond to  
21 androgens or to testosterone. They would have no  
22 internal uterus. They would have testes, but

51

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

52

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

53

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,

54

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**

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

56

1 copy of the DSM, even with your markings?

2 MR. CAPPS: Yes. That's fine. I'm

3 not . . .

4 **A I don't know how old the data is or how**

5 **they obtained the information. That can really**

6 **vary from -- by determining what population they**

7 **looked at.**

8 Q Is there a difference in the treatment

9 that you provide to transgender individuals with

10 gender dysphoria that do not have a disorder of

11 sex development, versus having a disorder of sex

12 development?

13 **A I guess it would depend on what**

14 **disorder of sexual differentiation you are**

15 **referring to. Many of those patients need**

16 **different treatment than what we would provide for**

17 **gender dysphoria.**

18 Q And the reason I ask is the DSM-V has a

19 section that differentiates. It says gender

20 dysphoria without a disorder of sex development

21 and gender dysphoria with a disorder of sex

22 development. So I was curious whether your

57

1 treatment is different under those scenarios.  
 2 **A Yes, it would be different. But it**  
 3 **would apply to the individual. It's not**  
 4 **distinctly different.**  
 5 Q In paragraph 23 of your report, you  
 6 identify medical treatment for gender dysphoria  
 7 that involves helping a transgender person live in  
 8 alignment with their gender identity. Do you see  
 9 that?  
 10 **A Yes.**  
 11 Q You say, "This treatment is sometimes  
 12 referred to as 'gender transition, 'transition  
 13 related care,' or 'gender-affirming care.'"  
 14 Do you see that?  
 15 **A Yes.**  
 16 Q As part of your medical practice, do  
 17 you provide medical treatment that involves  
 18 gender-affirming care?  
 19 **A Yes.**  
 20 Q And what is the medical treatment that  
 21 you provide related to gender-affirming care?  
 22 **A I provide pubertal suppression where we**

58

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**

59

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

60

1 transition?  
 2 **A I can't think of anyone in particular.**  
 3 **Typically, in order for a patient to come to me,**  
 4 **they have some desire of the social transition**  
 5 **because they need the hormones to be able to**  
 6 **display their signs of their gender. So I have a**  
 7 **biased patient population in that way.**  
 8 Q Are you aware of a treatment approach  
 9 that's kind of been described as a  
 10 "let's-wait-and-see approach"?  
 11 **A Yes.**  
 12 Q And do you have an opinion on that  
 13 medical approach to treating transgender  
 14 individuals?  
 15 **A In general, I think the wait-and-see**  
 16 **discusses seeing what happens at puberty; and**  
 17 **typically, since I'm seeing the patients at**  
 18 **puberty who are still displaying the gender**  
 19 **identity, that's been my experience, that those**  
 20 **patients are now coming to me for treatment of**  
 21 **their dysphoria.**  
 22 Q Do you agree that the wait-and-see

61

1 approach can be an appropriate medical treatment?  
 2 MR. BLOCK: Can I just object just in  
 3 terms of the foundation about what you're  
 4 referring to as the wait-and-see approach?  
 5 MR. CAPPS: I thought I'd done that  
 6 when I asked her if she was aware of it.  
 7 Q What is your understanding of what I  
 8 refer to as a "counseling" or sometimes referred  
 9 to as a "wait-and see approach"? What is your  
 10 understanding?  
 11 **A In my experience -- well, in general,**  
 12 **we're not making any permanent changes until a**  
 13 **child has begun to have pubertal changes. I think**  
 14 **the wait-and-see sometimes can be determined as**  
 15 **just social changes or limited social changes, and**  
 16 **then more definitive gender care once puberty has**  
 17 **started and their gender identity has persisted.**  
 18 Q In paragraph 25 of your report, we  
 19 talked about the social transition plan; and in  
 20 it, you said it can include allowing children to  
 21 wear clothing, to cut or grow their hair, to use  
 22 names and pronouns and restrooms and other

62

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

63

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?

64

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

65

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

66

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. Is 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

67

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

68

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

69

1 gender dysphoria, a transgender student wants to  
 2 use the restroom that is consistent with their  
 3 recognized sex at birth, is that medically  
 4 appropriate?  
 5 **A Say that again.**  
 6 Q If a transgender student wants to use  
 7 the restroom that is consistent with their  
 8 recognized sex at birth, is that medically  
 9 appropriate?  
 10 **A Yes.**  
 11 Q Are you aware of any studies that show  
 12 how many transgender students want to use --  
 13 continue to use the restroom consistent with their  
 14 recognized sex at birth?  
 15 **A I'm not aware of any studies that have**  
 16 **looked at that.**  
 17 Q Are you aware of whether there has been  
 18 any research or studies into whether transgender  
 19 students want -- who want to use the restroom  
 20 consistent with their recognized sex at birth?  
 21 **A I'm not aware of any studies.**  
 22 Q If a transgender student wants to use a

70

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

71

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?

72

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

73

1 school?

2 **A No.**

3 Q Are you aware of any scientific studies

4 or empirical data that measures the impact or

5 effect on gender dysphoria by permitting

6 transgender students to use a single user restroom

7 at school?

8 **A No.**

9 MR. CAPPS: Can we just take a minute?

10 MR. BLOCK: Yes. Sure.

11 MS. COOPER: Just letting you know I'm

12 going to drop off right now.

13 (A recess was taken.)

14 BY MR. CAPPS: (Continuing)

15 Q So if we look at paragraphs 27 and 28

16 of your report, in these paragraphs, you're

17 outlining your opinions on the use of

18 puberty-blocking hormone treatment; is that

19 correct?

20 **A Yes.**

21 Q And that's what you do in your

22 practice; is that correct?

74

1 **A Yes. That's one of the components of**

2 **what I can do.**

3 Q And you provide this medical treatment

4 to transgender adolescents in order to address

5 their gender dysphoria; is that correct?

6 **A Yes.**

7 Q And when you provide the

8 puberty-blocking hormone treatment, do you see an

9 improvement in the transgender adolescent's gender

10 dysphoria?

11 **A Yes. In some patients, with pubertal**

12 **suppression alone, I see improvement in their**

13 **dysphoria.**

14 Q And are there patients that you have

15 treated that you have not seen an improvement in

16 gender dysphoria?

17 **A Yes. Some persist with gender**

18 **dysphoria.**

19 Q Have you seen transgender patients

20 whose gender dysphoria did not improve in any

21 measurable way despite all of the medical

22 treatment that was provided to the patient?

75

1 **A I have had patients who continue to**

2 **have some dysphoria, but in general they have**

3 **improvements in some way.**

4 Q And then in paragraphs 29 and 30 and, I

5 guess, 31, you talk about providing

6 gender-affirming hormone therapy?

7 **A Yes.**

8 Q And who makes the decision whether

9 that's medically necessary and appropriate?

10 **A I discuss with the patient and their**

11 **guardians and their mental health provider about**

12 **whether we should proceed with that treatment.**

13 Q And what does gender-affirming hormone

14 therapy do, again?

15 **A It causes the secondary sex**

16 **characteristics that align with their gender**

17 **identity. So it's using testosterone to**

18 **masculinize the body of a person who identifies as**

19 **male or using estrogen to feminize the body for a**

20 **person who identifies as female.**

21 Q And is that treatment used to address

22 the gender dysphoria in transgender individuals?

76

1 **A Yes.**

2 Q So you use gender-affirming hormones to

3 treat the distress of a transgender adolescent?

4 **A Yes.**

5 Q In paragraph 33 you also state that,

6 "Under WPATH standards of care, boys and girls who

7 are transgender may also receive medically

8 necessary chest reconstructive surgeries once they

9 turn 16 . . . ."

10 Do you see that?

11 **A Yes.**

12 Q Does the Endocrine Society have

13 guidelines on chest reconstructive surgery?

14 **A Let me review again. I think they have**

15 **a section on surgery, yes. They have a section on**

16 **surgery. I don't know specifically --**

17 MS. SAFSTROM: Is it all right to share

18 a page number again?

19 MR. CAPPS: Yeah, I think we are

20 looking at the same thing. I'm looking at 3893,

21 but if there was another section --

22 **A So there's breast surgery. I don't**

77

1 know if it specifically has an age that they refer  
 2 to.  
 3 MS. SAFSTROM: I believe there's some  
 4 additional information on 3872.  
 5 A On 3872, 5.5, "We suggest that  
 6 clinicians delay gender-affirming genital surgery  
 7 . . . until the patient at least is 18 years," or  
 8 older." That's for genital.  
 9 MR. BLOCK: Before you get to the 5.6  
 10 on that same page.  
 11 MS. SAFSTROM: 3872.  
 12 A 3894, "The most important masculinizing  
 13 for the transgender male is mastectomy . . ."  
 14 And then later it says, "Because some transgender  
 15 male adolescents present after significant breast  
 16 development has occurred, they may also consider  
 17 mastectomy 2 years after they begin androgen  
 18 therapy and before the age of 18." (As read.)  
 19 Q So the guidelines provide that  
 20 clinicians should provide individualized treatment  
 21 in those cases; is that correct?  
 22 A Yes.

78

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 issue 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?

79

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?

80

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

81

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.**

82

1 Q Have you taken those case reports into  
 2 consideration when you treat transgender  
 3 individuals?  
 4 A **I've not had any patients that have**  
 5 **desisted or seen that in my clinical practice.**  
 6 Q Other than in gender identity issues,  
 7 are there any other medical diagnoses that use the  
 8 criteria "persistently, consistently, and  
 9 insistenty" for the medical diagnosis?  
 10 A **Not that I'm aware of.**  
 11 Q Other than in gender identity, are  
 12 there any other mental health diagnoses that use  
 13 the criteria "persistently, consistently, and  
 14 insistenty" as a basis to make a mental health  
 15 diagnosis?  
 16 A **Not that I'm aware of, but I'm not a**  
 17 **mental health provider.**  
 18 Q In paragraph 36 of your report, you  
 19 state that transgender youth are at a high risk --  
 20 are a high risk population, with increased risk  
 21 for poor mental health outcomes, including  
 22 suicide. Do you see that?

83

1 A **Yes.**  
 2 Q What is your basis for that opinion?  
 3 A **There are multiple studies looking at**  
 4 **mental health in adolescents. And in the LGBTQ**  
 5 **population, there is increased risk for those, and**  
 6 **there have been studies that have stated the**  
 7 **increased prevalence of suicide in transgender**  
 8 **youth.**  
 9 Q Do you know whether the suicide rate in  
 10 transgender youth is greater or less than that in  
 11 autistic youth?  
 12 A **I'm not sure.**  
 13 Q Are there any studies that separate the  
 14 suicide rate in transgender individuals from the  
 15 underlying mental health conditions --  
 16 MR. BLOCK: Objection.  
 17 Q -- sorry -- that the individual may  
 18 suffer from?  
 19 A **Not that I'm aware of. There are**  
 20 **studies looking at transgender youth who have**  
 21 **undergone transition, and their degree of mental**  
 22 **health disorders are decreased back to their**

84

1 **peer-adjusted – similar to their peers, their**  
 2 **non-transgender peers.**  
 3 Q This is kind of an inarticulate  
 4 question, I guess. But what I'm wondering is, is  
 5 there a way to determine whether a transgender  
 6 individual committed suicide because of gender  
 7 dysphoria versus maybe bipolar disorder?  
 8 A **I don't know if any of them**  
 9 **specifically look at the other conditions.**  
 10 Q That's what I mean. Is there any way  
 11 to determine whether a suicide that was committed  
 12 by a transgender individual was related to the  
 13 gender dysphoria versus depression or bipolar or  
 14 some other underlying mental health condition?  
 15 MR. BLOCK: Are you asking for the  
 16 individual or for the population studies?  
 17 MR. CAPPS: Population studies.  
 18 A **I'm not aware of specific studies on**  
 19 **that.**  
 20 Q In paragraph 39 of your report -- in  
 21 paragraph 39 of your report, you state that some  
 22 students, particularly those who are early in

85	<p>1 transition, "feel safer and more comfortable using                  2 a private restroom, forcing transgender students                  3 to do so can be harmful to their well-being by                  4 calling them out as different or rejecting their                  5 gender."                  6 What do you base that opinion on?                  7 <b>A I have patients who, they don't want to                  8 be seen as the transgender boy or the transgender                  9 girl. They just want to be seen as a boy or a                  10 girl. And so if they had to go to their own                  11 special restroom, that just is another way of kind                  12 of saying that they aren't a boy or not completely                  13 affirming their gender identity.</b>                  14 Q Are there any studies that show that it                  15 can be harmful to their well-being that you're                  16 aware of?                  17 <b>A Just the studies that have shown that                  18 there's improvement in well-being if socially                  19 supported and with full support and full                  20 affirmation of their gender.</b>                  21 Q And so "full affirmation" means if the                  22 student wants to use the restroom, then the</p>	87	<p>1 for being a member in the American College of                  2 Pediatricians?                  3 <b>A No.</b>                  4 Q Have you reviewed any research studies                  5 for articles published by the American College of                  6 Pediatricians?                  7 <b>A I've seen some of their statements                  8 before, but I don't know -- I can't recall the                  9 specific -- or any specific studies that I've seen                  10 of theirs.</b>                  11 Q Have you reviewed any publications by                  12 Dr. Van Meter?                  13 <b>A I recently saw a letter to the editor                  14 that he had published.</b>                  15 Q And did you look at the underlying data                  16 to that letter, the underlying citations that were                  17 in the letter to the editor?                  18 <b>A No.</b>                  19 Q Have you taken into consideration any                  20 of Dr. Van Meter's publications in the treatment                  21 of transgender adolescents?                  22 <b>A No, none of his specific publications</b></p>
86	<p>1 medical treatment plan is the student should use                  2 the restroom?                  3 <b>A The studies, I don't think, have                  4 specifically looked at the restroom, but in                  5 general, fully affirming the patient's identity                  6 and supporting it.</b>                  7 (Penn Deposition Exhibit 2 was marked                  8 for identification and is attached.)                  9 Q Let me show you Exhibit 2 to your                  10 deposition. So Exhibit 2 is your rebuttal report                  11 that you submitted; is that correct?                  12 <b>A Yes.</b>                  13 Q All right. And you state that the                  14 American College of Pediatricians is a fringe                  15 organization?                  16 <b>A Yes.</b>                  17 Q And on what basis do you state that?                  18 <b>A It's a small medical society that                  19 generally disagrees with the mainstream pediatric                  20 and the Academy -- American Academy of Pediatrics'                  21 beliefs.</b>                  22 Q And do you know what the criteria is</p>	88	<p>1 <b>that I'm aware of.</b>                  2 Q Are you aware of whether WPATH                  3 advocated for the American Psychiatric Association                  4 to eliminate a gender dysphoria diagnosis in                  5 DSM-V?                  6 <b>A No.</b>                  7 Q You're not aware of whether that                  8 occurred or not?                  9 <b>A No.</b>                  10 Q You're aware that the Endocrine Society                  11 revised its guidelines in 2017; is that correct?                  12 <b>A Yes.</b>                  13 Q Did the revisions in 2017 from the                  14 original 2009 guidelines change the manner in                  15 which you provided medical treatment to                  16 transgender adolescents?                  17 <b>A No. The practice didn't change very                  18 much. There were some lessened restrictions about                  19 laboratory follow-up, but my practice hasn't                  20 changed.</b>                  21 Q And do you know whether the revised                  22 2017 guidelines added to or changed the social</p>

89

1 transition guidelines from 2009 -- strike that.  
 2 Maybe I could ask this: Were there  
 3 social transition guidelines in the 2009 version  
 4 of the Endocrine Society guidelines?  
 5 **A I think there was a brief mention of**  
 6 **it, but I don't remember the specifics of it, no.**  
 7 Q So would it be true that the 2017  
 8 revised guidelines are different as it relates to  
 9 social transition for transgender individuals?  
 10 **A I don't think that they significantly**  
 11 **differ. It was in general that the social**  
 12 **transition should be individual and supported**  
 13 **the -- necessary for that individual.**  
 14 MR. CAPPS: One second. I'm going to  
 15 look through my notes.  
 16 Dr. Penn, thank you very much. Those  
 17 are all the questions I have. I appreciate your  
 18 patience.  
 19 MR. BLOCK: We don't have any questions  
 20 either, and she'll review her transcript.  
 21 MR. CAPPS: I want to order expedited  
 22 if I can.

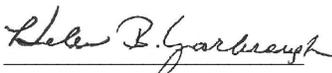
90

1 THE COURT REPORTER: How expedited?  
 2 MR. CAPPS: As expedited as your  
 3 schedule allows.  
 4 (A discussion was held off the record.)  
 5 THE COURT REPORTER: Expedited as well?  
 6 MR. BLOCK: Yes.  
 7 AND FURTHER THIS WITNESS SAITH NOT  
 8 (Off the record at 1:04 p.m.)  
 9  
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1 COMMONWEALTH OF VIRGINIA,  
 2 \_\_\_\_\_, to wit:  
 3  
 4 I, Melinda Penn, M.D., do hereby certify  
 5 that I have read the foregoing pages of typewritten  
 6 matter numbered 1 through 90, and that the same  
 7 contains a true and correct transcription of the  
 8 deposition given by me on the 14th day of March,  
 9 2019, with the exception of the noted corrections,  
 10 to the best of my knowledge and belief.  
 11  
 12 \_\_\_\_\_  
 13 Date Melinda Penn, M.D.  
 14  
 15  
 16 Subscribed and sworn to before me this  
 17 \_\_\_\_ day of \_\_\_\_\_, 201\_\_.  
 18  
 19 \_\_\_\_\_  
 20 Notary Public  
 21 My commission expires \_\_\_\_\_  
 22 Notary Registration Number: \_\_\_\_\_

92

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   
 20 Helen B. Yarbrough, RPR, CCR  
 VCRA Certification #0313016  
 21 My Commission Expires:  
 July 31, 2021  
 22 Notary Registration Number: 158897



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# Transcript of Gavin Grimm

**Date:** October 19, 2018

**Case:** Grimm- v- Gloucester County School Board

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Transcript of Gavin Grimm  
Conducted on October 19, 2018

1	3
<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE EASTERN DISTRICT OF VIRGINIA</p> <p>3 NEWPORT NEWS DIVISION</p> <p>4</p> <p>5 ----- x</p> <p>6 GAVIN GRIMM, :</p> <p>7 Plaintiff, :</p> <p>8 v. : Case No.</p> <p>9 GLOUCESTER COUNTY SCHOOL : 4:15-cv-54</p> <p>10 BOARD, :</p> <p>11 Defendant. :</p> <p>12 ----- x</p> <p>13</p> <p>14 Deposition of GAVIN GRIMM</p> <p>15 Richmond, Virginia</p> <p>16 Friday, October 19, 2018</p> <p>17 9:40 a.m.</p> <p>18</p> <p>19</p> <p>20 Job No.: 207940</p> <p>21 Pages: 1 - 177</p> <p>22 Reported By: Leslie D. Etheredge, RMR, CCR</p>	<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFF:</p> <p>4 JOSHUA A. BLOCK, ESQUIRE</p> <p>5 SHAYNA MEDLEY-WARSOFF, ESQUIRE</p> <p>6 AMERICAN CIVIL LIBERTIES UNION</p> <p>7 125 Broad Street, 18th Floor</p> <p>8 New York, New York 10004</p> <p>9 212.549.2627</p> <p>10 and</p> <p>11 EDEN HEILMAN, ESQUIRE</p> <p>12 NICOLE TORTORIELLO, ESQUIRE</p> <p>13 JENNIFER SAFSTROM</p> <p>14 ACLU OF VIRGINIA</p> <p>15 701 East Franklin Street, Suite 1412</p> <p>16 Richmond, Virginia 23219</p> <p>17 804.523.2157</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
2	4
<p>1 Deposition of GAVIN GRIMM, held at the</p> <p>2 offices of:</p> <p>3</p> <p>4 ACLU OF VIRGINIA</p> <p>5 701 East Franklin Street, Suite 1412</p> <p>6 Richmond, Virginia 23219</p> <p>7 804.523.2157</p> <p>8</p> <p>9</p> <p>10</p> <p>11 Pursuant to Notice, before Leslie D.</p> <p>12 Etheredge, Registered Merit Reporter, Certified</p> <p>13 Court Reporter and Notary Public in and for the</p> <p>14 Commonwealth of Virginia.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 ON BEHALF OF THE DEFENDANT:</p> <p>2 DAVID P. CORRIGAN, ESQUIRE</p> <p>3 HARMAN, CLAYTOR, CORRIGAN &amp; WELLMAN</p> <p>4 4951 Lake Brook Drive, Suite 100</p> <p>5 Glen Allen, Virginia 23060</p> <p>6 804.747.5200</p> <p>7</p> <p>8</p> <p>9 ALSO PRESENT:</p> <p>10 Tracey R. Dunlap, VML Insurance Programs</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>



Transcript of Gavin Grimm  
Conducted on October 19, 2018

9

1 Q And how long did y'all live at that  
2 particular address?  
3 **A From birth until moving to California.**  
4 Q What is your date of birth?  
5 **A 5/4/1999.**  
6 Q Are you currently employed?  
7 **A I am not on an official payroll, I do some**  
8 **freelance activism.**  
9 Q So what does that mean? What is freelance  
10 activism?  
11 **A I may be invited to speak at a college or**  
12 **at a conference, and sometimes there is monetary**  
13 **compensation.**  
14 Q What determines whether there is monetary  
15 compensation?  
16 **A The ability of the requester.**  
17 Q So give me an example of what you are  
18 talking about.  
19 **A For example, should a middle school invite**  
20 **me to talk to their GSA, I would never ask for**  
21 **financial compensation, but should I go to a more**  
22 **professional event, which would probably have a**

10

1 **larger budget, they may -- pardon me -- they may**  
2 **offer me some kind of compensation.**  
3 Q What is the range of compensation, when  
4 you are compensated, for your freelance activism?  
5 **A It is hugely variable, anywhere from 50**  
6 **dollars to more than that.**  
7 Q 50 up to what?  
8 **A I -- sorry. I am trying to accurately**  
9 **recall it.**  
10 Q Sure. If it is a ball park, I --  
11 **A A ball park of like a thousand dollars.**  
12 Q Okay.  
13 **A It is not frequently more than that or**  
14 **even that.**  
15 Q Okay. How often are you engaged in  
16 freelance activism?  
17 **A I would say average a fee times a month, a**  
18 **few times a month. Sometimes more often,**  
19 **sometimes less.**  
20 Q Since you have been in California, has  
21 your freelance activism been restricted to  
22 California?

11

1 **A No.**  
2 Q Where have you been?  
3 **A Most recently, it was somewhere on the**  
4 **East Coast, Philadelphia. Virginia at one point.**  
5 **Beyond that, I can't recall any more individual**  
6 **states.**  
7 Q Where in Virginia?  
8 **A I believe it was -- Actually, I don't**  
9 **recall well enough to say with certainty.**  
10 Q Okay. Do you remember where you flew into  
11 or where you -- how you traveled?  
12 **A I traveled by plane. It was not -- I**  
13 **recall it was not close enough that it would have**  
14 **been possible to visit home so it was probably --**  
15 **well, in fact, pardon me. I won't speculate.**  
16 Q Okay.  
17 **A I just recall that I have been to Virginia**  
18 **for business since moving to California.**  
19 Q Where did you fly into when you did  
20 business in Virginia?  
21 **A I can't recall.**  
22 Q You don't remember whether it was Reagan

12

1 or Dulles or Richmond?  
2 **A I really don't recall, sir.**  
3 Q Okay. Are you currently in school?  
4 **A Yes, sir.**  
5 Q Where are you attending?  
6 **A Berkley City College.**  
7 Q Until you said that yesterday, I had never  
8 heard of Berkley City College. Is that part of  
9 the state community college system or is it a  
10 local private school?  
11 **A It is a community college.**  
12 Q Okay. How long have you been going there?  
13 **A Since -- since the start of this current**  
14 **semester, I don't recall what month it began.**  
15 Q So September or August, fall semester kind  
16 of thing?  
17 **A Yes, sir.**  
18 Q Okay. Before attending Berkley City  
19 College, did you attend any other college?  
20 **A No.**  
21 Q From the time -- when did you leave  
22 Gloucester approximately?

Transcript of Gavin Grimm  
Conducted on October 19, 2018

13	<p>1 <b>A January of this year.</b></p> <p>2 Q 2018?</p> <p>3 <b>A Yes, sir.</b></p> <p>4 Q You graduated Gloucester High School June</p> <p>5 of 2017.</p> <p>6 <b>A Yes, sir.</b></p> <p>7 Q Is that correct? What did you do from</p> <p>8 June of 2017 until January of 2018, when you moved</p> <p>9 to California? When I say what did you do, were</p> <p>10 you working, were you going to school?</p> <p>11 Let me ask you this. Were you living at</p> <p>12 home?</p> <p>13 <b>A Yes.</b></p> <p>14 Q So what were you doing in terms of work or</p> <p>15 anything like that?</p> <p>16 <b>A I was not working, I was also not in</b></p> <p>17 <b>school.</b></p> <p>18 Q So what were you spending your time doing?</p> <p>19 <b>A I suppose -- well, rather, I won't</b></p> <p>20 <b>suppose. I -- I spent time with friends or stayed</b></p> <p>21 <b>around the house.</b></p> <p>22 Q Your brother is a twin; is that right?</p>	15	<p>1 Q Tell me which schools you attended</p> <p>2 starting as soon as you went to school.</p> <p>3 <b>A I do not recall the pre-K institutions I</b></p> <p>4 <b>went to; however, I started public school in</b></p> <p>5 <b>Bethel Elementary, I then went to Peasley Middle</b></p> <p>6 <b>School, and then Gloucester High School.</b></p> <p>7 Q Peasley is P-E --</p> <p>8 <b>A A-S-L-E-Y.</b></p> <p>9 Q So elementary was K to?</p> <p>10 <b>A 5.</b></p> <p>11 Q 5, and middle was 6 to 8?</p> <p>12 <b>A Yes, sir.</b></p> <p>13 Q Gloucester High School was 9 to 12?</p> <p>14 <b>A Yes.</b></p> <p>15 Q Was your brother in your class, not in the</p> <p>16 actual classes, but in the same grade as you</p> <p>17 throughout?</p> <p>18 <b>A Yes.</b></p> <p>19 Q Did he also graduate?</p> <p>20 <b>A Yes.</b></p> <p>21 Q All right. Let's go to the elementary</p> <p>22 school. At any time when you were in the</p>
14	<p>1 <b>A Yes, sir.</b></p> <p>2 Q And the full family is your mom, your dad,</p> <p>3 your brother and you?</p> <p>4 <b>A In the household?</b></p> <p>5 Q Yes.</p> <p>6 <b>A Yes, sir.</b></p> <p>7 Q Are there other family members?</p> <p>8 <b>A There are extended family members, which</b></p> <p>9 <b>are not directly involved with my current family</b></p> <p>10 <b>life.</b></p> <p>11 Q Okay. Are there any of the others blood</p> <p>12 siblings or parents?</p> <p>13 <b>A I have three blood half-siblings.</b></p> <p>14 Q Okay. The half-siblings are the children</p> <p>15 of your mom or your dad?</p> <p>16 <b>A Two of them are children of my father and</b></p> <p>17 <b>one of them is a child of my mother.</b></p> <p>18 Q Are they in the Gloucester area, the</p> <p>19 children, your half-siblings?</p> <p>20 <b>A I do not know the whereabouts of either on</b></p> <p>21 <b>my father's side; however, the half sibling on my</b></p> <p>22 <b>mother's side lives not in the Gloucester area.</b></p>	16	<p>1 elementary school, at Bethel Elementary, did you</p> <p>2 have -- I want to use the right terms and not in</p> <p>3 any way sound like I am trying to be difficult;</p> <p>4 but during that time, from kindergarten through</p> <p>5 5th grade, did you at any time have the beginnings</p> <p>6 of what you now perceive to be gender identity</p> <p>7 issues?</p> <p>8 <b>A Absolutely.</b></p> <p>9 Q Just tell me about that. When did that</p> <p>10 first start? When do you first have any</p> <p>11 recollection of thinking or believing or feeling</p> <p>12 like you were male and not female?</p> <p>13 <b>A I believe myself to be a boy in my</b></p> <p>14 <b>internal dialogue until the point that I recognize</b></p> <p>15 <b>that there were -- that society perceives larger</b></p> <p>16 <b>differences between men and women, I suppose more</b></p> <p>17 <b>accurately when I entered school age and</b></p> <p>18 <b>recognized that men and women have different</b></p> <p>19 <b>expected societal roles.</b></p> <p>20 <b>At that point I had an understanding that</b></p> <p>21 <b>the one assigned to myself, of course, the female</b></p> <p>22 <b>social and physical role, was inaccurate; however,</b></p>

Transcript of Gavin Grimm  
Conducted on October 19, 2018

17

**1 I did not have the language at that time to**  
**2 vocalize those feelings.**  
 3 Q If I can try to express what you just  
 4 said, is it true that before you went to school,  
 5 you were not aware one way or the other, it was  
 6 like when you went to school is when it kind of  
 7 became I see, girls are one way, boys are  
 8 different, boys are treated differently?  
**9 A Not -- not exactly. If I can -- I**  
**10 understood myself to be a boy in the sense that my**  
**11 internal self-perception was that way in the sense**  
**12 that the male cartoon characters, you know, that I**  
**13 idolized, I felt that I was, you know, like them**  
**14 in the sense of gender; however, when I hit an age**  
**15 where social gender expectations came into play, I**  
**16 recognized that other people perceived me as a**  
**17 girl.**  
 18 Q When was it that you first realized that  
 19 others perceive you as a girl?  
**20 A That would have been when I entered**  
**21 school.**  
 22 Q As we sit here today and you look back on

18

1 it, do you say -- I mean a moment, was there a  
 2 moment when a teacher said something or somebody  
 3 said something and you went she thinks I am a  
 4 girl?  
**5 A There were points in my childhood where I**  
**6 would request to do something and get --**  
**7 Gloucester is a socially conservative place, so**  
**8 there were points in time, when I was younger,**  
**9 where I would request to do something or show an**  
**10 interest in doing something, which was**  
**11 traditionally reserved for boys, and would be**  
**12 refused, rejected, and at that point that was the**  
**13 point in which I realized there were differences**  
**14 and that I was assumed to be on sort of the wrong**  
**15 side of the line there.**  
 16 Q Let me ask you this. What specific  
 17 refusals or rejections are you referring to? I  
 18 mean what are we talking about?  
**19 A On one occasion, I wanted to walk down to**  
**20 my friend's house, who was a 5-minute walk away on**  
**21 the same street, he and I -- he -- he, myself and**  
**22 my brother were all friends, and at one point my**

19

**1 father told me I could no longer go over to his**  
**2 house, whereas my brother could, the reason being**  
**3 I was, in his opinion, at the time a girl.**  
**4 So examples like that. When I wanted to**  
**5 do sports --**  
 6 Q Let me interrupt you for a second.  
**7 A Yes, sir.**  
 8 Q That specific occasion, when your father  
 9 said you can't go to the friend's house but your  
 10 brother can, how old were you?  
**11 A I was between 6 and 8. Well, I was**  
**12 probably 8. I don't imagine they would have**  
**13 allowed me to walk that far when I was 6, so**  
**14 around 8.**  
 15 Q What was your understanding of the reason  
 16 that you couldn't go and your brother could?  
**17 A I don't think I had a good understanding**  
**18 of why that was a reasonable declaration.**  
 19 Q Yes.  
**20 A However, I do --**  
 21 Q With regards to whether it was reasonable,  
 22 what was the reason?

20

**1 A Well, pardon. What I was saying, I**  
**2 suppose, is I was not given a reason, it was -- it**  
**3 was just that I was not allowed to and my brother**  
**4 was.**  
 5 Q And this was your father?  
**6 A Yes.**  
 7 Q So that's one example of a refusal or  
 8 denial. What were the others?  
**9 A The most pertinent additional memory that**  
**10 I have is when I wanted to play baseball and my**  
**11 only options were softball on a female team, and**  
**12 that caused me so much distress that, despite**  
**13 already having bought a mitt and a ball, I did not**  
**14 actually enter the sport.**  
 15 Q How old were you at that point? Again,  
 16 approximately.  
**17 A Approximately 10.**  
 18 Q It was little league?  
**19 A Oh, I don't recall.**  
 20 Q Did your brother play baseball?  
**21 A I don't recall. I don't recall.**  
 22 Q Did your brother play athletics as a child

Transcript of Gavin Grimm  
Conducted on October 19, 2018

21

1 or after childhood into high school and things?  
 2 **A My brother -- Growing up, we both did tee**  
 3 **ball and he went on to play football later.**  
 4 Q How far did he go in playing football?  
 5 **A There is a league, the Gloucester Knights,**  
 6 **I believe, and he went up until the point of**  
 7 **beginning high school, I believe, that was when he**  
 8 **stopped playing football.**  
 9 Q Okay. Did you ever express an interest in  
 10 playing football?  
 11 **A Absolutely.**  
 12 Q And what happened?  
 13 **A I was told I could not.**  
 14 Q And who told you that?  
 15 **A Both of my parents at the time.**  
 16 Q Did they tell you why?  
 17 **A They said it was because I was a girl.**  
 18 Q Any other examples of refusals or denials,  
 19 because of your perceived being female, that you  
 20 can think of besides we have talked about walking  
 21 to your friend's house, we have talked about  
 22 baseball versus softball and deciding not to play,

22

1 we have talked about not playing football.  
 2 **A Can you clarify what time frame we are**  
 3 **looking at with this?**  
 4 Q Any time.  
 5 **A Any time. There are. There are quite a**  
 6 **few instances where, once I cut my hair short, I**  
 7 **was 12, I was told that it was not a style**  
 8 **appropriate for me. All throughout my childhood,**  
 9 **I would request boys' clothing and was told that**  
 10 **that was also not appropriate for me. Eventually,**  
 11 **I began to wear boys' clothing and was, of course,**  
 12 **told it was not appropriate for me, so I would say**  
 13 **that consistently throughout my life, I have**  
 14 **expressed masculinity and have been told that it**  
 15 **was inappropriate for the gender that I was**  
 16 **perceived as at the time.**  
 17 Q All right. Let's talk about those. You  
 18 mentioned specifically your haircut. Who told you  
 19 it was not appropriate for you?  
 20 **A People in -- people that I interacted**  
 21 **with. I could not recall individual names, I just**  
 22 **do recall that there were many comments, mostly**

23

1 **peers and family members.**  
 2 Q Did that family members include your mom  
 3 and dad?  
 4 **A My father, however, the other family**  
 5 **members are extended -- estranged family.**  
 6 Q Okay. So your father did tell you you  
 7 shouldn't wear your hair short like that?  
 8 **A Yes.**  
 9 Q Did your mother say that?  
 10 **A My mother was not excited about the**  
 11 **haircut, but she supported it.**  
 12 Q How about your brother?  
 13 **A He didn't -- we didn't -- he didn't have**  
 14 **an expression one way or the other that I recall.**  
 15 Q What about the clothing, wearing what you  
 16 described as boys' clothes. Who expressed to you  
 17 that you shouldn't be wearing boys' clothes? Did  
 18 your father?  
 19 **A My father and then my mother was perhaps**  
 20 **the primary person, as she was the one that would**  
 21 **most often take me clothes shopping.**  
 22 Q So you would be shopping with her and you

24

1 would be saying I want these, and she'd say no,  
 2 you can't have those, you have to get these other  
 3 ones?  
 4 **A Yes.**  
 5 Q Okay. So did you end up buying what you  
 6 perceived to be girls' clothes instead of boys'  
 7 clothes?  
 8 **A When I was younger and had a lesser degree**  
 9 **of control over what I was wearing, I conceded**  
 10 **more often than not; however, as soon as I was old**  
 11 **enough to know how to argue with my parents, I**  
 12 **was, you know, fighting for the boys' aisle.**  
 13 Q Once you started fighting for the boys'  
 14 aisle, did they eventually give in and let you  
 15 wear boys' clothes?  
 16 **A They did.**  
 17 Q When was that approximately?  
 18 **A I have been wearing pretty much**  
 19 **exclusive -- well, I have been wearing exclusively**  
 20 **clothes from the boys' section since I was 11 or**  
 21 **12.**  
 22 Q So that's approximately when you learned

Transcript of Gavin Grimm  
Conducted on October 19, 2018

25

1 how to argue with your parents?  
 2 **A Well, no. I argued far before that.**  
 3 Q But you got better at it?  
 4 **A Yes, I would say so.**  
 5 Q Okay. Let's talk about your friends  
 6 during the same time frame, and let's go to just  
 7 around age 11 or 12, when you are now -- I mean  
 8 tell me if I am wrong, you are not presenting  
 9 yourself more as a boy than a girl. Is that true  
 10 or not?  
 11 **A Everyone still understood -- everyone**  
 12 **still assumed that I was a girl, I had not at that**  
 13 **time discovered the word transgender and how that**  
 14 **related to who I was. However, outwardly, I did**  
 15 **present very masculinely, and that was not**  
 16 **something that was unnoticed by peers and friends.**  
 17 Q And in that time frame, age 11 to 12,  
 18 what -- when you say it was noticeable, what  
 19 notice -- what awareness did you have of the  
 20 notice that people were taking?  
 21 **A Well, I was bullied pretty seriously in --**  
 22 **throughout all of my school career, but elementary**

26

1 **and middle including. Part of this bullying was**  
 2 **centered around the fact that I was not**  
 3 **traditionally feminine.**  
 4 Q The word bullying can cover a broad range  
 5 of activities, depending on the -- I am sure there  
 6 is a definition but there is also perceptions.  
 7 What did you consider to be bullying?  
 8 What bullying occurred?  
 9 **A People threw things at me, people called**  
 10 **me horrible names, people would refuse to sit near**  
 11 **me, people would exclude me from activities.**  
 12 Q Now, these people that you are talking  
 13 about, are those your peers?  
 14 **A Yes.**  
 15 Q Members of your age group?  
 16 **A Yes.**  
 17 Q Where would these things occur?  
 18 **A Primarily in school.**  
 19 Q What ages did this activity occur, like  
 20 what grades?  
 21 **A Yes, sir. I have been bullied my entire**  
 22 **school career, so all of them.**

27

1 Q Okay. K through 5, those things occurred?  
 2 **A Absolutely.**  
 3 Q 6 through 8, that occurred?  
 4 **A Absolutely.**  
 5 Q 9 through 12, those things occurred?  
 6 **A Absolutely.**  
 7 Q What would be the frequency you would say  
 8 with which those things occurred?  
 9 **A In high school, I would say -- pardon. I**  
 10 **would say -- I mean I would say it was pretty**  
 11 **consistent. I had probably a daily event that**  
 12 **made me feel unsafe or unhappy, at least one thing**  
 13 **would happen pretty consistently, minor to major,**  
 14 **so the frequency was high.**  
 15 Q K through 5, 6 through 8, 9 through 12,  
 16 every day --  
 17 **A Yes.**  
 18 Q -- something happened?  
 19 **A Yes.**  
 20 Q Okay.  
 21 **A And to clarify -- pardon me. I'm sorry.**  
 22 Q No. That's fine.

28

1 **A That it was not necessarily that a major**  
 2 **event would happen every day, but there was**  
 3 **something that made me feel unsafe or -- or**  
 4 **disliked for sure every day.**  
 5 Q So let's talk about major. What would you  
 6 perceive as major in the area of bullying?  
 7 **A Well, when I -- I would say major would be**  
 8 **either an example where I have had something**  
 9 **thrown at me or a particularly public bout of**  
 10 **ridicule or cases where a group would ridicule me**  
 11 **publicly or perhaps a case where a chair was**  
 12 **pulled out from under me. Those are examples that**  
 13 **I can recall of things I consider more serious.**  
 14 Q And how about what would be something that  
 15 was not major, that was minor, and yet made you  
 16 feel, as you said, unsafe or disliked?  
 17 **A I was -- I was called names with such**  
 18 **frequency that I would consider an insult a minor**  
 19 **thing. I could expect to be called some kind of**  
 20 **unkind name at least once or twice a day in**  
 21 **school.**  
 22 Q What kind of names? Look, I am sorry I am

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

29	<p>1 asking you all these questions. I think it is all                  2 relevant, and so that's why I am asking the                  3 questions.                  4 <b>A Okay.</b>                  5 Q So what kind of names?                  6 <b>A Faggot, dike, homo, weirdo, references to                  7 my weight.</b>                  8 Q Did you feel like there was any particular                  9 group of people who were the ones more likely to                  10 pick on you? I mean was it more boys than girls                  11 who were picking on you, was it more -- and, you                  12 know, we all went to high school, jocks versus                  13 whoever, or did you feel like it was any -- any                  14 identifiable group of people?                  15 <b>A I wouldn't know those people personally                  16 enough to identify with groups they belong to.</b>                  17 Q So these are people that you don't                  18 actually know?                  19 <b>A Well, I went to school with them. They                  20 weren't my friends.</b>                  21 Q Right. So let's go in the other                  22 direction. In K through 5, did you have friends?</p>	31	<p>1 helped them associate with you?                  2 <b>A I had friends that were friends of mine                  3 because our mothers were close, I didn't really                  4 have personal friends, people that I bonded with                  5 like organically and could spend time with.</b>                  6 Q But, in high school, these people actually                  7 were your friends?                  8 <b>A Yes.</b>                  9 Q Okay. Can you tell me who those people                  10 were?                  11 <b>A Do you need first and last names?</b>                  12 Q I would like first and last names, but if                  13 you know them, sure.                  14 <b>A Evelyn Hronec.</b>                  15 Q Help me with Hronec.                  16 <b>A H-R-O-N-E-C. Olivia Pohorence,                  17 P-O-H-O-R-E-N-C-E. Camille Gibson.</b>                  18 Q C-A-M-M-I-L-E?                  19 <b>A L-L. C-A-M-I-L-L-E.</b>                  20 Q That's what I wrote, it is not what I                  21 said.                  22 <b>A And then Gibson.</b></p>
30	<p>1 <b>A Very few.</b>                  2 Q How about middle school?                  3 <b>A Also very few.</b>                  4 Q How about high school?                  5 <b>A I had a very strong core group of friends                  6 in high school.</b>                  7 Q In elementary school, were you and your                  8 brother -- would you consider you and your brother                  9 to be friends?                  10 <b>A No.</b>                  11 Q Middle school?                  12 <b>A No.</b>                  13 Q High school?                  14 <b>A No.</b>                  15 Q I might focus on the high school, but let                  16 me just ask you about the elementary and middle                  17 school. Did you -- I mean who were your friends?                  18 How were -- how did you become -- The few friends                  19 that you had, how did you feel like that worked,                  20 that you became friends with those people?                  21 Was there any particular activity or thing                  22 that kind of helped you associate with them and</p>	32	<p>1 Q Right.                  2 <b>A Alec Earwood, E-A-R-W-O-O-D. Caroline                  3 Cox, that is just C-O-X. And I think that -- that                  4 is sufficient for my core group.</b>                  5 Q That's the core group?                  6 <b>A Yes, sir.</b>                  7 Q How about in terms of the people at the                  8 school, were there any people at the school that                  9 you felt like were your supporters and people --                  10 in particular, I am asking about the high school.                  11 <b>A In terms of staff or students?</b>                  12 Q I am asking about staff and faculty now                  13 that were supporters of yours.                  14 <b>A Supporters of mine in what way?</b>                  15 Q Just personally, like you felt like they                  16 were there to help you and supported you in terms                  17 of whatever you were going through.                  18 <b>A Yes, I felt that there were a few staff                  19 that were -- that served that role.</b>                  20 Q Who were they?                  21 <b>A The nurses.</b>                  22 Q Names?</p>

Transcript of Gavin Grimm  
Conducted on October 19, 2018

33

1 **A I am trying to recall. Beverly Sabourin**  
 2 **and Niki -- I just knew her as Miss Niki. The**  
 3 **three librarians as well, whose names escape me at**  
 4 **the moment.**  
 5 **And although I don't recall names, I do**  
 6 **recall that the office staff were always friendly**  
 7 **and kind, the women at the front desk.**  
 8 Q What about the counselors and the  
 9 counseling staff?  
 10 **A I would say Matthew Board would be one**  
 11 **person who I felt was a kind resource.**  
 12 Q Who was assigned -- Who were you assigned  
 13 to or was assigned to you, freshman, sophomore,  
 14 junior, senior year?  
 15 **A I don't really recall.**  
 16 Q For sure, we know Tiffany Durr, sophomore  
 17 year; right?  
 18 **A Yes, but I do not recall for the other**  
 19 **years.**  
 20 Q Somebody named Neblett?  
 21 **A John Neblett?**  
 22 Q Yes. Was he ever your counselor?

34

1 **A I don't recall. I recall having spoken to**  
 2 **him but not about what or why.**  
 3 Q How about your senior year, did anybody  
 4 talk to you about going to college or where you  
 5 were going to college or, you know, any type of  
 6 counseling-type role like that?  
 7 **A I really -- I don't recall.**  
 8 Q With respect to Miss Durr, what do you  
 9 recall in terms of any interactions you had with  
 10 her?  
 11 **A I really don't. I just recall that we had**  
 12 **spoken at various points. Oh, may I correct**  
 13 **myself?**  
 14 Q Yes.  
 15 **A Miss --**  
 16 Q You can always correct yourself, just so  
 17 you know.  
 18 **A Miss Durr was the person that my mother**  
 19 **and I contacted ahead of beginning sophomore year.**  
 20 Q Right. I was going to talk to you about  
 21 that, and we will talk in detail about that.  
 22 Other than that, do you remember you and her

35

1 having conversations, her being supportive,  
 2 nonsupportive, helpful, not helpful, or how did  
 3 you perceive things between you and her during  
 4 that sophomore year, when she was, according to  
 5 her, assigned to you?  
 6 **A I don't ever recall her being malicious;**  
 7 **however, I also cannot recall any individual**  
 8 **conversations that we had.**  
 9 Q So would you say it was neutral, or would  
 10 you say it was unhelpful or just kind of just  
 11 really nothing?  
 12 **A I would say that I don't recall.**  
 13 Q Okay. Let's go to the specific  
 14 conversation at the start of sophomore year, which  
 15 you mentioned you and your mom and Miss Durr.  
 16 What do you recall about that?  
 17 **A I recall that my mother and I approached**  
 18 **her and informed her that I am a boy and my name**  
 19 **is Gavin and had a discussion about what that**  
 20 **meant for starting the school year.**  
 21 Q What do you recall about the discussion,  
 22 what was said?

36

1 **A I really don't recall anything else.**  
 2 Q And did you speak?  
 3 **A I don't recall.**  
 4 Q How was the meeting arranged, if you  
 5 recall?  
 6 **A I don't. I'm sorry.**  
 7 Q What was the result of the meeting, at  
 8 least your understanding of the result of the  
 9 meeting?  
 10 **A I cannot recall clearly.**  
 11 Q Any aspect that you recall?  
 12 **A No. I am sorry, I can't.**  
 13 Q At some point, you were -- it was agreed  
 14 that you would go to school as Gavin.  
 15 **A Yes.**  
 16 Q Is that correct?  
 17 **A Yes.**  
 18 Q And that you would be called by male  
 19 pronouns?  
 20 **A Yes.**  
 21 Q What else is your understanding  
 22 eventually, when school started, in terms of what

Transcript of Gavin Grimm  
Conducted on October 19, 2018

37

1 were the terms? I mean you would be starting  
2 school related to this request.  
3 **A As I – as I understood it, I would be**  
4 **starting school as Gavin and with male pronouns, I**  
5 **was assured that malicious intentional**  
6 **misgendering was not going to be permitted and**  
7 **that – well, that malicious misgendering would**  
8 **not be permitted, and I at that time had requested**  
9 **use of the nurse's office bathroom and was**  
10 **permitted to have access to that as well.**  
11 Q The term malicious, or excuse me,  
12 intentional misgendering, what does that mean?  
13 **A Someone choosing to still refer to me with**  
14 **female pronouns with the knowledge that that was**  
15 **not appropriate.**  
16 Q And you were assured that that was not --  
17 that they would make every effort to make sure  
18 that didn't happen?  
19 **A Yes.**  
20 Q And tell me what happened. Did it happen?  
21 **A By peers, yes, absolutely.**  
22 Q So peers would intentionally misuse the

38

1 wrong gender?  
2 **A Yes.**  
3 Q How about any staff or faculty?  
4 **A I don't recall any intentional examples.**  
5 Q Do you recall any accidental examples? I  
6 mean the thing that was mentioned previously was  
7 that maybe your name was still another name on a  
8 piece of paper and someone said that name, not  
9 knowing, and then -- but that would not be  
10 intentional.  
11 **A Right. I recall that there were a few**  
12 **instances of what I assumed to be unintentional**  
13 **misgendering or deadnaming; however, I do not**  
14 **recall who or in what year that those things**  
15 **occurred.**  
16 Q Deadnaming?  
17 **A For example, referring to me with the name**  
18 **that was given to me at birth.**  
19 Q That's called deadnaming?  
20 **A Yes, sir.**  
21 Q So just to make sure we are clear, to your  
22 recollection, there was no staff or faculty who

39

1 intentionally misgendered toward you?  
2 **A Not to my recollection.**  
3 Q In terms of students doing that,  
4 intentional misgendering toward you, how frequent  
5 was that?  
6 **A Daily.**  
7 Q Without asking you to repeat the litany of  
8 things that they called you, what would that look  
9 like other than name calling, if it wasn't name  
10 calling, how would it happen?  
11 **A They would make a point to greet me by, of**  
12 **course, the dead name.**  
13 Q Right.  
14 **A Or make a point to identify me as a girl,**  
15 **for example, by saying isn't that a girl?**  
16 **Things -- things designed to deliberately point**  
17 **out the fact that I am transgender.**  
18 Q Again, were there any particular people or  
19 groups of people who were doing this?  
20 **A It was, generally speaking -- well, I --**  
21 **it was plenty of different people.**  
22 Q Okay. I guess what I am trying to figure

40

1 out is this. There is how many people in the  
2 school, like 1800 students, 9 through 12?  
3 **A I don't know.**  
4 Q I think that's right. Are we talking  
5 about 3 handfuls of people who did this, or is it  
6 hundreds of people would do this? That's all I am  
7 trying to figure out.  
8 **A It tended to be just groups, small groups**  
9 **of people known to be unkind to others.**  
10 **Particularly -- I just -- I really just would**  
11 **rather not characterize --**  
12 Q I appreciate that. I don't like  
13 stereotyping anybody either, it is not what we are  
14 about. I am just trying to figure out, if you are  
15 walking down the hall and you go I need to be over  
16 here because I don't want to deal with those  
17 people, or is it literally like anybody out of  
18 nowhere could come up to you and all of a sudden  
19 say something to you and like I don't even know  
20 who that person is.  
21 **A It was traditionally the same group of**  
22 **people. It wasn't three people, but it was also**

Transcript of Gavin Grimm  
Conducted on October 19, 2018

41

1 **not something that I expected from the entire**  
 2 **student body.**  
 3 Q So most people would walk by and just mind  
 4 their own business?  
 5 **A Yes.**  
 6 Q But there were certain people that didn't?  
 7 **A Yes.**  
 8 Q I got it. I am going to talk about 9th  
 9 grade. You entered 9th grade, the records were  
 10 that you were female and you had not officially  
 11 made any request otherwise. Tell me about your  
 12 9th grade year in terms of how you functioned and  
 13 at some point you left school and that kind of  
 14 thing.  
 15 **A My 9th grade year was difficult, I**  
 16 **understood myself at that point, I understood that**  
 17 **I was a boy but did not feel able to reveal that**  
 18 **to others, and so the pressure of pretending to be**  
 19 **someone who I was not and of being recognized as a**  
 20 **girl, when that was incredibly distressing to me,**  
 21 **made that year very difficult.**  
 22 Q And in terms of being, as you say,

42

1 recognized as a girl, how often in the course of a  
 2 day would something happen that you would be --  
 3 feel like you were being recognized as a girl?  
 4 I mean, if you are in math class and  
 5 somebody says what is the answer to question  
 6 number 4, you are not recognized as a boy or a  
 7 girl, you are just a student, you are being asked  
 8 a question.  
 9 So how often was it that something would  
 10 happen and you would think I am being treated like  
 11 a girl as opposed to just a person?  
 12 **A When I would be referred to as ma'am in**  
 13 **class, when I would raise my hand to answer the**  
 14 **question and the response would be yes, ma'am, for**  
 15 **example, when peers and teachers would refer to me**  
 16 **with a female name, for example.**  
 17 Q So the name at some point became, I will  
 18 use the term a burden for you, I mean the fact  
 19 that was your name. I am not going to say it, we  
 20 agreed not to use it. Is that right, the name?  
 21 **A Yes, the name from the -- the name has**  
 22 **always, because of its femininity, caused**

43

1 **distress.**  
 2 Q When you say always, since when?  
 3 **A I recall being very young, and although**  
 4 **not having the thought I am a boy, having the**  
 5 **thought this name is far too feminine for me, I**  
 6 **think I like Alex better, things like that, erring**  
 7 **towards neutral things.**  
 8 Q Right. When do you think you first  
 9 expressed that concern about the name?  
 10 **A I do not think it was something I ever**  
 11 **vocalized something to family; however, in**  
 12 **imaginary play, when I was very young, I was**  
 13 **always in a male role with a neutral name or a**  
 14 **male name, so that was an anxiety from very early.**  
 15 Q So is there anything in particular that  
 16 happened in 9th grade that resulted in you  
 17 deciding that you couldn't stay at the school?  
 18 Was there a triggering event or was it just a  
 19 cumulative effect?  
 20 **A I cannot recall if there was or was not a**  
 21 **triggering event; however, I do recall that the**  
 22 **cumulative stress was very -- was very great.**

44

1 Q How would you describe how you felt at  
 2 that point in time?  
 3 **A What point in time, sir?**  
 4 Q When you made the decision that you were  
 5 going to not continue going full-time to school in  
 6 the 9th grade, or however that came about. I  
 7 don't even know how it came about.  
 8 Tell me how it came about I guess would be  
 9 a better foundation question.  
 10 **A I am sorry. Do you mind reframing the**  
 11 **question?**  
 12 Q Sure. At some point in time, in the  
 13 spring semester of your 9th grade year, you  
 14 stopped attending school daily; is that true?  
 15 **A Yes.**  
 16 Q How did that come about?  
 17 **A My ability to function became so**  
 18 **diminished, that it was not actually possible for**  
 19 **me to continue to go to school.**  
 20 Q So tell me what that means.  
 21 **A It means I was -- I -- I was experiencing**  
 22 **major depression, my social anxiety related to**

Transcript of Gavin Grimm  
Conducted on October 19, 2018

45

**1 being gendered incorrectly was so bad that I was**  
**2 afraid to go outside, where I might encounter**  
**3 other people, for example. I academically could**  
**4 not focus, I was just -- I was miserable.**  
 5 Q And what occurred? What steps, as best  
 6 you can recall, occurred in terms of communicating  
 7 that with the school or with your parents  
 8 communicated, your father or mother?  
**9 A I really don't recall.**  
 10 Q How long a period of time was it that you  
 11 were not attending school on a daily basis at that  
 12 9th grade spring semester?  
**13 A I can't recall. I -- I don't recall if it**  
**14 was for the duration of the rest of that year or**  
**15 not, I don't recall.**  
 16 Q What was the level of support you were  
 17 receiving from your mother at that point in time  
 18 in terms of trying to help you through this?  
**19 A Regarding my difficulties at school or my**  
**20 gender expression?**  
 21 Q Just your ability to function, period,  
 22 whether it was difficulty at school or gender

46

1 expression or anything else?  
**2 A Well, at that time my mother was, of**  
**3 course, willing to pull me out of school and allow**  
**4 me to do an alternative program.**  
 5 Q What is your recollection of the  
 6 alternative program? Was it home school?  
**7 A It -- it -- I think it was referred to as**  
**8 homebound schooling and was online.**  
 9 Q So did you complete your 9th grade classes  
 10 online?  
**11 A As far as I recall.**  
 12 Q Did you -- Did the school, to your  
 13 understanding, have any understanding -- I'll  
 14 start over on that one.  
 15 What was your understanding of the  
 16 school's perception of what your issue was?  
 17 MR. BLOCK: Objection.  
**18 A I don't recall.**  
 19 Q Did you speak to anybody in the  
 20 administration with respect to why it was that you  
 21 were going to go to an alternative program?  
**22 A I don't recall.**

47

1 MR. CORRIGAN: We have been going a while.  
 2 Why don't we take a minute.  
 3 (Recess from 10:28 a.m. to 10:45 a.m.)  
**4 A Sir, I have recalled a few different**  
**5 details to share with you.**  
 6 Q Sure.  
**7 A The first being that, when I did meet with**  
**8 Tiffany Durr, I do not think it is accurate that I**  
**9 requested the use of the nurse's restroom, I --**  
**10 more accurately, I believe it was an option**  
**11 offered to me, which I then accepted.**  
**12 Additionally, I have a few antidotes from,**  
**13 you know, growing up, which follows the line of**  
**14 inquiry about, you know, male expressions.**  
**15 The first being in middle school -- I**  
**16 expressed that I didn't really have friends in**  
**17 middle school, and the group of friends I**  
**18 mentioned in high school, we met in middle school;**  
**19 however, at that point they had not become my core**  
**20 groups of friends, which was why I phrased that**  
**21 the way I did; however, at some point in --**  
**22 actually, pardon me. Do you -- does --**

48

**1 When we were -- When Peasley was taken out**  
**2 by a tornado and we went to school in a trailer,**  
**3 this was when that happened, so actually this**  
**4 could have been 9th grade. In fact, it was 9th**  
**5 grade, so this was not middle school at all.**  
**6 9th grade, my -- my friends and I, two of**  
**7 my friends, I don't recall who of the two, we were**  
**8 walking, and at that time I was presenting fully**  
**9 as male, although I had not revealed that, I had**  
**10 not revealed my gender identity to any of my**  
**11 friends, and one of my friends saw a student,**  
**12 presumably assigned male at birth, and made the**  
**13 comment that looks like the male version of Gavin,**  
**14 but using, of course, the name they knew me as at**  
**15 the time; and my other friend said, in response,**  
**16 Gavin is the male version of Gavin.**  
**17 So on another occasion, when my sister got**  
**18 married, one of -- the half sister on my mother's**  
**19 side, my -- my mother insisted I wear a dress, and**  
**20 that was a process that took hours and countless**  
**21 stores because I would walk in, take one look,**  
**22 nope, not doing any of them, hate them all, and**

Transcript of Gavin Grimm  
Conducted on October 19, 2018

49	<p>1 then we'd go to the next one.</p> <p>2 I -- I really fought hard to not wear a</p> <p>3 dress and eventually, after lots of tears and</p> <p>4 fights, came to agree to wear one that was just</p> <p>5 like completely black, was just like a square with</p> <p>6 straps, and I was incredibly distressed, and at</p> <p>7 the wedding the first thing that I greeted my</p> <p>8 relatives with was please don't call me pretty,</p> <p>9 please don't call me pretty, because I did not</p> <p>10 want to be referred to in a femininely-aligned</p> <p>11 way, and I do not recall what year my sister got</p> <p>12 married, but that would have been probably -- I</p> <p>13 was probably prepubescent at the time.</p> <p>14 Q So 11, 12?</p> <p>15 A Around, or perhaps earlier, I was -- it</p> <p>16 was, yes, it was around in that range.</p> <p>17 Q Okay.</p> <p>18 A And then there was one example where, as a</p> <p>19 class, I can't remember the parameters, but we</p> <p>20 were asked to line up boy, girl, boy, girl. Or,</p> <p>21 in fact, I -- so I don't recall the setting, if</p> <p>22 this was gym or what have you or whatever, but I</p>	51	<p>1 school or somewhere else?</p> <p>2 A I don't.</p> <p>3 Q Spring semester of 9th grade is kind of</p> <p>4 where we left off. Physically, did you have any</p> <p>5 facial hair at that time, in spring semester of</p> <p>6 9th grade?</p> <p>7 A I -- well, perhaps more than was common</p> <p>8 for someone assigned female at birth, but it was</p> <p>9 not -- pardon. At that time, I had not begun</p> <p>10 hormone replacement therapy, but I -- yes, I did</p> <p>11 have a little rat 'stache I was proud of.</p> <p>12 Q I assume a rat 'stache --</p> <p>13 A Pardon me.</p> <p>14 Q -- is some hair on your upper lip?</p> <p>15 A Just a tiny patchy little thing that I</p> <p>16 just was -- I loved to not shave.</p> <p>17 Q With that semester in school, you had not</p> <p>18 come out to the school itself?</p> <p>19 A The school itself, no; however, by the end</p> <p>20 of that year, some of my friends knew.</p> <p>21 Q And how did that happen? How did they</p> <p>22 know?</p>
50	<p>1 remember that I had been just assigned to like</p> <p>2 stand in line with the boys because visually,</p> <p>3 looking at me, the person had assumed I was or</p> <p>4 correctly determined that I was a boy, although at</p> <p>5 the time I was still understood socially to be a</p> <p>6 girl, and that was a moment of great joy for me,</p> <p>7 so that's another sort of transitional antidote.</p> <p>8 Q And that last antidote was at school?</p> <p>9 A I believe so. Actually, I will say I</p> <p>10 don't recall just because I can't say with</p> <p>11 certainty.</p> <p>12 Q But it was somewhere where you and other</p> <p>13 children at the time were being asked to line up</p> <p>14 and the adult in charge identified you as a boy?</p> <p>15 A Yes.</p> <p>16 Q And that was a source of joy for you?</p> <p>17 A Yes.</p> <p>18 Q How old approximately were you?</p> <p>19 A I was -- I was -- this would have been</p> <p>20 before transition, so I was in the range of 9 to</p> <p>21 12.</p> <p>22 Q But you don't recall whether that was</p>	52	<p>1 A I -- I just informed them that, going</p> <p>2 forward, I would like them to refer to me with</p> <p>3 male pronouns and Gavin.</p> <p>4 Q Where did the name Gavin come from?</p> <p>5 A My mother chose it for me.</p> <p>6 Q What do you recall about how that</p> <p>7 occurred?</p> <p>8 A Well, I -- I don't recall the moment where</p> <p>9 Gavin was decided upon, but I just recall the</p> <p>10 process was that my mother would be how about</p> <p>11 this? No. How about this? Absolutely not. And</p> <p>12 eventually we came to a point where I was okay</p> <p>13 with what she had chosen.</p> <p>14 Q Were you suggesting names to her as well</p> <p>15 and getting her feedback?</p> <p>16 A I don't recall. It was established at</p> <p>17 that point that, in fact, she had made the</p> <p>18 statement that she -- if I did not allow her to</p> <p>19 choose my name, that it would not be changed. She</p> <p>20 was --</p> <p>21 Q Eventually, you were okay with that, as</p> <p>22 long as you approved of the name?</p>

Transcript of Gavin Grimm  
Conducted on October 19, 2018

53

1 **A I would have preferred to self-identify;**  
 2 **however, I am not unhappy with the name Gavin.**  
 3 Q Okay.  
 4 A They're -- well --  
 5 Q What were you going to say?  
 6 A **It is -- I am not entirely sure how**  
 7 **relevant it is, it is just the name actually -- I**  
 8 **had given the name to a turtle my brother found in**  
 9 **the York River, I had called the turtle Gavin, and**  
 10 **my mother insists that she was not aware that that**  
 11 **was what the turtle's name was, because my brother**  
 12 **called it Bubba; however, I am somewhat of the**  
 13 **belief that I am named after a turtle.**  
 14 Q Your mother swears that's not so?  
 15 A **She will say that it is not so.**  
 16 Q Okay. Did your brother or your father  
 17 participate in this renaming discussion?  
 18 A **No.**  
 19 Q At what point did you begin any type of  
 20 treatment which you understood as treatment for --  
 21 and eventually the term gender dysphoria is what  
 22 is identified. At what point did any treatment

54

1 for that occur, as your best recollection?  
 2 **A Are you referring to specifically medical**  
 3 **steps or the beginning of like my attempts to**  
 4 **alleviate that dysphoria?**  
 5 Q The beginning of your attempts to  
 6 alleviate.  
 7 A **I was -- I believe I cut all of my hair**  
 8 **off when I was 12, which was one of the first**  
 9 **things that I did to begin a transition.**  
 10 **Following that, when I was 13, I purchased a**  
 11 **garment, which would flatten my breasts, and then,**  
 12 **when I was 14, I revealed to my mother that I was**  
 13 **a boy, and by the time I was I believe 15, I had**  
 14 **begun hormone replacement therapy in the form of**  
 15 **testosterone injections. Or perhaps, actually, I**  
 16 **believe I -- did I say 15?**  
 17 Q Yes.  
 18 A **Yes, sir, so that's correct.**  
 19 Q At the time you cut your hair off, were  
 20 you seeing any healthcare provider who was  
 21 providing you with any sort of guidance with  
 22 respect to this question of what ultimately was

55

1 determined to be gender dysphoria?  
 2 **A Are you asking if I was under any mental**  
 3 **healthcare at the time or if I was specifically**  
 4 **seeing someone for gender dysphoria?**  
 5 Q I am asking if you had discussed anything  
 6 with regard to this with any healthcare provider.  
 7 A **No.**  
 8 Q When did that first occur? It doesn't  
 9 have to be a psychologist, it could have been your  
 10 family doctor, it could have been just any  
 11 healthcare provider.  
 12 **A I actually want to correct myself. I had**  
 13 **a therapist when I was 8, who I at the time**  
 14 **expressed -- I did not use the language that I was**  
 15 **transgender; but I had expressed that I felt like**  
 16 **a boy, and that didn't go anywhere. It was a**  
 17 **religious counseling institution, and so it was**  
 18 **dissuaded rather than encouraged, or not**  
 19 **encouraged, but rather than respected, I suppose,**  
 20 **and so I did not vocalize that to a professional**  
 21 **after that point until -- until after I cut my**  
 22 **hair, I believe.**

56

1 Q So sometime after you were 12 years old,  
 2 after you got --  
 3 A **Yes, after I was 12.**  
 4 Q Do you remember who you first spoke to  
 5 about it, healthcare provider?  
 6 A **I --**  
 7 MR. BLOCK: After he cut his hair?  
 8 MR. CORRIGAN: Yes.  
 9 Q After you cut your hair.  
 10 **A There was one therapist, who I cannot**  
 11 **place on a timeline, it -- I don't recall when I**  
 12 **saw this person, and I also do not recall the name**  
 13 **of the doctor because I had a nickname for --**  
 14 **which I never said to her, but a nickname that**  
 15 **just was a feature of hers, that was helpful for**  
 16 **me to remember what doctor that was, but I don't**  
 17 **recall her name, and she was the first provider**  
 18 **that I had mentioned that to.**  
 19 **But the first provider that I actually**  
 20 **sought gender specific care from was Dr. Lisa**  
 21 **Griffin.**  
 22 Q The person before Dr. Lisa Griffin, was

Transcript of Gavin Grimm  
Conducted on October 19, 2018

57

1 that someone in the Gloucester community?  
 2 **A She was more local than Dr. Lisa Griffin,**  
 3 **but I cannot recall if she was within Gloucester**  
 4 **or outside of Gloucester.**  
 5 Q When you say more local, it might have  
 6 been York, it might have been Hampton Roads,  
 7 Hampton or Newport News or --  
 8 **A I -- I really don't recall. It was not --**  
 9 **for -- for example, Richmond would have been an**  
 10 **hour and a half of a drive, and it was much, much**  
 11 **less than that --**  
 12 Q Right.  
 13 **A -- from my home in Gloucester, so sort of**  
 14 **in that kind of 30-minute driving circle, that was**  
 15 **where they practiced.**  
 16 Q This person, what were you seeing them  
 17 for?  
 18 **A I -- at the time, what I recall of the**  
 19 **stated reasons was, of course, because at that**  
 20 **point, my mother was the one who contacted the**  
 21 **doctors --**  
 22 Q Right.

58

1 **A -- and communicated these things. The**  
 2 **understanding at the time was that the treatment**  
 3 **was for generalized anxiety and severe depression.**  
 4 Q Who is it, as best you know, who referred  
 5 you to Dr. Lisa Griffin?  
 6 **A I really don't recall. I -- I know that**  
 7 **it was, of course, somebody in the know of the**  
 8 **transgender community, but I do not recall who**  
 9 **that person was.**  
 10 Q The term transgender you have said several  
 11 times, when you were younger, you didn't know that  
 12 term. When did you first learn that term?  
 13 **A I was around 12, I would say, when I**  
 14 **discovered that term.**  
 15 Q About the time you cut your hair?  
 16 **A Probably; however, it was not -- I did not**  
 17 **immediately recognize that label as being**  
 18 **accurate, because it was something that was -- it**  
 19 **was not a concept that I had been introduced to in**  
 20 **a positive light, and that had caused anxiety**  
 21 **relating to my knowledge that that was accurate.**  
 22 Q Right. So how was it, if it wasn't a

59

1 positive light, what light was it that the term  
 2 transgender was open to you?  
 3 **A Well, my home environment as well as the**  
 4 **community environment was very conservative, and I**  
 5 **also grew up in an environment, which was very**  
 6 **religious and specifically religious in such a way**  
 7 **where the teachings of those churches were that,**  
 8 **for example, being gay is wrong and evil, and so**  
 9 **it was just in context of those sorts of things.**  
 10 **Just -- you know, my understanding of**  
 11 **trans people were that they were strange or bad,**  
 12 **or up until that point or that life, you know, is**  
 13 **difficult, and I don't think I ever held those**  
 14 **convictions personally but was fearful of the**  
 15 **reception of others.**  
 16 Q So the term transgender, I mean did you  
 17 hear it at church, did you hear it at Sunday  
 18 school, did you hear it in your house, or was it  
 19 at school, or where was the first time that  
 20 someone said transgender and you went I know what  
 21 that means, I think that's what I am feeling?  
 22 **A Yes. It was a YouTube video, it was an**

60

1 **individual on YouTube who made videos where they**  
 2 **would dress up as a character from a show I liked**  
 3 **at the time, and in one video that I saw, they**  
 4 **appeared physically female and in another video I**  
 5 **saw, which I later realized was dated a year after**  
 6 **the first one, they appeared physically male, and**  
 7 **I was totally -- I was just ecstatic that that was**  
 8 **something people could do.**  
 9 Q Who was the individual, do you remember?  
 10 **A The channel was called Twin Fools.**  
 11 Q T-W-I-N, F-O-O-L-S?  
 12 **A Yes. I don't know if it is still active**  
 13 **or anything like that.**  
 14 Q And the individual was they were on a show  
 15 or it was just a video that they had done  
 16 themselves?  
 17 **A They just made YouTube videos.**  
 18 Q Okay. Do you know who the person was?  
 19 **A No, not personally. It was --**  
 20 Q Do you remember their name, did they have  
 21 a stage name?  
 22 **A Oh, I have no idea. I don't know. I was**

Transcript of Gavin Grimm  
Conducted on October 19, 2018

61

1 quite young.  
2 (Discussion held off the record.)  
3 Q So how old were you the first time you saw  
4 Dr. Lisa Griffin?  
5 A I believe 15.  
6 Q So was that the spring of your 9th grade  
7 year or was it later?  
8 A I -- I did not -- I did not tell my mother  
9 who I was until the summer before or the summer  
10 after my 9th grade year, so that would have been  
11 later.  
12 (Discussion held off the record.)  
13 Q Let's talk about telling your mother who  
14 you were. When and where was that?  
15 A My mother knows the calendar date, I do  
16 not. I believe we were in the kitchen at my home  
17 and she had said the word transgender, which is  
18 not a word I knew or I was aware that she was  
19 aware of, and I had previously downloaded a PDF  
20 about what it means to be a transgender on a Nook,  
21 and so when she said the word transgender, I ran  
22 off to find the Nook, I couldn't find it, so I

62

1 came back and told her; and at that time she told  
2 me that I was not allowed to tell my extended  
3 family or the rest of my family.  
4 Q So you told her I'm a boy, I'm a  
5 transgender boy?  
6 A Yes.  
7 Q And what was her reaction other than --  
8 Before she said don't tell anybody else, what was  
9 her reaction?  
10 A She hugged me and said she loved me and we  
11 would get through this, those sorts of things.  
12 Q Okay. Then she said we are not going to  
13 tell your father, your brother or anybody else?  
14 A Yes.  
15 Q At what point in time did your father and  
16 your brother become aware of this?  
17 A Back to the turtle, at my 15th birthday  
18 party, I -- you know, I was still sort of under  
19 that gag order, and so I was prepared to  
20 experience a birthday as a birthday girl again --  
21 Q Right.  
22 A -- which was intensely traumatic as a

63

1 concept, and so the morning of the party, I had --  
2 I was nearly just totally catatonic with my grief  
3 and anxiety.  
4 And I had locked myself in my bedroom  
5 because -- because I mean I didn't -- I wasn't  
6 going to experience a birthday as a birthday girl,  
7 that was my position, and so my father had knocked  
8 on the door after that point and asked me what the  
9 problem was; and I had informed him, I said well,  
10 Mom said I am not allowed to tell you, and so, of  
11 course, he goes outside, asks Mom what it is that  
12 I am not allowed to tell him, and she told him and  
13 then called all of my relatives.  
14 Q Your mother did?  
15 A Yes. Yes. Yes, sir. My mother told my  
16 father that I was a boy, called all my relatives,  
17 who were mostly on the way already, said that I  
18 was a boy, and then later, at the party, was when  
19 my brother found out, the name Gavin had been  
20 written on the birthday cake, in lieu of the  
21 incorrect name that had originally been there, my  
22 mother had wiped the wrong one off and had written

64

1 Gavin, and my brother came down the stairs and  
2 asked everyone why the turtle's name was on the  
3 cake, because he was aware that the turtle's name  
4 was Gavin but not that my name was Gavin, and so I  
5 had to take him in the other room and explain, and  
6 so basically everyone found out on the day of my  
7 15th birthday.  
8 Q And how did it go with you and your  
9 brother with you explaining that to him?  
10 A Well, I said that's not the turtle's name,  
11 that's my name, I'm a boy, and he said no, you're  
12 not, and he ran out of the room, but he didn't  
13 mention the turtle after that.  
14 And following that was supportive to  
15 whatever degree. I mean he was never rah-rah  
16 trans.  
17 Q Right.  
18 A However, he respected me as a man, as with  
19 male pronouns, with the name Gavin. That was not  
20 a point of negotiation in my household.  
21 Q What was not?  
22 A It was not an option for anybody living

Transcript of Gavin Grimm  
Conducted on October 19, 2018

65

**1 under that roof to misgender me or dead name me**  
**2 intentionally. It was something that my mother**  
**3 had made very clear that she would not tolerate.**  
 4 Q So would you say, from that point forward,  
 5 that your father and brother were supportive or  
 6 not, unsupportive?  
 7 **A I would say not, unsupportive, remained**  
**8 the dynamic for a little while there,**  
**9 transitioning into just it's everyday life now and**  
**10 he is my brother, he is my son, and that's the**  
**11 extent of the conversation.**  
 12 Q Okay. At what point do you think it  
 13 became he's my brother, he's my son?  
 14 **A Perhaps after a few months of getting used**  
**15 to it, and I – and especially once I had began**  
**16 hormone replacement therapy and they recognized**  
**17 that it was something I was serious about.**  
 18 Q How did that affect you when they -- when  
 19 it became he is my brother, he is my son, instead  
 20 of merely not, unsupportive?  
 21 **A You know, being in a hostile environment**  
**22 in the home is incredibly detrimental to one's**

66

**1 mental health, so having the shift from mild**  
**2 hostility, you know, begrudging acceptance to, you**  
**3 know, you are my brother, you are my son, greatly**  
**4 alleviated some of my anxiety.**  
 5 Q So approximately when would you say -- to  
 6 me, you identified three stages there just now of  
 7 mildly unsupportive, whatever you said, and then  
 8 kind of neutral, and then actually you are my  
 9 brother, you are my son.  
 10 **A Yes.**  
 11 Q Over what period of time do you think  
 12 those three stages occurred?  
 13 **A I would say that full evolution was over**  
**14 the course of perhaps a year.**  
 15 Q So tell me about your relationship with  
 16 your brother before any of this came into being.  
 17 What -- how would you describe your relationship  
 18 with your brother?  
 19 **A He – we didn't have a relationship. He**  
**20 and I ran in different circles, and we just didn't**  
**21 communicate very often.**  
 22 Q Okay. Let's go back to the meeting. I am

67

1 now going to get into the details of the case,  
 2 like from this point forward.  
 3 All right. The first meeting with the  
 4 guidance counselor, did you also meet with the  
 5 principal at the same time or did you just meet  
 6 first with the guidance counselor?  
 7 **A As I recall, it was first with just the**  
**8 guidance counselor.**  
 9 Q That was Miss Durr?  
 10 **A Yes.**  
 11 Q Do you remember having an initial meeting  
 12 at some point in time with the principal Nate  
 13 Collins?  
 14 **A I do remember speaking to him, yes. I do**  
**15 not recall, however, if that was before the school**  
**16 year began or after the school year began.**  
 17 Q Okay. Was he involved in the initial plan  
 18 that you would use the nurse's office for the  
 19 restroom and be called by male pronouns, or was  
 20 that done with or without his knowledge, as best  
 21 you recall?  
 22 **A I don't recall to what extent he was**

68

**1 involved in the decision to have me in the nurse's**  
**2 bathroom; however – pardon me.**  
 3 **Could you restate the second part?**  
 4 Q Yes. What I am trying to figure out is  
 5 whether your recollection is that Mr. Collins was  
 6 involved in this initial decision, the initial --  
 7 **A Right.**  
 8 Q -- be called Gavin, male pronouns, use the  
 9 nurse's office, or whether his involvement came  
 10 later, when you were talking about using the boys'  
 11 restroom. In other words, was he involved in that  
 12 first set of conversations, as best you recall?  
 13 **A As – as best I can recall, there had been**  
**14 a discussion with him wherein he assured me that**  
**15 bullying was not going to be tolerated and that I**  
**16 should report to him, should something like that**  
**17 happen. I do not recall, however, at what point**  
**18 that conversation happened.**  
 19 Q In the time that you were -- let's go  
 20 before you identified and came to school in the  
 21 summer, so in 9th grade, did you ever report  
 22 bullying, did you ever go to the teachers or go to

Transcript of Gavin Grimm  
Conducted on October 19, 2018

69

1 the counselors or anybody to say something has  
 2 happened today, this is what's happened today,  
 3 something specific?  
 4 **A So because I had been bullied throughout**  
 5 **my school career, I had felt consistently like it**  
 6 **didn't matter to the administration, I was**  
 7 **never -- I don't feel it was ever handled**  
 8 **appropriately, I had to be home schooled in 3rd**  
 9 **grade because no one handled the bullying, and so**  
 10 **by that time I feel that I had developed a**  
 11 **perception that no one was going to help me, and**  
 12 **so I think I reported these things with less**  
 13 **frequency -- certainly with less frequency than**  
 14 **they happened.**  
 15 Q In 9th grade, the entire year, that fall  
 16 and spring semester, do you have any recollection  
 17 of ever actually reporting a specific incident of  
 18 what you believe was bullying to a teacher or  
 19 administrator?  
 20 **A I know there was a lot, but I cannot**  
 21 **recall if I had ever reported anything.**  
 22 Q Same question about 10th grade. In 10th

70

1 grade, was there ever any specific incident that  
 2 you reported to a teacher or administrator of  
 3 something that you believe was bullying?  
 4 **A I don't -- I don't recall.**  
 5 Q Same question for 11th grade.  
 6 **A I don't recall.**  
 7 Q And 12th grade.  
 8 **A I don't recall.**  
 9 Q So let's talk about 9th grade. You have  
 10 the conversation with Miss Durr, possibly  
 11 Principal Collins, it is agreed that you will use  
 12 the nurse's office, be called Gavin, be a male,  
 13 pronouns, and that, if anything comes up, you will  
 14 let them know.  
 15 So tell me, how does that go for that  
 16 first period of time. We know eventually you go  
 17 talk to him about using the boys' room, but in  
 18 that period of time before you start using the  
 19 boys' room, describe what was happening on a daily  
 20 basis.  
 21 **A I believe you said 9th grade. That would**  
 22 **have been 10th grade.**

71

1 Q I am sorry. 10th grade. I apologize.  
 2 That was a misstatement on my part.  
 3 **A Yes, sir. I -- for the period of time**  
 4 **before I requested use of the men's facilities?**  
 5 Q Yes.  
 6 **A I -- I recall sort of an adjustment**  
 7 **period, where peers who had, for example, known me**  
 8 **previously as something else would -- it was, you**  
 9 **know, they slowly began to realize individually**  
 10 **that, clearly, something had changed and had, you**  
 11 **know, their own varying opinions on that.**  
 12 I do recall an example where I had walked  
 13 into class and a previous classmate, after the  
 14 teacher had called out my name for attendance or  
 15 something, and I said here, you know, after having  
 16 been called Gavin, a former classmate of mine sort  
 17 of started laughing, and I heard him tell everyone  
 18 that's a chick, that's a chick, and then he said  
 19 hey, name, hey, name, hey, name, name, of course,  
 20 being my dead name, like trying to get my  
 21 attention with the incorrect name, and that is  
 22 something I did report.

72

1 Q Who did you report it to?  
 2 **A The teacher in the classroom at that time,**  
 3 **I do not recall the name of the teacher.**  
 4 Q Do you remember what class or what  
 5 subject?  
 6 **A I don't. I do not.**  
 7 Q Do you remember what action, if any, was  
 8 taken?  
 9 **A I -- I recall that the teacher assured me**  
 10 **that, I believe it was a female teacher, that she**  
 11 **would speak to him, and nothing like that happened**  
 12 **afterwards in that class.**  
 13 Q When you say nothing like that happened,  
 14 you are not saying she didn't speak to him, you  
 15 are saying that child never said that's a chick,  
 16 hey, name, again.  
 17 **A Correct.**  
 18 Q That never happened again?  
 19 **A Correct.**  
 20 Q So it was a one-time incident?  
 21 **A From that child. There was other**  
 22 **ridicule, however.**

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

73	<p>1 Q That child. I wasn't trying to overstate</p> <p>2 it.</p> <p>3 <b>A Right.</b></p> <p>4 Q Just that particular incident with that</p> <p>5 particular class occurred on one occasion, and you</p> <p>6 reported it to the teacher; and, to your</p> <p>7 knowledge, it never happened again; correct?</p> <p>8 <b>A Yes.</b></p> <p>9 Q What else can you recall in that time</p> <p>10 frame, in the first three or four weeks, maybe a</p> <p>11 little longer, of 10th grade, your using the</p> <p>12 nurse's restroom.</p> <p>13 <b>A I can recall that I began to feel anxiety</b></p> <p>14 <b>and shame and stigma surrounding traveling to the</b></p> <p>15 <b>nurse's restroom during that time. I can recall</b></p> <p>16 <b>frustration with missing class time because of it,</b></p> <p>17 <b>and perhaps some embarrassment, because I had the</b></p> <p>18 <b>perception, of course, that the other students</b></p> <p>19 <b>knew why I am going to the nurse, because, you</b></p> <p>20 <b>know, I am the transgender kid, so I remember that</b></p> <p>21 <b>being an anxiety that developed and intensified</b></p> <p>22 <b>during that period of time.</b></p>	75	<p>1 commented on how long you had been gone to the</p> <p>2 restroom, do you remember any other specific</p> <p>3 incidents with respect to events that occurred</p> <p>4 that caused you anxiety, shame, stigma,</p> <p>5 embarrassment?</p> <p>6 <b>A A point where I would miss valuable</b></p> <p>7 <b>instruction time, because I had to travel farther</b></p> <p>8 <b>for the restroom. Importantly as well, at the</b></p> <p>9 <b>time I had mentioned the compression garment, and</b></p> <p>10 <b>that is a garment that needs to be adjusted</b></p> <p>11 <b>throughout the day a few times, or else it can</b></p> <p>12 <b>physically damage my body including rib</b></p> <p>13 <b>deformation, respiratory issues, and so it was</b></p> <p>14 <b>important that I had access to a bathroom</b></p> <p>15 <b>frequently enough to make sure that I was not</b></p> <p>16 <b>harmed, and I recall that, because of that, I did</b></p> <p>17 <b>have anxiety over how much instructional time I</b></p> <p>18 <b>was missing.</b></p> <p>19 Q So how often did you have to go to the</p> <p>20 restroom?</p> <p>21 <b>A Well, I would say -- I would say, for</b></p> <p>22 <b>restroom functions, perhaps twice a day and then,</b></p>
74	<p>1 Q Okay. Was there ever anything specific</p> <p>2 that happened, any statements by another student,</p> <p>3 statements by a teacher, anyone else, that helped</p> <p>4 create the anxiety, shame, stigma, embarrassment</p> <p>5 that you mentioned?</p> <p>6 <b>A Yes.</b></p> <p>7 Q What?</p> <p>8 <b>A There was one example of a teacher, I</b></p> <p>9 <b>cannot recall what teacher, but that the teacher</b></p> <p>10 <b>was male, who after a lengthy disappearance from</b></p> <p>11 <b>class to use the bathroom, because, of course, it</b></p> <p>12 <b>was farther from my class than the bathrooms</b></p> <p>13 <b>usually are, he made a big public point, when I</b></p> <p>14 <b>reentered the classroom, to comment on how long I</b></p> <p>15 <b>had been gone in a way that I felt was</b></p> <p>16 <b>humiliating.</b></p> <p>17 Q Do you remember who the teacher was?</p> <p>18 <b>A I do not.</b></p> <p>19 Q But it was one of your teachers the first</p> <p>20 semester of 10th grade?</p> <p>21 <b>A Yes.</b></p> <p>22 Q Other than that incident where the teacher</p>	76	<p>1 <b>to adjust that garment, that is something that I</b></p> <p>2 <b>would have to do three or four times throughout a</b></p> <p>3 <b>school day, often times I would, you know, do that</b></p> <p>4 <b>when I went to the bathroom, but sometimes I</b></p> <p>5 <b>couldn't.</b></p> <p>6 Q Why not?</p> <p>7 <b>A Or rather not sometimes that I couldn't,</b></p> <p>8 <b>but sometimes that it happened, it would</b></p> <p>9 <b>reposition itself in a way that I needed to</b></p> <p>10 <b>correct in a position where I -- I didn't need to</b></p> <p>11 <b>go to the bathroom for any other reason than to</b></p> <p>12 <b>fix that garment.</b></p> <p>13 Q Did there come a time when they gave you</p> <p>14 access to another restroom that was closer besides</p> <p>15 the nurse's office in the D-Hall?</p> <p>16 <b>A So at one point, it was my understanding</b></p> <p>17 <b>that it was communicated to me that I was allowed</b></p> <p>18 <b>to access the male faculty restrooms on all halls;</b></p> <p>19 <b>however, I was then told that no, in fact, I had</b></p> <p>20 <b>only been given permission to use the ones on</b></p> <p>21 <b>D-Hall, but I think that -- I think I genuinely</b></p> <p>22 <b>was told that I had access to all staff bathrooms</b></p>

Transcript of Gavin Grimm  
Conducted on October 19, 2018

77

**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

78

1 in counseling or someone in the administration?  
**2 A Yes. Either, for example, either like the**  
**3 principal or one of the guidance counselors.**  
 4 Q So Miss Durr, Mr. Lord, Mr. Collins. Who  
 5 were the other possibilities?  
**6 A I suppose Neblett would have been a**  
**7 possibility, but, of course, I don't recall who.**  
 8 Q Did anyone ever say anything to you -- let  
 9 me ask this question first. Did you ever use any  
 10 of the male faculty restrooms?  
**11 A I -- I don't -- I don't recall if I did or**  
**12 did not, but I can say with certainty that, if I**  
**13 did once or twice, it was not something I did with**  
**14 frequency.**  
 15 Q Why not?  
**16 A I was embarrassed. It was, in fact -- for**  
**17 another student to see me go into a faculty**  
**18 bathroom was more, obviously, I suppose uncommon**  
**19 than should a student watch me walk into the**  
**20 nurse's office, so it caused me more anxiety, in**  
**21 fact.**  
 22 Q On any occasion can you recount where

79

1 someone actually said something to you, any  
 2 student said something to you about what are you  
 3 doing in there in the nurse's office or what are  
 4 you doing going in the male faculty restroom or  
 5 any specific comment by a student about your  
 6 restroom use during this time frame?  
**7 A I recall a few sort of snide comments,**  
**8 when I had a longer absence from class for the**  
**9 bathroom, you know, what took you so long, in a**  
**10 way that was, you know, probably implying high**  
**11 school bathroom humor; and other snide things like**  
**12 that are just things designed to point out that I**  
**13 was not allowed to use the other restrooms.**  
 14 Q Okay. How were you able, if somebody says  
 15 what took you so long, to know whether they're  
 16 trying to tease you about what function it was  
 17 that you were using versus which bathroom you were  
 18 using or any other concern?  
**19 A Well, in part, because of the individual**  
**20 who would have said that, like these were**  
**21 typically the kids that would commonly harass me,**  
**22 and then, additionally, the tone of voice, but, of**

80

**1 course, additionally, the conversation they would**  
**2 have thereafter about, you know, vulgar toilet**  
**3 things so --**  
 4 Q All right. So can you give me any  
 5 specifics where this happened, like what class you  
 6 were in, who the student was, what was said, any  
 7 details?  
**8 A I -- I mean I don't -- I don't recall what**  
**9 classroom I was in when this happened, it could**  
**10 have been any one of many.**  
**11 I -- one of the -- one of the most**  
**12 persistent harassers was a student named Austin, I**  
**13 do not recall his last name. I do recall that**  
**14 this was an event -- one of these sorts of**  
**15 examples of ridicule was something he was involved**  
**16 in, and then -- pardon me. You also asked**  
**17 specific examples of dialogue.**  
 18 Q Yes.  
**19 A For example, you know, that must have been**  
**20 a big crap, you know, embarrassing things like**  
**21 that, because it took me a while.**  
 22 Q But you would agree, that must have been a

Transcript of Gavin Grimm  
Conducted on October 19, 2018

81

1 big crap doesn't have anything to do with  
 2 whether -- which restroom you used or anything  
 3 else, it is just talking about what you did while  
 4 you were in there.  
 5 MR. BLOCK: Objection.  
 6 **A I wouldn't agree with that. That was just**  
 7 **one example of the dialogue that would follow.**  
 8 **Others would be laughter about there is a bathroom**  
 9 **right there, that kind of thing, so that's why --**  
 10 **the perception I have is that these were all**  
 11 **related to a knowledge of where I was using the**  
 12 **bathroom, and it was just various targeted**  
 13 **insults, whenever they felt like teasing me about**  
 14 **at that time; but there were examples where the**  
 15 **conversation erred less towards bathroom humor and**  
 16 **more towards why don't you go to that one, that**  
 17 **kind of thing.**  
 18 Q Can you tell me who said why don't you go  
 19 to that one?  
 20 **A I really couldn't.**  
 21 Q Was that Austin or was it someone else?  
 22 **A I don't recall, but it was -- the -- the**

82

1 **primary harassers were students like Austin and**  
 2 **that would frequently hang around with Austin or**  
 3 **other students in similar circles to Austin. So I**  
 4 **mean it was -- it was, you know, a few different**  
 5 **clusters of people that all sort of ran in the**  
 6 **same circles.**  
 7 Q Did you report Austin's remarks or anybody  
 8 else's remarks to your teacher or anyone else?  
 9 **A I don't recall what I did and did not**  
 10 **report. At that time I sort of had a**  
 11 **significantly diminished faith in the protections**  
 12 **that I would have, and so I felt a bit of a sense**  
 13 **that it was futile to report this harassment**  
 14 **because it was so consistent and I had been going**  
 15 **to administrators for my whole entire school**  
 16 **career about incredible bullying, and nothing had**  
 17 **ever been accomplished, so I felt like at that**  
 18 **point it was just not something that I was --**  
 19 Q Let me ask you this. Specifically, had  
 20 you ever been to Principal Collins about bullying?  
 21 **A I don't recall.**  
 22 MR. BLOCK: Objection. Are we still

83

1 talking about this time period? About --  
 2 MR. CORRIGAN: I am talking about ever.  
 3 MR. BLOCK: You are?  
 4 MR. CORRIGAN: Yes.  
 5 **A I don't recall.**  
 6 Q Had you ever been to Miss Durr about  
 7 bullying?  
 8 **A I don't recall.**  
 9 Q Had you ever been to Matt Lord about  
 10 bullying?  
 11 **A I don't recall.**  
 12 Q Can you tell me anybody at the high school  
 13 that you went to about bullying?  
 14 **A The only clear memory that I have of**  
 15 **reporting an incident would have been the one**  
 16 **where the student, you know, referred to me**  
 17 **incorrectly name wise.**  
 18 Q The one we talked about with the teacher?  
 19 **A Yes, sir.**  
 20 Q And she addressed it?  
 21 **A Yes. I -- I do not believe that that is**  
 22 **the only incident I ever reported; however, I**

84

1 **don't have a recollection of any other specific**  
 2 **event of reporting things like that.**  
 3 Q Okay. At some point in time you went to  
 4 Miss Durr and advised her that you wanted to use  
 5 the boys' room, is that right, is that how that  
 6 started?  
 7 **A I don't recall who I approached, but at**  
 8 **some point in time I did approach a member of**  
 9 **staff at the high school.**  
 10 Q Tell me what you recall about how -- was  
 11 it you alone, was it with your mom, was it at  
 12 school, was there an email sent, or how did it go?  
 13 **A I don't recall who was with me, and I do**  
 14 **not recall who I spoke with, although I believe at**  
 15 **some point Principal Collins or Nate Collins was**  
 16 **part of the conversation.**  
 17 **In fact, what I do recall of my**  
 18 **conversation with him was I -- actually, so I**  
 19 **suppose I do recall, he was part of this, at least**  
 20 **at some point. I remember expressing to him that**  
 21 **it was stigmatizing and embarrassing and also**  
 22 **detrimental to my instructional time, to have to**

Transcript of Gavin Grimm  
Conducted on October 19, 2018

85

1 **travel so far to the nurse's restroom, when my**  
 2 **classes on -- in that year were all as far from**  
 3 **the nurse's office on campus as they could have**  
 4 **been, and so it was even farther a journey, and I**  
 5 **expressed that it was just -- it was not ideal for**  
 6 **my needs, and I asked him if I could use the boys'**  
 7 **bathroom.**  
 8 **At that time he did not commit either way,**  
 9 **I think he told me that he would have to check**  
 10 **with others, and then we spoke again, and he said**  
 11 **essentially to go ahead.**  
 12 Q Did you -- The word stigmatizing, when is  
 13 the first time you ever used that word or ever  
 14 heard that word?  
 15 **A I was a verbose child, so I could have**  
 16 **been 8. I have no idea.**  
 17 Q With respect to this, do you remember when  
 18 you first used the term stigmatizing, with using a  
 19 restroom being stigmatizing?  
 20 **A No, sir, I don't.**  
 21 Q Do you think it was your word?  
 22 **A Yes, of course.**

86

1 Q Okay. So is it your recollection you said  
 2 that to Mr. Collins when you spoke with him, that  
 3 specific word stigmatizing?  
 4 **A I conveyed that I felt, you know, stigma.**  
 5 **I do not know necessarily that I said the word**  
 6 **stigmatizing.**  
 7 Q Right.  
 8 **A However, I expressed that I felt that it**  
 9 **identified me as different, as a target, it was,**  
 10 **you know, not right, you know, things which fall**  
 11 **under stigma; but I also cannot say with certainty**  
 12 **that I did not use the word stigmatizing.**  
 13 Q Sure. Do you remember having a meeting  
 14 with Mr. Collins and Miss Durr, at which they  
 15 prepared a little memo? Have you seen the memo,  
 16 on October 14th, that says you will start on  
 17 October 20th and you will report if anything goes  
 18 wrong, and, if there is an incident, that you will  
 19 not increase it, you will come let us know  
 20 something happened. Does any of that ring a bell?  
 21 **A I recall the conversation, I do not recall**  
 22 **getting any memo or anything about that.**

87

1 Q And you may or may not have gotten it. It  
 2 may have been something that was generated  
 3 internally within the school. I just didn't know  
 4 if you had any recollection of a memo.  
 5 **A Yes, I do remember that conversation.**  
 6 Q Okay. And tell me what you recall.  
 7 **A Essentially what you said, that it is --**  
 8 **starting now I can use the boys' restroom. Should**  
 9 **there be any issues, let us know right away, that**  
 10 **kind of thing.**  
 11 Q Okay. October 20th was a Monday. Do you  
 12 recall whether the first time you used a boys'  
 13 restroom, when that was that day?  
 14 **A I would have no idea.**  
 15 Q Don't remember?  
 16 **A No idea.**  
 17 Q Do you remember which boys' restroom you  
 18 started using?  
 19 **A No. It was a nonevent for me.**  
 20 Q So when you went in the boys' restroom, I  
 21 assume you went in a stall every time that you  
 22 used the restroom?

88

1 **A Yes.**  
 2 Q But as we are sitting here today, you  
 3 can't tell me which one out of the many, if I have  
 4 got the math, and said here is all the restrooms,  
 5 you wouldn't be able to tell me which one --  
 6 **A No.**  
 7 Q -- on any given occasion?  
 8 **A No. I had been using boys' bathrooms in**  
 9 **every public place in Gloucester and outside of**  
 10 **Gloucester for probably more than a year at that**  
 11 **point, so this was very natural to me and it was**  
 12 **not something I felt necessary to commit to**  
 13 **memory.**  
 14 Q Okay. Did you -- how often were you using  
 15 the restroom?  
 16 **A I suppose with the same frequency that I**  
 17 **was going to the nurse's room beforehand.**  
 18 Q So two times a day to use the restroom and  
 19 then a few other times to adjust your garment?  
 20 **A Yes, I would say 2 to 4 times a day would**  
 21 **be a fair sort of ball park.**  
 22 Q At any time on any of those occasions in

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

89	<p>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?  <b>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.</b>                  11 Q Beginning at the first of your sophomore                  12 year, did you ever go in the girls' restroom?  <b>13 A Absolutely not.</b>                  14 Q When did you last use the girls' restroom                  15 at Gloucester High School?  <b>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.</b>                  19 Q Of 9th grade?  <b>20 A Yes, sir.</b>                  21 Q So the -- that was the second part of that                  22 year, in the spring semester, you went into the</p>	91	<p>1 sometime in October of 2014?  <b>2 A 2014?</b>                  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.  <b>6 A Okay.</b>                  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?  <b>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.</b>  <b>21 At that time, I had walked over and I said                  22 you really should stop saying things like this,</b></p>
90	<p>1 homebound status, so it was before that is the                  2 last time you think you used the girls' restroom?  <b>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.</b>                  6 Q Because you didn't want to use the girls'                  7 restroom?  <b>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.</b>                  12 Q And since then, you have not used the                  13 girls' restroom at Gloucester High School?  <b>14 A No.</b>                  15 Q Not at all in the 11th grade, not at all                  16 in the 12th grade?  <b>17 A No.</b>                  18 Q Correct?  <b>19 A Correct.</b>                  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</p>	92	<p><b>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.</b>  <b>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.</b>                  12 Q When was that, do you remember?  <b>13 A No, not other than what you have, what you                  14 have identified.</b>                  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</p>

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

93	<p>1 we were just discussing or describes the incident</p> <p>2 we were just discussing.</p> <p>3 <b>A So reading this did remind me of a detail.</b></p> <p>4 <b>The statement that Miss Bergh had said to me at</b></p> <p>5 <b>the time, where she was recommending disciplinary</b></p> <p>6 <b>action, was that she was positive that it was</b></p> <p>7 <b>going to be a physical fight. I absolutely</b></p> <p>8 <b>dispute that, I had had no intentions of</b></p> <p>9 <b>physically fighting with anybody. I -- my only</b></p> <p>10 <b>position was to say like you -- like stop saying</b></p> <p>11 <b>these things, and his position was to escalate.</b></p> <p>12 <b>And also importantly, we were on other</b></p> <p>13 <b>sides of the table, and neither of us ever moved</b></p> <p>14 <b>to get closer to each other as well, so I contest</b></p> <p>15 <b>that there was a possibility of physical fight.</b></p> <p>16 <b>But I believe that was the grounds under</b></p> <p>17 <b>which she recommended disciplinary action.</b></p> <p>18 Q Okay. Do you remember what the</p> <p>19 disciplinary action was?</p> <p>20 <b>A I -- I don't -- I don't recall if I was</b></p> <p>21 <b>suspended in or out of school or for how many days</b></p> <p>22 <b>or if it was just detention or something, I really</b></p>	95	<p>1 Q Okay. And what is his name?</p> <p>2 <b>A I believe he was a grade beneath me and so</b></p> <p>3 <b>I don't recall.</b></p> <p>4 Q Okay. You -- Tell me about your Phys Ed</p> <p>5 decision. What did you decide to do with Phys Ed</p> <p>6 class?</p> <p>7 <b>A What grade?</b></p> <p>8 Q 10th grade.</p> <p>9 <b>A 10th grade. I believe that was done</b></p> <p>10 <b>online.</b></p> <p>11 Q Why was that?</p> <p>12 <b>A Because I was, of course, never going to</b></p> <p>13 <b>be allowed to use the correct facilities, being</b></p> <p>14 <b>the male facilities, and the humiliation of having</b></p> <p>15 <b>to use an alternative option or perhaps even being</b></p> <p>16 <b>forced into the girls' locker room was something I</b></p> <p>17 <b>was unwilling to take on.</b></p> <p>18 <b>In addition, I was wearing a garment, like</b></p> <p>19 <b>I mentioned at the time, to compress my breasts,</b></p> <p>20 <b>which it was utterly medically necessary and not</b></p> <p>21 <b>something that was optional but that restricted my</b></p> <p>22 <b>physical abilities pretty significantly because,</b></p>
94	<p>1 <b>don't recall, it was something to that effect.</b></p> <p>2 Q Okay.</p> <p>3 <b>A I hadn't -- yes.</b></p> <p>4 Q Had this individual, who you got in the</p> <p>5 argument with, had he seen you in the restroom or</p> <p>6 had you crossed paths in the restroom?</p> <p>7 <b>A Not that I was ever aware of. Perhaps in</b></p> <p>8 <b>context for this claim it is important in that</b></p> <p>9 <b>during the period of time -- in fact -- in fact,</b></p> <p>10 <b>most of these rumors began circulating even after</b></p> <p>11 <b>I was effectively banned from the boys' bathroom,</b></p> <p>12 <b>but it became very common for people to create</b></p> <p>13 <b>stories of Gavin bathroom encounters ranging from</b></p> <p>14 <b>fairly bizarre to, you know, just -- I mean, of</b></p> <p>15 <b>course, they were all fully fabricated, but</b></p> <p>16 <b>perhaps that was fueled by a rumor of that nature.</b></p> <p>17 <b>I don't know.</b></p> <p>18 Q Okay. My question is did you ever cross</p> <p>19 paths with this individual in the restroom before</p> <p>20 or on October 28, 2014, to your best recollection?</p> <p>21 <b>A Well, absolutely -- Well, to my</b></p> <p>22 <b>recollection, I do not recall seeing him.</b></p>	96	<p>1 of course, the function is that it presses the</p> <p>2 tissue down against your lungs, and so that does</p> <p>3 restrict some movement, and then, on top of that,</p> <p>4 that garment did not pair very well with the gym</p> <p>5 uniform because the garment was slick and so were</p> <p>6 the pants and the shirt, and so with the garment</p> <p>7 on, the pants would not stay up and that kind of</p> <p>8 thing.</p> <p>9 Q Where did the garment -- describe the</p> <p>10 garment for me.</p> <p>11 <b>A A tank top but that is of a somewhat</b></p> <p>12 <b>stretchy material but that is nonelastic enough</b></p> <p>13 <b>that it forces tissue to compress.</b></p> <p>14 Q So did you request to do your PE class</p> <p>15 online?</p> <p>16 <b>A I did.</b></p> <p>17 Q Okay. Was there ever any discussion about</p> <p>18 doing it any other way?</p> <p>19 <b>A What I recall of the conversation was that</b></p> <p>20 <b>I don't recall who I approached truthfully, but I</b></p> <p>21 <b>approached someone and said this is just not going</b></p> <p>22 <b>to be possible for me, what are my options, and</b></p>

Transcript of Gavin Grimm  
Conducted on October 19, 2018

97

**1 they at that time had offered the virtual program.**  
**2 Q** Was it the PE teacher or was it your  
**3** guidance people or was it someone else, as best  
**4** you can recall?  
**5 A I don't recall.**  
**6 Q** So there was no time in 10th grade you  
**7** actually attended a physical PE class at school;  
**8** is that correct?  
**9 A Not that I can recall.**  
**10 Q** Okay. What do you personally know about  
**11** any complaints that were received by teachers,  
**12** administrators or the Superintendent or the School  
**13** Board with respect to you using the boys'  
**14** restroom?  
**15 A Well, that question actually prompted me**  
**16 of a detail that I had previously failed to**  
**17 mention. Do you mind if I --**  
**18 Q** Sure.  
**19 A It is somewhat connected. When you asked**  
**20 about, you know, if I received any adult ridicule**  
**21 or was it peer ridicule and that sort of thing, at**  
**22 both of the School Board meetings, which I**

98

**1 attended, which they discussed my, you know,**  
**2 restroom usage, the adults in the community**  
**3 present hurled insults, called me a freak, a dog,**  
**4 all sorts of hateful horrible language, and also**  
**5 many of them went to great lengths to refer to me**  
**6 with female pronouns or honorifics such as young**  
**7 lady, little miss, ma'am, Mrs., even going so far**  
**8 as to, you know, reframe a sentence to where it**  
**9 grammatically was not correct just to say ma'am**  
**10 another extra time, so that was another example of**  
**11 verbal abuse that I received.**  
**12 Then I apologize. Could you restate the**  
**13 question?**  
**14 Q** The question I asked you was are you  
**15** personally aware, personally, of any complaints --  
**16** I want to exclude anything that was said at those  
**17** meetings, --  
**18 A Right.**  
**19 Q -- the public meetings, that were received**  
**20** or concerns that were expressed to teachers or  
**21** counseling or administration at the school or the  
**22** Superintendent or the School Board.

99

**1 MR. BLOCK:** Objection. Are you specifying  
**2** complaints from students, complaints from parents  
**3** or both?  
**4 MR. CORRIGAN:** Either one of those.  
**5 Q** Any personal knowledge you have of any of  
**6** that? Not what you have heard, --  
**7 A Right.**  
**8 Q -- not what the rumors were, but you know**  
**9** from someone telling you or you being present,  
**10** whatever, where someone made a complaint.  
**11 A I do not have any direct knowledge of**  
**12 anyone making a complaint. I do have a**  
**13 recollection of -- I don't recall if it was**  
**14 Collins or one of the guidance counselors or**  
**15 whomever.**  
**16 I recall at some point being told**  
**17 something to the effect of we have had a**  
**18 complaint, which time line wise, I would place**  
**19 probably towards the end of the 7-week period, the**  
**20 7-week period being, of course, when I was allowed**  
**21 to use the boys' bathroom.**  
**22 Q** So the first day you were allowed,

100

**1** according to all the information we have, is  
**2** October 20th, and you think at some point after  
**3** October 20th, Mr. Collins or someone else said we  
**4** have had a complaint?  
**5 A I do recall being told by some employee of**  
**6 the school that they were -- their knowledge was**  
**7 that there was a complaint.**  
**8 I was never given any additional details,**  
**9 how many complaints that was, from who it was or**  
**10 anything like that; and beyond that, I have no**  
**11 knowledge of anything.**  
**12 Q** I mean there is no reason why you would,  
**13** as a student, know --  
**14 A Right.**  
**15 Q -- who complained of anything like that.**  
**16 All right. So you start using the**  
**17 bathroom on October 20th, and at some point do you**  
**18** become aware that there is going to be a School  
**19** Board conversation about the use of a boys'  
**20** restroom by a -- what had been previously  
**21** considered to be a female student?  
**22 A I was made aware less than 24 hours before**

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

101

1 the first School Board meeting because there was a  
 2 Facebook post that went around urging people to  
 3 show up and oppose me essentially.  
 4 My mother -- a friend of my mother's had  
 5 forwarded that post to her, and she -- well, and  
 6 so it was decided at that point that, of course,  
 7 we were going to go and -- so that was when I was  
 8 made aware, less than 24 hours before it was going  
 9 to happen, the first meeting.  
 10 Q So the first meeting, I think by all  
 11 accounts, was November 11, 2014. So less than 24  
 12 hours before the meeting on November 11, 2014, is  
 13 when you first became aware that the issue of the  
 14 bathroom/restroom use by a previously female  
 15 student who identified male was going to be  
 16 discussed?  
 17 A By a female -- or by a student assigned  
 18 female at birth, yes.  
 19 Q Okay. And how is it you became aware? I  
 20 know you just told me. Who is this friend of your  
 21 mother's?  
 22 A I would not know.

102

1 Q What Facebook post was it, do you remember  
 2 whose Facebook post it was or what it said?  
 3 A I do not recall who made the post or  
 4 anything to that effect. I just remember that it  
 5 was a post essentially saying, you know, there is  
 6 a girl in the boys' room and everyone show up and,  
 7 you know, make that -- you know, make that stop.  
 8 And, of course, there were many, many,  
 9 many vile comments underneath that post, none of  
 10 which I can however remember at this time.  
 11 Q And who showed you the post?  
 12 A My mother.  
 13 Q Tell me about any conversation you had  
 14 with your mother at that time about the post.  
 15 A My recollection is that we were frustrated  
 16 that we were not informed, in fact, we felt that  
 17 that was -- that was just wrong, that we had not  
 18 been informed.  
 19 We also basically spoke about next steps,  
 20 what do we do, and both sort of arrived at the  
 21 conclusion that no one would be there to support  
 22 me and they would not have the conversation

103

1 without someone telling my side of the story and  
 2 there would be no one to do that but us.  
 3 Q So you and your mother decided that the  
 4 two of you would show up at the School Board  
 5 meeting to discuss this restroom use issue?  
 6 A Yes, and I independently decided that I  
 7 specifically wanted to make a comment.  
 8 Q What was your thinking on deciding that  
 9 you wanted to make a comment?  
 10 A Well, I had already been identified as the  
 11 student in question, people that had spoken before  
 12 me had already turned to look directly at me, and,  
 13 you know, it was not a secret, it was not as if we  
 14 could pretend like we didn't know who the student  
 15 was, and so my thought process was that people  
 16 already have identified me as the transgender  
 17 child in question, and a decision about my future  
 18 should not be made without myself at least  
 19 expressing my input.  
 20 Q Before you went to the School Board  
 21 meeting, what information did you have that anyone  
 22 knew who you were, I mean specifically that this

104

1 was about you.  
 2 A Well, because the community had been  
 3 talking. I mean my peers recognized that,  
 4 malicious and friendly, all recognized that I was  
 5 the trans kid. You know, at that point gossip,  
 6 rumors had gotten around, I don't -- I recall  
 7 getting the sense that there were some comments.  
 8 I don't recall if they were on that thread;  
 9 however, I do remember me reading some kind of  
 10 social media comment that had identified my -- my  
 11 brother's -- it being my brother's sister, you  
 12 know, was the language that was used.  
 13 Q So you saw that somewhere?  
 14 A Yes, that was -- that was something I saw  
 15 at some point, where someone in the comment thread  
 16 had identified like there was -- and, to be clear,  
 17 currently, I am not necessarily speaking about the  
 18 comment thread underneath that post that went  
 19 around, there were other, you know, disparaging  
 20 social media posts, which were nasty, of other  
 21 people, that they didn't necessarily get shared as  
 22 widely, but in comments like those, I read things

Transcript of Gavin Grimm  
Conducted on October 19, 2018

105

1 **like, you know, that is -- that is David's sister**  
 2 **or I know that chick or, you know, that kind of**  
 3 **thing, so it was understood fairly generally that**  
 4 **I was known to be the child.**  
 5 Q Are you aware of any member of the School  
 6 Board who identified you before this meeting, in  
 7 other words, said this is who we are talking  
 8 about, this person?  
 9 **A During the meeting?**  
 10 Q No. Before the meeting.  
 11 **A I didn't have any conversations with any**  
 12 **of them before the meeting.**  
 13 Q I understand. My question, though, is are  
 14 you aware of any -- of any information that any  
 15 School Board member identified you before the  
 16 meeting as the person about whom this discussion  
 17 was occurring?  
 18 **A No. However, one of the members of the**  
 19 **School Board, Kevin Smith, was previously a close**  
 20 **family friend, who had spoken to my mother, and I**  
 21 **don't know about what, but ahead of the School**  
 22 **Board meeting, and he assured her at that time**

106

1 **that he would recuse himself from the vote because**  
 2 **it was improper for him to make a distinction**  
 3 **because he knew us.**  
 4 **He then did not do that and, in fact,**  
 5 **voted against us instead. He voted, to be clear,**  
 6 **vowed to ban me from the boys' restroom instead.**  
 7 Q He voted in favor of the resolution?  
 8 **A Of the proposal that Miss Hook had brought**  
 9 **forward, yes. So there was at least one School**  
 10 **Board member who was aware of the identity of the**  
 11 **child.**  
 12 Q You don't have any information that  
 13 Mr. Smith told anyone else that you were the  
 14 child?  
 15 **A I don't have any information that that**  
 16 **happened, no. But I -- I also have nothing to,**  
 17 **you know, present that ensures that it was not**  
 18 **something that happened as well.**  
 19 Q You just don't know?  
 20 **A I don't know.**  
 21 (Discussion held off the record.)  
 22 Q When did you first see the policy, the

107

1 proposed policy?  
 2 **A I -- I don't recall exactly. I do**  
 3 **remember hearing at -- I believe at the first**  
 4 **School Board meeting, where one of the members of**  
 5 **the School Board read the proposed policy. I**  
 6 **don't recall if I had seen it before that time.**  
 7 Q So your best recollection is the first  
 8 time you heard the policy was out loud, it wasn't  
 9 in writing?  
 10 **A To my best recollection, yes.**  
 11 Q Again, that's the best we can do.  
 12 **A Right.**  
 13 Q At the first meeting, you spoke; correct?  
 14 **A Yes, sir.**  
 15 Q Do you remember how many people spoke  
 16 before you?  
 17 **A I don't.**  
 18 Q Was it a large number, small number --  
 19 **A It --**  
 20 Q -- before you got up and spoke?  
 21 **A I can remember feeling like it was ages**  
 22 **and ages, but that was -- that could be affected**

108

1 **by how anxious I was, of course, so I really**  
 2 **wouldn't be able to give a good metric.**  
 3 Q Did you speak first or did your mom speak  
 4 first?  
 5 **A I don't recall.**  
 6 Q Had you prepared your remarks?  
 7 **A Yes, I had; however, I went primarily off**  
 8 **script. I don't -- and I have not ever retained a**  
 9 **copy of what I was prepared to say.**  
 10 Q So you don't have your original notes?  
 11 **A I do not.**  
 12 Q When you decided to attend this first  
 13 School Board meeting, which was on November 11 of  
 14 2014, who else did you discuss that with besides  
 15 your mom?  
 16 **A I don't recall.**  
 17 Q Like you don't -- is it you don't recall  
 18 because it may have been a bunch of people, you  
 19 just don't know who they are, or you don't think  
 20 you talked to anybody else?  
 21 **A I don't believe I spoke to anybody else,**  
 22 **but I do not recall that with certainty.**

Transcript of Gavin Grimm  
Conducted on October 19, 2018

109

1 Q Sure. When did you first speak to any  
2 person who was an attorney or who was looking at  
3 this from kind of a legal standpoint?  
4 **A I do not recall if that happened before**  
5 **the second meeting or after the second meeting, I**  
6 **can't place that.**  
7 Q Do you remember how it occurred, like  
8 whether it was a phone call or in person?  
9 **A I cannot clearly recall how I was**  
10 **initially connected with the ACLU.**  
11 Q Was it the ACLU the first people you  
12 talked with?  
13 **A Yes.**  
14 Q Tell me about your recollection of that  
15 first meeting. We've kind of talked about it. So  
16 was it a full house in the meeting room?  
17 **A The individual comments, I referenced**  
18 **being called a freak, someone likening me to a dog**  
19 **peeing on a hydrant, those kind of things --**  
20 THE COURT REPORTER: I am sorry. A dog?  
21 I couldn't hear you.  
22 MR. CORRIGAN: Peeing on a hydrant.

110

1 **A A dog urinating on a hydrant.**  
2 THE COURT REPORTER: Thank you.  
3 **A Comments like that, I do not recall if**  
4 **they were in the first or second meeting.**  
5 Q I think it was the second, but I am just  
6 adding, your recollection is what matters.  
7 **A Right. However, in the first meeting,**  
8 **what I do recall is that there were fewer people**  
9 **than in the second meeting, but that there were**  
10 **still -- it still seemed fairly full.**  
11 Q And do you remember where -- did other  
12 students speak at the first meeting, or, again, do  
13 they run together?  
14 **A I -- I really -- they -- to some extent,**  
15 **they do run together. I do not recall if any**  
16 **student spoke at the first meeting.**  
17 Q Do you remember what happened after the  
18 first or the result at the first meeting, what the  
19 School Board did?  
20 **A They postponed the decision to rule for**  
21 **the next meeting, following.**  
22 Q At this time, on November 11 of 2014, had

111

1 you started any hormone therapy at that time?  
2 **A I do not -- I do not recall. I know that**  
3 **the -- that me and my family were actively working**  
4 **on, you know, the goal of getting that treatment**  
5 **from -- essentially from the point at which the**  
6 **rest of my family became aware of who I was, and**  
7 **from that point on we looked at next steps being**  
8 **hormone replacement therapy and that sort of**  
9 **thing, so --**  
10 Q Where did you receive hormone therapy?  
11 Who was guiding it, I guess is what I am asking.  
12 **A A doctor in Richmond at the VCU -- on the**  
13 **VCU campus. I do not -- she was a pediatric**  
14 **endocrinologist, I do not recall her name, but**  
15 **that she was a woman.**  
16 Q Have you gone back and watched the video  
17 of either of the two School Board meetings?  
18 **A Not -- not deliberately. The footage has**  
19 **been used in other videos that I have participated**  
20 **in, for example, like a voting PSA, where they**  
21 **will use a 3-second clip or whatever; however, I**  
22 **have not watched those clips from start to finish**

112

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

<p style="text-align: right;">113</p> <p>1 what is your understanding of your chromosomal                  2 elements?                  3 <b>A I -- well, I was assigned female at birth,</b>                  4 <b>so I would assume that there are two X</b>                  5 <b>chromosomes; however, differences in that are very</b>                  6 <b>common, and often you go your whole life without</b>                  7 <b>knowing them, so, to my knowledge, XX; however, I</b>                  8 <b>don't know that that's ever been formally tested.</b>                  9 Q How about anatomical elements. What is                  10 your understanding of your anatomical elements?                  11 <b>A With respect to what, sir?</b>                  12 Q With respect to the many biological                  13 components of sex.                  14 <b>A Do you mind rephrasing the question?</b>                  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.</p>	<p style="text-align: right;">115</p> <p>1 <b>A Okay.</b>                  2 Q That's what I am trying to understand.                  3 <b>A And my apologies, I hate to ask you to</b>                  4 <b>restate this, but just because there are some</b>                  5 <b>dialogue and my train of thought has been</b>                  6 <b>disrupted, but, please, I'm sorry --</b>                  7 Q I don't mind at all.                  8 <b>A Thank you, sir.</b>                  9 Q Because this is not a normal type of                  10 question that gets asked in a deposition, I can                  11 tell you.                  12 <b>A Right.</b>                  13 (Recess from 12:10 p.m. to 12:15 p.m.)                  14 Q All right. So the question has to do with                  15 your understanding of whether -- The term                  16 biological gender is what is in the policy, of                  17 course; and the allegation is there are many                  18 biological components of sex including, I asked                  19 you about chromosomal, and you have answered as                  20 best you understand, which is all I am asking,                  21 this is not you kind of speaking as a lawyer, you                  22 are not speaking as a doctor, you are speaking as</p>
<p style="text-align: right;">114</p> <p>1 So the question I am asking is, with                  2 respect to the anatomical elements, your                  3 particular anatomical elements, is there any                  4 indication, I guess, reading this paragraph,                  5 intersex traits, which I think we've said there                  6 isn't, and then other ambiguities of any sorts?                  7 MR. BLOCK: I am going to object, before                  8 you answer, which is that this is a legal                  9 allegation in the Complaint, not a prior statement                  10 by Gavin, so, you know, you can -- he can answer                  11 to the extent he is saying his understanding of                  12 those terms but --                  13 MR. CORRIGAN: Absolutely.                  14 MR. BLOCK: But he is not the author.                  15 MR. CORRIGAN: That's all I am asking.                  16 <b>A But pardon me for still being confused,</b>                  17 <b>but are you asking me what my understanding of</b>                  18 <b>that would be?</b>                  19 Q Yes. With respect to -- I am breaking it                  20 down into chromosomal, anatomical, hormonal and                  21 reproductive because that's how it is broken down                  22 in the allegation.</p>	<p style="text-align: right;">116</p> <p>1 Gavin.                  2 So the question is, with respect to your                  3 anatomical elements, some of which could be                  4 ambiguous or in conflict, what is your                  5 understanding of your anatomical elements?                  6 <b>A My understanding of my anatomical elements</b>                  7 <b>are that -- well, first and foremost, the --</b>                  8 <b>growing up, even when I still had long hair and</b>                  9 <b>would wear girls' clothing, I would be asked</b>                  10 <b>sometimes by other students, I remember one time</b>                  11 <b>on the elementary school bus, some kid asked me if</b>                  12 <b>I was a boy or a girl, and at that time I was even</b>                  13 <b>presenting as a girl, and that has persisted</b>                  14 <b>throughout my life.</b>                  15 <b>As soon as I cut my hair, I was gender</b>                  16 <b>male pretty much in every facet of public life,</b>                  17 <b>and so at that point I looked pretty much like a</b>                  18 <b>boy, even before hormone replacement therapy.</b>                  19 <b>So -- so my understanding of that would be</b>                  20 <b>that I suppose I did look masculine enough that,</b>                  21 <b>for example, when I did go into women's restrooms,</b>                  22 <b>I was chased out or scrutinized or yelled, you</b></p>

Transcript of Gavin Grimm  
Conducted on October 19, 2018

117

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

118

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

119

1 person assigned female at birth, that it delayed  
 2 treatment for hormone replacement because I was so  
 3 naturally high in testosterone, that they thought  
 4 there could be another issue.  
 5 Q When they said they thought there could be  
 6 another issue, what was the other issue they  
 7 thought there could be?  
 8 A Perhaps a tumor on my pituitary gland and  
 9 increasing testosterone production or polycystic  
 10 ovarian syndrome, which would increase  
 11 testosterone production in some people. I was  
 12 tested and was cleared of everything.  
 13 Q But you just naturally had higher levels  
 14 of testosterone than most females?  
 15 A Most people assigned female at birth, yes.  
 16 Q All right. We got through that. All  
 17 right.  
 18 After the November 11 meeting, there is  
 19 a -- this is paragraph 57 of the Complaint -- it  
 20 talks about the press release and the plans to  
 21 designate single stall, unisex restrooms, to give  
 22 all students the option for even greater privacy.

120

1 Do you remember becoming aware of that in  
 2 this time frame, that the School Board had  
 3 announced that they were going to be doing that?  
 4 A What I was aware of in that situation -- I  
 5 heard the announcement by the School Board at that  
 6 time. My recollection is that they announced that  
 7 the restrooms were ready; however, I was aware of  
 8 their construction before that point because they  
 9 were, you know, being constructed while we were  
 10 going to school, and, in fact, those restrooms,  
 11 however, were as they were stated to be completed,  
 12 they were absolutely not completed or usable for I  
 13 think around a week after the statement was that  
 14 they were ready.  
 15 Q Sure. In fairness, the press release  
 16 occurs after the November 11 meeting, that they're  
 17 going to do it, and then we have documents in the  
 18 case that show when they bid it out and somebody  
 19 took the job and then the job was done, and it  
 20 is -- it is December, possibly even later, when it  
 21 is actually completed.  
 22 A So I misunderstood --

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

121	<p>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</p>	123	<p>1 me not allowed, not permitted to be with my peers                  2 in common spaces.                  3 In addition to that, the unisex restrooms                  4 were all -- were mostly all clustered together and                  5 not really very much closer than the nurse's                  6 office from my D-Hall classes, and so the idea was                  7 that they were more convenient, but, in fact, they                  8 were not.                  9 Q Okay. Who did you discuss this with in                  10 this initial time frame?                  11 A This initial time frame?                  12 Q Did you discuss it with your mom, did you                  13 discuss it with anyone else? I am talking about                  14 the time frame around November 11, before the                  15 work -- before it is done, the fact it is going to                  16 be done and whether you are going to continue to                  17 object.                  18 If they're going to do this, it is                  19 conceivable that someone in your position might                  20 say it is not what I want but that's good enough,                  21 but you reached the conclusion that -- it was not                  22 what you wanted, so who were you talking to about</p>
122	<p>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</p>	124	<p>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</p>

Transcript of Gavin Grimm  
Conducted on October 19, 2018

125

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 **77-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**

126

1 **grace period was when I was most comfortable in**

2 **that school, and so having experienced that and**

3 **then to have it taken away was part of the reason**

4 **why I was aware that it just was not -- it was**

5 **just not acceptable for what I thought was**

6 **correct.**

7 Q Again, moving through the Complaint,

8 paragraph 59 talks about the second meeting at

9 which a speaker calls you a freak, a dog urinating

10 on hydrants, that kind of thing.

11 Do you have a recollection of there being

12 approximately 28 to 30 people who spoke?

13 **A That's not a number I would contest, but I**

14 **didn't count.**

15 Q Do you remember how many of them you felt

16 like were disrespectful towards you?

17 **A I felt that barring the party that was**

18 **with me and one individual, who seemed fairly**

19 **supportive, perhaps neutral, I feel like every**

20 **single -- every other person was absolutely in**

21 **opposition. Of those people, I mean the**

22 **statements were all, you know, I felt personally**

127

1 **offended.**

2 **They generally all -- generally speaking,**

3 **they all came from a viewpoint that I was a girl,**

4 **which is offensive to me, but then, for sure,**

5 **there was a minority of those who were**

6 **specifically malicious, for example, like the**

7 **hydrant.**

8 Q At any point did you regret going forward

9 for yourself, like appearing at the first meeting,

10 appearing at the second meeting?

11 **A Absolutely not.**

12 Q Why not?

13 **A I understood that, if I did not, that that**

14 **conversation would be held without me and with no**

15 **one to support me, and if it is a conversation**

16 **about my future, I felt that I should be included.**

17 Q It says, in paragraph 60, you felt like

18 you had been turned into a public spectacle.

19 If you had not appeared, would you have

20 been a public spectacle?

21 **A I believe so.**

22 Q How so?

128

1 **A The community, like I stated previously,**

2 **the community was already aware of who it was that**

3 **was in question, the rumors had already spread.**

4 **I was in the position where it was common**

5 **knowledge, to my understanding, it was my**

6 **understanding that the community -- it was**

7 **community common knowledge that I was the**

8 **individual, and I was willing to assume additional**

9 **risk just because I had already been -- I had**

10 **already been discriminated against, I had already**

11 **been humiliated, I had already been gossiped about**

12 **widely, and I felt that not speaking on my behalf**

13 **would not have served me.**

14 Q Have you ever been in the single stall

15 restrooms?

16 **A Not that I can recall.**

17 Q Okay. I mean have you seen the layout?

18 **A Yes, I -- yes.**

19 Q How did you see the layout, if you didn't

20 go in?

21 **A I mean I looked, the door was open and I**

22 **looked. Well, perhaps may I reframe? I never**

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

129

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.

130

1 Q Okay. Do you remember having any  
 2 conversation with anyone about here is the system  
 3 going forward, you are not going to be allowed to  
 4 use the boys' restrooms any more, you can go in  
 5 the ladies room or you can go to these three  
 6 single stall or the nurse's office?  
 7 A I -- I -- I do recall that conversation  
 8 with Nate Collins.  
 9 Q Okay.  
 10 A The conversation where he explained the  
 11 new parameters.  
 12 Q Okay. From that point forward, did you  
 13 follow the parameters?  
 14 A Yes.  
 15 Q One of the allegations in here is that you  
 16 had painful urinary tract infections. Is that --  
 17 tell me about that.  
 18 A I had -- so part of the anxiety in school  
 19 was that, of course, the trip is long, I don't  
 20 want to miss instructional time and it is  
 21 embarrassing, and so often times, I would just do  
 22 my best to avoid having to use the bathroom at

131

1 school because it didn't feel like a safe or  
 2 welcoming environment, and, as a result of that  
 3 anxiety and as of holding that urine, I had  
 4 urinary tract infections pretty consistently off  
 5 and on through high school, to the extent that I  
 6 assumed that it was just a problem that I, as a  
 7 person, have; however, as soon as I left high  
 8 school and, of course, used bathrooms freely, that  
 9 problem disappeared.  
 10 Q You had mentioned safe and welcoming  
 11 environment. The bathroom that you used at school  
 12 when you went was in the nurse's office; is that  
 13 right?  
 14 A Yes.  
 15 Q Was that unsafe?  
 16 A The nurse's office bathroom was not  
 17 unsafe. When I say safe and welcoming  
 18 environment, I am speaking about the broader  
 19 culture of the bathroom policies in the school  
 20 and -- and of, you know, being fearful to opening  
 21 myself to more ridicule, you know, like I said,  
 22 when I take so long or when students see me go

132

1 into the nurse's office bathroom, as well, if I  
 2 may clarify, how the nurse's office is set up is  
 3 that, to go to the bathroom, you walk through sort  
 4 of an infirmary, and so students may see me go  
 5 into the bathroom, you know, as opposed to, you  
 6 know, being at the nurse for any other reason, and  
 7 so that identifies me, you know, in my opinion,  
 8 per my anxiety, that felt to me like that was  
 9 identifying me, again, as a student who was not  
 10 capable of using shared spaces and I had to go to  
 11 this place.  
 12 Q So if you went to the hallway where the  
 13 three single stalls are, there is not a lot of  
 14 classrooms there; is that right?  
 15 A Yes, it is not in a hallway that has many  
 16 classrooms.  
 17 Q So the likelihood of encountering another  
 18 student outside of lunch time would be pretty  
 19 minimal, wouldn't it?  
 20 A No, sir. I mean students, for whatever  
 21 reason, may be walking down the hall at any time,  
 22 to go to the office, to go to another class. I

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

<p style="text-align: right;">133</p> <p><b>1 mean there is pretty consistent foot traffic in</b>  <b>2 the hallways throughout the day.</b>          3 Q All right. Is there something about going          4 into a communal restroom that you wanted to have          5 that experience?  <b>6 A I --</b>          7 Q I am not asking that facetiously. I mean,          8 literally, an argument could be made, having a          9 single stall restroom is preferable to going in a          10 joint restroom and going to the bathroom.  <b>11 A Perhaps not when it is a discriminatory</b>  <b>12 practice. I -- There was no aspect of the</b>  <b>13 communal nature of the men's bathroom that I was</b>  <b>14 attracted to, it was the fact that I was a male</b>  <b>15 student and that is where the male students go to</b>  <b>16 the bathroom, and, you know, anything short of me</b>  <b>17 doing that communicated to me that, you know, not</b>  <b>18 necessarily the school, the School Board's</b>  <b>19 decision, but that the administration felt that,</b>  <b>20 in fact, my identity was not correct and,</b>  <b>21 therefore, I was not permitted to be in the spaces</b>  <b>22 that other boys were permitted to be in.</b></p>	<p style="text-align: right;">135</p> <p>1 Complaint.          2 Did any doctor ever diagnose you as having          3 urinary tract infections?  <b>4 A I -- I do not recall if there had ever</b>  <b>5 been a formal diagnosis.</b>          6 Q Did you seek treatment?  <b>7 A I -- I used over-the-counter solutions</b>  <b>8 designed for urinary tract infections, which</b>  <b>9 improved the condition.</b>          10 Q What did you use?  <b>11 A One example being a medication called Azo,</b>  <b>12 that is A-Z-O.</b>          13 Q Did any doctor ever prescribe anything for          14 you for urinary tract infections?  <b>15 A I do not recall.</b>          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?  <b>19 A I do not recall.</b>          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?</p>
<p style="text-align: right;">134</p> <p>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?  <b>5 A No, I would go in the boys' room because</b>  <b>6 they were closer to my classes.</b>          7 Q What about if you were at lunch time and          8 it was closer to your class to use the single          9 stall?  <b>10 A Perhaps in that case, if it was the</b>  <b>11 closest option and I wasn't being actively forced</b>  <b>12 to use those and those alone, but I mean the --</b>  <b>13 again, for example, if I was in D-Hall, where</b>  <b>14 those bathrooms are, it's almost as far as going</b>  <b>15 to the nurse's office, I would, of course, use</b>  <b>16 those.</b>          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</p>	<p style="text-align: right;">136</p> <p><b>1 A I do not recall if I did or did not, but I</b>  <b>2 also do not recall not having seen a doctor. I --</b>  <b>3 I -- it may have come up in an appointment, I just</b>  <b>4 do not recall definitively enough to say yes or</b>  <b>5 no.</b>          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?  <b>10 A In part, because it is -- as I understood</b>  <b>11 it, it is something that is -- can be known to</b>  <b>12 increase urinary tract infections.</b>  <b>13 In addition, the second that I was in an</b>  <b>14 environment for any extended period of time where</b>  <b>15 I did not have restrictions for bathroom use, for</b>  <b>16 example, summer vacation or post graduation, the</b>  <b>17 problem eliminated itself entirely.</b>          18 Q Okay. During your 11th grade year, did          19 you use the restroom regularly then?  <b>20 A I --</b>          21 MR. BLOCK: Objection. If you could          22 specify a time period within that year.</p>

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

<p style="text-align: right;">137</p> <p>1 Q Just during the year, in 11th grade.</p> <p>2 <b>A I suppose I don't understand the question.</b></p> <p>3 <b>Are you asking did I use the bathroom?</b></p> <p>4 Q Regularly.</p> <p>5 <b>A Do you mind reframing?</b></p> <p>6 Q Sure. In the 11th grade, where did you</p> <p>7 attend school?</p> <p>8 <b>A Gloucester High School.</b></p> <p>9 Q During any part of that school year, did</p> <p>10 you go to T.C. Walker and were you part of the</p> <p>11 SOAR or some other program?</p> <p>12 <b>A Yes. I don't recall what it was called,</b></p> <p>13 <b>however, the program.</b></p> <p>14 Q Tell me what you recall, what part of the</p> <p>15 year you were at Gloucester High School and what</p> <p>16 part of the year you were at T.C. Walker or some</p> <p>17 other location.</p> <p>18 <b>A I don't recall when I went to T.C. Walker.</b></p> <p>19 <b>I -- I -- I don't recall at what point in that</b></p> <p>20 <b>school year that I started going to T.C. Walker.</b></p> <p>21 <b>It coincides with a month-long absence from</b></p> <p>22 <b>school, and following that I returned in the</b></p>	<p style="text-align: right;">139</p> <p>1 Q Do you remember the fall or spring</p> <p>2 semester?</p> <p>3 <b>A No, I do not.</b></p> <p>4 Q Where were you?</p> <p>5 <b>A I was in a -- a VCU hospital.</b></p> <p>6 Q What was it that resulted in you spending</p> <p>7 time at a VCU hospital?</p> <p>8 <b>A I had -- I was struggling with mental</b></p> <p>9 <b>health.</b></p> <p>10 Q What was the struggle?</p> <p>11 <b>A Do you mind reframing the question?</b></p> <p>12 Q You said you were struggling with mental</p> <p>13 health, that's why you were hospitalized at VCU,</p> <p>14 for an extended period of time during 11th grade.</p> <p>15 I am trying to figure out what was the</p> <p>16 issue, what was the mental health issue that you</p> <p>17 were struggling with?</p> <p>18 <b>A I see. I am sorry. I misunderstood you</b></p> <p>19 <b>the first time.</b></p> <p>20 <b>I was admitted for suicidality and treated</b></p> <p>21 <b>for a range of things including depression,</b></p> <p>22 <b>anxiety, suicidality.</b></p>
<p style="text-align: right;">138</p> <p>1 <b>capacity of the program at T.C. Walker.</b></p> <p>2 Q Okay. Let's go back and talk about the</p> <p>3 foundation. The 10th grade, your entire 10th</p> <p>4 grade year, you were at Gloucester High School; is</p> <p>5 that correct?</p> <p>6 <b>A To the best of my recollection, yes.</b></p> <p>7 Q Was there any extended absence during your</p> <p>8 10th grade year?</p> <p>9 <b>A I don't recall.</b></p> <p>10 Q All right. 11th grade. We have already</p> <p>11 talked a little bit, and some portion of that year</p> <p>12 you were at T.C. Walker, which is a separate</p> <p>13 building in a -- in a separate program; is that</p> <p>14 correct?</p> <p>15 <b>A Yes, sir.</b></p> <p>16 Q Was there also an extended period of time</p> <p>17 when you were out of school?</p> <p>18 <b>A Yes.</b></p> <p>19 Q Okay. When was that?</p> <p>20 <b>A I do not recall the date.</b></p> <p>21 Q Fall of 2015?</p> <p>22 <b>A I don't recall.</b></p>	<p style="text-align: right;">140</p> <p>1 Q We are here on this case, obviously. Does</p> <p>2 any of that relate in your mind to the bathroom</p> <p>3 use/restroom use at Gloucester High School?</p> <p>4 <b>A Yes.</b></p> <p>5 Q In what way?</p> <p>6 <b>A It -- to be -- to have to go to an</b></p> <p>7 <b>environment every single day, five days of the</b></p> <p>8 <b>week, where I felt unsafe, the environment made me</b></p> <p>9 <b>anxious, I didn't feel respected, it had a massive</b></p> <p>10 <b>impact on my overall mental health and ability to</b></p> <p>11 <b>function.</b></p> <p>12 Q In what way does the restroom,</p> <p>13 specifically the restroom use make you feel</p> <p>14 unsafe?</p> <p>15 <b>A It -- the policy of segregating me from my</b></p> <p>16 <b>peers sets a -- an environment where I understand</b></p> <p>17 <b>that I will not be fully respected as who I am,</b></p> <p>18 <b>and that contributes to an overall feeling that it</b></p> <p>19 <b>is not an environment I will be safe in, it is</b></p> <p>20 <b>not, and by safe, I do not mean fear of my peers</b></p> <p>21 <b>doing anything or anything to that effect, I mean</b></p> <p>22 <b>mentally safe as in I did not feel confident that</b></p>

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

141	<p>1 was an environment where my best interests were</p> <p>2 kept at heart and where I was able to function in</p> <p>3 a way that was most conducive to my mental health</p> <p>4 and success.</p> <p>5 Q Did you have check-ins with any of your</p> <p>6 counselors during this school year?</p> <p>7 MR. BLOCK: During his junior school year?</p> <p>8 MR. CORRIGAN: Yes.</p> <p>9 A I don't recall if it was during -- if I</p> <p>10 had any during junior year.</p> <p>11 Q Did at any point, and then let's talk</p> <p>12 about 10th, 11th or 12th grade, did you check in</p> <p>13 with any of the counseling staff, specifically</p> <p>14 Miss Durr and Mr. Lord?</p> <p>15 A I believe -- I believe there were</p> <p>16 instances where I -- we had had a -- a brief</p> <p>17 meeting, to touch base, a few different times. I</p> <p>18 don't recall with who, was it Miss Durr or</p> <p>19 Mr. Lord, I don't recall exactly, but --</p> <p>20 Q Were you a member of any clubs?</p> <p>21 A I was the -- I believe vice president of</p> <p>22 the Gender and Sexuality Alliance or, rather, we</p>	143	<p>1 A Yes, sir.</p> <p>2 Q Was there a faculty advisor for that</p> <p>3 group?</p> <p>4 A Yes.</p> <p>5 Q Who was that?</p> <p>6 A Matthew Lord.</p> <p>7 Q So when you had meetings, was Mr. Lord</p> <p>8 typically there?</p> <p>9 A Are you asking if those meetings took</p> <p>10 place at the Equality Club meetings?</p> <p>11 Q I am asking if the Gay-Straight Alliance</p> <p>12 or Equality Club had a meeting, would Mr. Lord be</p> <p>13 present?</p> <p>14 A I don't recall that -- oh, pardon. I</p> <p>15 misunderstood what you were asking.</p> <p>16 He was present for all of our -- you know,</p> <p>17 we met like once a week after school, and he was</p> <p>18 present every time.</p> <p>19 Q What time of day would you meet?</p> <p>20 A I don't recall exactly the time, it was</p> <p>21 after school hours.</p> <p>22 Q Okay. Where would you meet?</p>
142	<p>1 called it the Equality Club, I do not recall what</p> <p>2 year that I was in the position.</p> <p>3 Q Gender and Sexuality Alliance, GSA?</p> <p>4 A Yes, sir.</p> <p>5 Q But y'all called it the Equality Club?</p> <p>6 A Yes, sir.</p> <p>7 Q Was it actually known as the Equality Club</p> <p>8 or was that kind of a nickname?</p> <p>9 A Well, when I began in the GSA, it was</p> <p>10 called the Gay-Straight Alliance, and I personally</p> <p>11 raised the concern that that did not honor the</p> <p>12 diversity of students that might seek the service,</p> <p>13 and so at that time we called it the Equality</p> <p>14 Club.</p> <p>15 Q Was it formally changed to Gender and</p> <p>16 Sexuality Alliance at any point?</p> <p>17 A GSA currently stands for Gender and</p> <p>18 Sexuality Alliance only, as far as their national</p> <p>19 branding goes.</p> <p>20 Q But back when you were in 10th, 11th, 12th</p> <p>21 grade, it was Gay-Straight Alliance and then later</p> <p>22 Equality Club?</p>	144	<p>1 A I don't recall.</p> <p>2 Q How many people approximately would attend</p> <p>3 the meetings? I mean I am trying to see, is it 5</p> <p>4 or 20, 50?</p> <p>5 A Between 5 and 10 --</p> <p>6 Q Okay.</p> <p>7 A -- traditionally.</p> <p>8 Q Were the other members people you</p> <p>9 identified as your friends, or were there people</p> <p>10 besides that?</p> <p>11 A Not necessarily. I was acquainted with</p> <p>12 most of them but was not close personal friends</p> <p>13 with any of them that I recall.</p> <p>14 Q What would you -- what would the</p> <p>15 meetings -- What would happen at the meetings?</p> <p>16 A I really don't remember.</p> <p>17 Q I mean conversation, were there</p> <p>18 activities?</p> <p>19 A I don't recall. I -- I really couldn't</p> <p>20 tell you. The only thing I do recall is that</p> <p>21 ahead of something like the Day of Silence, we</p> <p>22 discussed what our role would be in that, but, as</p>

Transcript of Gavin Grimm  
Conducted on October 19, 2018

145

1 far as traditional meetings, I don't recall.  
 2 Q What was the Day of Silence?  
 3 A The Day of Silence is a day designated  
 4 nationally, not necessarily not a national  
 5 holiday, but it is a designated day where students  
 6 can voluntarily remain silent and, in so doing,  
 7 recognizing the people, LGBTQ people who have been  
 8 either silenced or victims of violence because of  
 9 who they are, and so it is just a day of  
 10 remembrance.  
 11 Q The idea is those people have been  
 12 silenced so we are going to be silent?  
 13 A Yes.  
 14 Q Mr. Lord, was he somebody at these  
 15 meetings who made you feel welcome?  
 16 A Yes, I would say so.  
 17 Q Have you kept up with him at all since you  
 18 left?  
 19 A The only further correspondence that I  
 20 have had is to request transcripts, when I went to  
 21 apply for college.  
 22 Q Any conversation at all with him other

146

1 than that?  
 2 A Not that I can recall.  
 3 Q Did you feel like he was supportive of you  
 4 as a student and a person in the Gloucester County  
 5 High School?  
 6 A I did.  
 7 Q One of the paragraphs in here talks about  
 8 football games. Did you ever go to any football  
 9 games?  
 10 A I did.  
 11 Q How many?  
 12 A I wouldn't have a number for you.  
 13 Q I mean I guess we are talking three  
 14 seasons, your sophomore year, your junior year,  
 15 your senior year. Did you attend more than one  
 16 game --  
 17 A Yes.  
 18 Q -- each year?  
 19 A Yes.  
 20 Q It says here that you went home early.  
 21 Was that always the case?  
 22 A I tried very -- I tried very hard to plan

147

1 so that I would not have to use the restroom while  
 2 I was there, because I did not have an option, on  
 3 that -- on the football field, you know, in that  
 4 campus; however, there were a few occasions where,  
 5 regardless, I did end up having to use the  
 6 bathroom, and I was forced to leave.  
 7 Q Tell me about those occasions, when you  
 8 say you were forced to leave, what did you do?  
 9 A On one occasion, I had a friend drive me  
 10 down the road to, it is either Lowe's or Home  
 11 Depot that is on the corner, so that I could use  
 12 the bathroom there. On another occasion, I  
 13 believe my mother just picked me up.  
 14 Q When your friend drove you, did you go  
 15 back to the game?  
 16 A I -- I -- we did. I was with a group of  
 17 friends and that friend was the person who was  
 18 driving all of us.  
 19 Q So you left the game and then came back?  
 20 A Yes, after I had used the bathroom  
 21 offsite.  
 22 Q Did you do anything else while you were

148

1 out besides go to Lowe's or Home Depot and use the  
 2 restroom?  
 3 A Not that I can recall.  
 4 Q Did you stop and get something to eat,  
 5 anything like that?  
 6 A Not that I can recall.  
 7 Q The allegation is, in December 2014, you  
 8 began hormone therapy. Where did you begin the  
 9 hormone therapy?  
 10 A At a -- it was -- a VCU facility.  
 11 Q Okay. You mentioned a pediatric --  
 12 A Endocrinologist.  
 13 Q -- endocrinologist.  
 14 A Yes, sir.  
 15 Q Do you remember that person's name?  
 16 A I do not.  
 17 Q How did that work in terms of how did you  
 18 do hormone therapy, what is physically involved  
 19 with that?  
 20 A Well, you must first get a recommendation  
 21 from a professional saying that, in fact, you --  
 22 that the person is trans and hormone replacement

Transcript of Gavin Grimm  
Conducted on October 19, 2018

149

1 **therapy is the best practice for having them live**  
2 **happily.**  
3 Q Who gave you that recommendation?  
4 **A That would have been Dr. Lisa Griffin.**  
5 Q Okay.  
6 **A And then once you produce those or that**  
7 **document to the doctor willing to administer the**  
8 **medication, they will walk you through how do --**  
9 **it is an injection, subcutaneously meaning in the**  
10 **fat rather than in the muscle, and they walk you**  
11 **through how to administer that injection; and,**  
12 **from that point on, I self-administered an**  
13 **injection.**  
14 Q How frequently?  
15 **A Once a week.**  
16 Q How frequently did you see the pediatric  
17 endocrinologist?  
18 **A In the first year or so, as the process**  
19 **was beginning, fairly often, I don't recall**  
20 **exactly with what frequency but fairly often; and,**  
21 **following that, we haven't been back in -- from**  
22 **the point in which the dosage of my medication was**

150

1 **agreed upon and stable, we have not been back.**  
2 Q Are you still taking it?  
3 **A Yes.**  
4 Q How frequently do you take it?  
5 **A Once a week.**  
6 Q Still the same?  
7 **A Yes.**  
8 Q Is it something that will continue for the  
9 rest of your life kind of thing or foreseeable  
10 future, or how does that work?  
11 **A I -- I will take it for as long as I**  
12 **desire, and for my purposes that would probably be**  
13 **for the rest of my life.**  
14 Q When did you last see the endocrinologist?  
15 **A I really wouldn't have any way of telling**  
16 **you.**  
17 Q Approximately, sophomore year, junior  
18 year, senior year?  
19 **A I --**  
20 Q Don't recall?  
21 **A I don't recall.**  
22 Q In paragraph 74, it talks about the DMV

151

1 issued a state ID card in June 2015, which would  
2 have been at the end of your sophomore year; is  
3 that correct?  
4 **A Yes, sir.**  
5 Q Tell me about that process.  
6 **A I -- I don't really recall. I -- as far**  
7 **as I remember -- I don't remember what**  
8 **supplementary documentation I had to provide to**  
9 **prove that I was permitted to have a male**  
10 **designation on that ID; however, I do recall that**  
11 **there was some kind of supplementary information**  
12 **that I had to provide. I don't recall if it was**  
13 **mailed in or brought up physically, but then,**  
14 **after that point, it was just a matter of going to**  
15 **the DMV and taking the picture and receiving the**  
16 **card.**  
17 Q So the actual receiving of the card, you  
18 remember being at the DMV, having a picture taken,  
19 and then handing you a card?  
20 **A Yes. Well, to clarify, I don't recall if**  
21 **I was handed the card at that time, but I remember**  
22 **I had to be at the DMV for part of that process.**

152

1 Q And did anyone accompany you?  
2 **A My mother.**  
3 Q Chest reconstruction surgery in June 2016;  
4 is that correct?  
5 **A Yes.**  
6 Q Who performed?  
7 **A Dr. Hope Sherie.**  
8 Q How do you spell Sherie?  
9 **A S-H-E-R-I-E.**  
10 Q Was that at VCU?  
11 **A No. That was not at VCU.**  
12 Q Where was that?  
13 **A That was in either Charlotte or**  
14 **Charlottesville, I don't recall -- I have the**  
15 **names mixed up, but it was in North Carolina.**  
16 Q Okay. Was that a double mastectomy  
17 essentially?  
18 **A Yes.**  
19 Q What documentation or other information  
20 did Dr. Sherie require before she performed that  
21 surgery?  
22 **A As I was a -- I believe, if I am recalling**

Transcript of Gavin Grimm  
Conducted on October 19, 2018

153

**1 correctly, I was -- pardon me. I am sorry.**  
**2 Do you mind reminding me of the date?**  
 3 Q Yes. June of 2016 is what it says.  
**4 A So, yes, so as I was a minor --**  
 5 Q You were 16 years old at the time?  
**6 A In June, yes, 16.**  
 7 Q Or just 17?  
**8 A 17. Just 17.**  
 9 Q I wasn't trying to be tricky. Your  
 10 birthday is in May.  
**11 A I appreciate that.**  
**12 As I was a minor, I believe there was some**  
**13 degree of parental consent necessary. Barring**  
**14 that, I don't think -- or rather, I will say I**  
**15 don't recall any other documentation that I had to**  
**16 provide beyond parental consent; however, there**  
**17 may have been.**  
 18 Q Did you meet with Dr. Sherie about why  
 19 this was happening or why you were going to have  
 20 the procedure?  
**21 A I -- I don't -- I don't recall if I had**  
**22 any kind of in-person visitation with her before**

154

**1 the procedure or if -- in fact, I don't recall if**  
**2 it was -- if we spoke over the phone or what have**  
**3 you because it was a very far drive.**  
**4 It was understood, of course, that she**  
**5 recognized that she was performing a double**  
**6 mastectomy on a transgender patient, it was**  
**7 something her practice was known for doing.**  
 8 Q Okay. September 9, 2016, Gloucester  
 9 Circuit Court issued an order. What do you recall  
 10 about the hearing and the order that occurred on  
 11 September 9, 2016? Was there a hearing?  
**12 A Just -- just giving me the dates, I -- it**  
**13 is not prompting any recollection of anything. I**  
**14 apologize.**  
 15 Q Do you remember going to court, the actual  
 16 Gloucester Circuit Court, which would have been in  
 17 Gloucester?  
**18 A Yes. Yes, I do -- I remember, yes.**  
 19 Q What do you remember about the hearing?  
**20 A I don't remember much of anything.**  
 21 Q Did you speak or did just your lawyer  
 22 speak?

155

**1 A I don't recall.**  
 2 Q Did you present these documents, any of  
 3 these documents, the ID card or the order from the  
 4 court or the birth certificate at school?  
**5 A I don't recall if I provided the ID or --**  
**6 what was -- pardon me -- the first thing you**  
**7 mentioned.**  
 8 Q The first one was the ID?  
**9 A ID.**  
 10 Q Then the second one was the order from the  
 11 court, and the third one is the birth certificate.  
 12 Did you present those?  
**13 A I don't recall if I presented the ID or**  
**14 the court order, however, I did provide the birth**  
**15 certificate.**  
 16 Q You actually went to school with the birth  
 17 certificate?  
**18 A Yes.**  
 19 Q Who did you give it to?  
**20 A I don't recall.**  
 21 Q Do you remember walking into the front  
 22 office kind of thing, to say I want to speak to

156

1 the principal, or did you go to your guidance  
 2 counselor or --  
**3 A I don't recall.**  
 4 Q What, if anything, do you remember -- if  
 5 you say that you know that you presented it, what  
 6 do you recall about any aspect of that then?  
**7 A Well, I recall -- I recall recognizing**  
**8 that my records had failed to be changed and I**  
**9 recall going on more than one occasion to the**  
**10 guidance office and asking why my records weren't**  
**11 being changed, when my documents had been amended,**  
**12 and asking when it would happen, if it would**  
**13 happen, and I was at that point told -- I do not**  
**14 recall by whom in the guidance office, but I was**  
**15 informed that the response was -- the response**  
**16 that that person was instructed to give me was**  
**17 that we received your request, thank you, which**  
**18 I -- which is what I remember about that.**  
 19 Q Have you personally ever spoken to any  
 20 members of the Gloucester County School Board?  
**21 A Current or former members?**  
 22 Q Either.

Transcript of Gavin Grimm  
 Conducted on October 19, 2018

157

1 **A Yes.**  
 2 Q Who?  
 3 **A Kevin Smith.**  
 4 Q Tell me any conversations you ever had  
 5 with Kevin Smith.  
 6 **A Kevin Smith was a family friend, he was**  
 7 **around growing up, here and again as a friend of**  
 8 **my mother's, I don't -- I cannot recall any**  
 9 **conversations generally speaking; however, there**  
 10 **is one conversation that I do recall in which**  
 11 **Kevin approached myself and my mother and said**  
 12 **that, since he was a friend of the family, that he**  
 13 **would certainly recuse himself from the School**  
 14 **Board's vote.**  
 15 Q Well, that's the conversation you  
 16 remember?  
 17 **A That's the extent of that conversation I**  
 18 **remember.**  
 19 Q As you said earlier, he then did not --  
 20 **A He did not.**  
 21 Q -- recuse himself.  
 22 Have you spoken with him since then?

158

1 **A I have not.**  
 2 Q Have you had any communications with him?  
 3 **A I have not.**  
 4 Q Other than the fact that Kevin Smith was a  
 5 family friend and the conversation about him  
 6 recusing himself, have you had any other  
 7 conversations with any members of the Gloucester  
 8 County School Board, past or present?  
 9 **A Not that I can recall.**  
 10 Q Any other communication with any other  
 11 members of the Gloucester County School Board,  
 12 email, text, anything of that nature?  
 13 **A Not that I can recall.**  
 14 Q One of the physicians you mentioned in  
 15 your interrogatory answers is Melinda Penn at  
 16 Children's Hospital of the King's Daughters. Who  
 17 is that person?  
 18 **A So Melinda Penn --**  
 19 MR. BLOCK: I am going to object. To  
 20 clarify, that's the list of their current  
 21 locations, so she is currently at that hospital,  
 22 but that's not where she was when she treated

159

1 Gavin.  
 2 Q So what do you know about Melinda Penn?  
 3 MR. CORRIGAN: Thank you for the  
 4 clarification.  
 5 **A I know that I saw her at some point, but I**  
 6 **cannot recall --**  
 7 Q Is she the pediatric endocrinologist?  
 8 **A I don't recall. I don't recall the name**  
 9 **of that person, so she may or may not be.**  
 10 Q Okay. We talked about Lisa Griffin  
 11 previously. Her address here is 14 South Auburn  
 12 Avenue, Richmond, Virginia.  
 13 Is that, when you saw her, is that where  
 14 you saw her, in Richmond?  
 15 **A She was in Richmond, I don't know the**  
 16 **street address.**  
 17 Q How many times have you seen her?  
 18 **A I don't recall exactly how many times.**  
 19 Q Well, less than ten?  
 20 **A I -- I don't remember.**  
 21 Q I am just trying to get a magnitude. It  
 22 could be once or it could be 200 times.

160

1 **A Right.**  
 2 Q You have no ability to estimate between  
 3 one and 200 how many times you saw Lisa Griffin?  
 4 **A I did not see her on a long-term ongoing**  
 5 **basis, so I assume 200 would be a high number;**  
 6 **however, I also cannot estimate if it was 10 times**  
 7 **or 50 times.**  
 8 Q Okay.  
 9 **A I just don't recall the span of time that**  
 10 **I saw her for.**  
 11 Q All right. Eva Abel, Chesapeake  
 12 Counseling Associates, do you remember seeing her?  
 13 **A Yes.**  
 14 Q How often have you seen her?  
 15 **A She was my -- I had fairly weekly --**  
 16 **pardon me. Either weekly or monthly.**  
 17 **So either weekly or monthly, I can't**  
 18 **recall which of the two visits with her for -- I**  
 19 **don't recall the duration, but it was -- it was**  
 20 **quite a while.**  
 21 Q During high school?  
 22 **A During high school and as well after.**

Transcript of Gavin Grimm  
Conducted on October 19, 2018

161

1 Q And after, but not before high school?

2 **A No, not before high school.**

3 Q Okay. Are you still seeing her?

4 **A I am not.**

5 Q Are you currently seeing anyone? When I

6 say anyone, I mean are you seeing any

7 psychologists, psychiatrists, counselor, Licensed

8 Clinical Social Worker, anybody with respect to

9 gender dysphoria or your transgender status or

10 anything of that nature?

11 **A I am not currently seeing anybody with**

12 **respect to my gender identity. I have a general**

13 **care physician who prescribes my testosterone, but**

14 **my reason for care with him is not gender related.**

15 Q Who is that physician?

16 **A His name is Jess Pinder.**

17 Q P-I-N-D-E-R?

18 **A Yes, sir.**

19 Q Where is he located?

20 **A One Medical on Shattuck Avenue in Berkley,**

21 **California.**

22 Q One of your interrogatory answers says

162

1 someone named Thomas Aberli, principal, Atherton

2 High School, Louisville, Kentucky, is a witness

3 with knowledge about his experience as an

4 administrator with policies that allow boys and

5 girls who are transgender to use the same restroom

6 as other boys and girls.

7 Do you know anything about Mr. Aberli?

8 **A I -- I don't recall having spoken to him.**

9 Q Do you know of any current students at

10 Gloucester High School who are transgender?

11 **A Yes.**

12 Q What do you know? Not who, but what.

13 **A Okay. So there -- there is at least -- I**

14 **won't speak to hearsay, but I know for certain**

15 **that there is one student who is a freshman this**

16 **year who identifies as a boy and has had moderate**

17 **success with requesting that his teachers refer to**

18 **him with male pronouns and with the name he**

19 **prefers, however, he has not made any kind of**

20 **greater administrative push.**

21 Q Do you have any idea what that child is

22 doing with respect to restroom use?

163

1 **A I don't. I have not asked him.**

2 Q How about any upper classmen or upper

3 classpeople at Gloucester High School at current

4 who are transgender, do you know of any?

5 **A Current -- current right now?**

6 Q Yes.

7 **A I do not, however, a friend of mine is a**

8 **transgender student who graduated last year, well,**

9 **last school year, who was transgender while at**

10 **Gloucester High School or is trans and went there.**

11 Q Gotcha. So there is a student who

12 graduated in June of '18, a year after you --

13 **A Yes.**

14 Q -- who is transgender?

15 **A Yes.**

16 Q What restroom did that student use, if you

17 know?

18 **A He said that he would either avoid them**

19 **altogether or use the nurse's office or single**

20 **stall restrooms but generally preferred to avoid**

21 **them.**

22 Q Do you know whether that student ever

164

1 raised the issue beyond just using those in terms

2 of trying to get a change in the rule or address

3 the rule?

4 **A He did not because he did not have**

5 **parental support.**

6 Q Was he a transgender boy?

7 **A Yes.**

8 Q Was he called by his male name and male

9 pronouns at school, to your knowledge?

10 **A To my knowledge, that was something that**

11 **he had discussed with teachers and arranged on his**

12 **own, and that is what seemed to be the status quo.**

13 Q So he did that without his parental

14 support was your understanding or not?

15 **A I don't have a knowledge of what degree**

16 **his parents were involved in that.**

17 Q Okay. Any other transgender students that

18 you are aware of from the time you approached the

19 school in late summer of 2014 until the present?

20 **A Yes. I can think of three off the top of**

21 **my head.**

22 Q Three others?

Transcript of Gavin Grimm  
Conducted on October 19, 2018

165

1 **A Yes. There were two additional**  
 2 **transgender boys and one transgender girl.**  
 3 Q Did they graduate?  
 4 **A The two other boys were one grade below me**  
 5 **and so graduated when -- graduated this previous**  
 6 **year.**  
 7 Q Right.  
 8 **A And then the girl was in my grade, and she**  
 9 **graduated with our class.**  
 10 Q The girl, did she -- that graduated with  
 11 your class, what was her restroom arrangements, if  
 12 you understood it?  
 13 **A She had even fewer opportunities to**  
 14 **express herself truly, as her parents were even**  
 15 **more opposed to who she is, and so she, I believe,**  
 16 **as far as I was aware, just sort of accepted the**  
 17 **men's restrooms or avoided them at all costs.**  
 18 Q So she was identifying female and wanted  
 19 to use the girls' restrooms but either used the  
 20 boys' restrooms or -- Did she use the single  
 21 stall?  
 22 MR. BLOCK: I am just going to object to

166

1 characterizing the testimony as her wanting to use  
 2 the girls' restrooms.  
 3 MR. CORRIGAN: Okay. Go ahead.  
 4 **A I -- she was not able to socially**  
 5 **transition, and so she was not able to reveal to**  
 6 **the greater community that she was a girl, and so**  
 7 **that was knowledge only within people that were**  
 8 **close to her or in her circle.**  
 9 Q So she had not approached the schools to  
 10 have her pronouns changed and her name changed?  
 11 **A Not that I was aware.**  
 12 Q But she graduated with you?  
 13 **A Yes.**  
 14 Q In terms of the use of the restroom, your  
 15 understanding was she was using the boys' room or  
 16 avoiding it?  
 17 **A She told me that she at all possible costs**  
 18 **avoided using them; however, in emergencies, she**  
 19 **would go to the boys' room.**  
 20 Q Did she ever go to the single stalls --  
 21 **A I have no knowledge.**  
 22 Q -- to your knowledge? You don't know?

167

1 **A I don't know.**  
 2 Q The two transgender boys you identified,  
 3 in addition to the ones we have previously talked  
 4 about, graduated last year is your understanding?  
 5 **A Yes.**  
 6 Q What was your understanding of their  
 7 restroom use?  
 8 **A I did not know.**  
 9 Q Do you know them?  
 10 **A They were not close personal friends,**  
 11 **however, they were both close personal friends of**  
 12 **one of my close friends, and so there were**  
 13 **environments in which we had hung out together and**  
 14 **had become acquainted on a more than -- on a more**  
 15 **than peer basis.**  
 16 Q So did you ever ask them about their  
 17 restroom use?  
 18 **A No.**  
 19 MR. CORRIGAN: I would like to take a  
 20 minute. I am going to talk to Tracey a little  
 21 bit.  
 22 (Recess from 1:53 p.m. to 2:01 p.m.)

168

1 MR. CORRIGAN: No further questions.  
 2 MR. BLOCK: I have a couple questions.  
 3 EXAMINATION BY COUNSEL FOR THE PLAINTIFF  
 4 BY MR. BLOCK:  
 5 Q So do you remember when Mr. Corrigan was  
 6 asking you about the construction of the  
 7 additional single user restrooms?  
 8 **A Yes.**  
 9 Q Do you remember that you discussed how,  
 10 even though the school had said they were ready at  
 11 a particular time, they were not actually ready?  
 12 **A Yes.**  
 13 Q Is there anything you want to say about  
 14 what occurred during that week when the policy was  
 15 in effect but the restrooms weren't ready for you?  
 16 **A Yes. There was one occasion where I**  
 17 **stayed after for an event, I don't recall what**  
 18 **event, but it was -- it was -- the -- it was**  
 19 **before these restrooms were finished being**  
 20 **constructed and, therefore, my only option was the**  
 21 **nurse's restroom, which is locked after school**  
 22 **hours, and I recognized that I had to go to the**

Transcript of Gavin Grimm  
Conducted on October 19, 2018

169

1 bathroom and it would be a while before my parents  
 2 could have picked me up, and by that time it would  
 3 have been an emergency, and so I was very  
 4 distraught, really just totally devastated that I  
 5 had nowhere to use the bathroom in my own school,  
 6 and so I broke down really bad and went sobbing to  
 7 the library, where I knew I had friends, and one  
 8 of the librarians actually drove me home so that I  
 9 could use the bathroom.

10 Q Do you remember, when Mr. Corrigan asked  
 11 you about what memories you have with respect to  
 12 bringing your birth certificate to school?

13 A Yes.

14 Q And you testified about your memory  
 15 regarding checking up on your school records; is  
 16 that right?

17 A Yes.

18 Q Do you have a specific memory of who  
 19 handed the birth certificate in?

20 A If I -- if I may clarify, I don't recall  
 21 exactly who, if it was myself or my mother, but I  
 22 do remember it was, in fact, handed in and that I

170

1 was the one who checked up after that fact.

2 Q Do you remember talking to Mr. Corrigan  
 3 about other students at Gloucester High School who  
 4 were transgender?

5 A Yes.

6 Q Do you remember saying that one of the  
 7 students you discussed, the transgender girl, had  
 8 not socially transitioned?

9 A Yes.

10 Q Of the other students that you discussed  
 11 with Mr. Corrigan, were there any other students  
 12 who were transgender but had not socially  
 13 transitioned?

14 A Yes.

15 Q Who was that?

16 A One other student had not socially  
 17 transitioned and was presenting himself as a boy  
 18 only to his friend group, however, not to teachers  
 19 or administrators.

20 Q Did he tell you why he was not  
 21 transitioning more broadly?

22 MR. CORRIGAN: I object to the form. Go

171

1 ahead.

2 A He expressed in part that the school did  
 3 not feel like an environment where he would be  
 4 safe transitioning in, he also expressed that it  
 5 would have been difficult just regarding the  
 6 situation he was in privately, I didn't inquire as  
 7 to the details, his family were less on board than  
 8 he would have liked, but he had expressed that  
 9 there was anxiety over not feeling like he was  
 10 safe to transition within the school and  
 11 especially not having a bathroom, if he did.

12 Q Do you recall Mr. Corrigan asking you  
 13 about check-in meetings you would have with  
 14 Miss Durr or Mr. Lord?

15 A I do.

16 Q And during those meetings, did you report  
 17 any distress that you were experiencing as a  
 18 result of the school's restroom policies?

19 A I believe I did.

20 Q And can you speak to whatever occasions  
 21 you did make that report?

22 A There was one occasion in which I spoke to

172

1 Tiffany Durr, where I had expressed that I was  
 2 experiencing pain because of the situation at the  
 3 school; however, I -- there was also a tendency in  
 4 following meetings, for me to underreport the  
 5 trauma that I was going through or examples of  
 6 bullying or harassment, because I felt that it was  
 7 not something that -- they could not resolve those  
 8 issues, they could not give me the ability to use  
 9 the boys' bathroom, and so I failed to report much  
 10 of what I was experiencing because I did not have  
 11 faith in the school system to protect me from  
 12 those things that I was worried about.

13 MR. BLOCK: No further questions from me.

14 MR. CORRIGAN: I have a question.

15 EXAMINATION BY COUNSEL FOR THE DEFENDANT  
 16 BY MR. CORRIGAN:

17 Q With respect to Miss Durr, can you tell me  
 18 approximately when you think you spoke with her?

19 A It -- it would have been earlier in the --  
 20 the -- earlier in that school year or perhaps  
 21 towards the middle of my sophomore year, somewhere  
 22 in that range.

Transcript of Gavin Grimm  
Conducted on October 19, 2018

173	<p>1 Q Okay.</p> <p>2 <b>A It was earlier.</b></p> <p>3 Q So earlier as in could have been in the</p> <p>4 fall or in the early part of the spring semester?</p> <p>5 <b>A Correct, that would be where I would</b></p> <p>6 <b>estimate it.</b></p> <p>7 Q And do you remember where the conversation</p> <p>8 took place?</p> <p>9 <b>A I -- I don't, but typically those</b></p> <p>10 <b>conversations were had in the office of the</b></p> <p>11 <b>person; however, I cannot recall it explicitly</b></p> <p>12 <b>that it was or was not.</b></p> <p>13 Q Do you recall what you said to her?</p> <p>14 <b>A I -- I don't recall specifically phrases</b></p> <p>15 <b>that were used, I do, however, recall expressing</b></p> <p>16 <b>general distress about the policy and how it was</b></p> <p>17 <b>affecting me negatively.</b></p> <p>18 Q When you say the policy, what policy?</p> <p>19 <b>A Pardon. The discriminatory policy that</b></p> <p>20 <b>the School Board had put in place.</b></p> <p>21 Q With respect to the restrooms?</p> <p>22 <b>A Yes, sir.</b></p>	175	<p>1 policy; is that correct?</p> <p>2 <b>A I don't recall.</b></p> <p>3 Q You don't recall one way or the other?</p> <p>4 <b>A Correct.</b></p> <p>5 Q What did Miss Durr say to you after you</p> <p>6 expressed these concerns?</p> <p>7 <b>A I don't recall.</b></p> <p>8 MR. CORRIGAN: That's all the questions.</p> <p>9 MR. BLOCK: Same here.</p> <p>10 You will have an opportunity to review the</p> <p>11 transcript and to make any corrections, if</p> <p>12 anything is incorrect.</p> <p>13 MR. GRIMM: Okay.</p> <p>14 Thank you very much.</p> <p>15 MR. CORRIGAN: Thank you.</p> <p>16</p> <p>17 (Off the record at 2:10 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
174	<p>1 Q Did you use the word pain earlier, when</p> <p>2 you were talking to Mr. Block, what pain were you</p> <p>3 talking about?</p> <p>4 <b>A Can you --</b></p> <p>5 Q You said to him that you spoke to her one</p> <p>6 time and told her about the pain --</p> <p>7 <b>A Right.</b></p> <p>8 Q -- because of the situation. What does</p> <p>9 that mean?</p> <p>10 <b>A Mental anguish, I mean pain being</b></p> <p>11 <b>emotional distress--</b></p> <p>12 Q So you weren't talking about physical like</p> <p>13 your stomach hurt or something like that?</p> <p>14 <b>A Yes, sir, pain being emotional distress</b></p> <p>15 <b>and trauma.</b></p> <p>16 Q Did you ever have any conversations with</p> <p>17 Miss Durr or Mr. Lord or anyone else in counseling</p> <p>18 about emotional distress and trauma that you were</p> <p>19 having that was unrelated to the restrooms?</p> <p>20 <b>A I don't recall.</b></p> <p>21 Q To the best of your recollection, you</p> <p>22 never spoke with Mr. Lord about the restroom</p>	176	<p>1 ACKNOWLEDGEMENT OF DEPONENT</p> <p>2 I, GAVIN GRIMM, do hereby acknowledge</p> <p>3 that I have read and examined the foregoing</p> <p>4 testimony, and the same is a true, correct and</p> <p>5 complete transcription of the testimony given by</p> <p>6 me and any corrections appear on the attached</p> <p>7 Errata sheet signed by me.</p> <p>8</p> <p>9 _____</p> <p>10 (DATE) (SIGNATURE)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

Transcript of Gavin Grimm  
Conducted on October 19, 2018

177

1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

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

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

17   
18 \_\_\_\_\_

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

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## 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.

## Gender Dysphoria

### Diagnostic Criteria

#### Gender Dysphoria in Children

302.6 (F64.2)

- A. A marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months' duration, as manifested by at least six of the following (one of which must be Criterion A1):
1. A strong desire to be of the other gender or an insistence that one is the other gender (or some alternative gender different from one's assigned gender).
  2. In boys (assigned gender), a strong preference for cross-dressing or simulating female attire; or in girls (assigned gender), a strong preference for wearing only typical masculine clothing and a strong resistance to the wearing of typical feminine clothing.
  3. A strong preference for cross-gender roles in make-believe play or fantasy play.
  4. A strong preference for the toys, games, or activities stereotypically used or engaged in by the other gender.
  5. A strong preference for playmates of the other gender.
  6. In boys (assigned gender), a strong rejection of typically masculine toys, games, and activities and a strong avoidance of rough-and-tumble play; or in girls (assigned gender), a strong rejection of typically feminine toys, games, and activities.
  7. A strong dislike of one's sexual anatomy.
  8. A strong desire for the primary and/or secondary sex characteristics that match one's experienced gender.
- B. The condition is associated with clinically significant distress or impairment in social, school, or other important areas of functioning.

#### Specify if:

**With a disorder of sex development** (e.g., a congenital adrenogenital disorder such as 255.2 [E25.0] congenital adrenal hyperplasia or 259.50 [E34.50] androgen insensitivity syndrome).

**Coding note:** Code the disorder of sex development as well as gender dysphoria.

#### Gender Dysphoria in Adolescents and Adults

302.85 (F64.1)

- A. A marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months' duration, as manifested by at least two of the following:
1. A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics).
  2. A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics).
  3. A strong desire for the primary and/or secondary sex characteristics of the other gender.
  4. A strong desire to be of the other gender (or some alternative gender different from one's assigned gender).
  5. A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender).
  6. A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender).

- B. The condition is associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.

#### Specify if:

**With a disorder of sex development** (e.g., a congenital adrenogenital disorder such as 255.2 [E25.0] congenital adrenal hyperplasia or 259.50 [E34.50] androgen insensitivity syndrome).

**Coding note:** Code the disorder of sex development as well as gender dysphoria.

#### Specify if:

**Posttransition:** The individual has transitioned to full-time living in the desired gender (with or without legalization of gender change) and has undergone (or is preparing to have) at least one cross-sex medical procedure or treatment regimen—namely, regular cross-sex hormone treatment or gender reassignment surgery confirming the desired gender (e.g., penectomy, vaginoplasty in a natal male; mastectomy or phalloplasty in a natal female).

### Specifiers

The posttransition specifier may be used in the context of continuing treatment procedures that serve to support the new gender assignment.

### Diagnostic Features

Individuals with gender dysphoria have a marked incongruence between the gender they have been assigned to (usually at birth, referred to as *natal gender*) and their experienced/expressed gender. This discrepancy is the core component of the diagnosis. There must also be evidence of distress about this incongruence. Experienced gender may include alternative gender identities beyond binary stereotypes. Consequently, the distress is not limited to a desire to simply be of the other gender, but may include a desire to be of an alternative gender, provided that it differs from the individual's assigned gender.

Gender dysphoria manifests itself differently in different age groups. Prepubertal natal girls with gender dysphoria may express the wish to be a boy, assert they are a boy, or assert they will grow up to be a man. They prefer boys' clothing and hairstyles, are often perceived by strangers as boys, and may ask to be called by a boy's name. Usually, they display intense negative reactions to parental attempts to have them wear dresses or other feminine attire. Some may refuse to attend school or social events where such clothes are required. These girls may demonstrate marked cross-gender identification in role-playing, dreams, and fantasies. Contact sports, rough-and-tumble play, traditional boyhood games, and boys as playmates are most often preferred. They show little interest in stereotypically feminine toys (e.g., dolls) or activities (e.g., feminine dress-up or role-play). Occasionally, they refuse to urinate in a sitting position. Some natal girls may express a desire to have a penis or claim to have a penis or that they will grow one when older. They may also state that they do not want to develop breasts or menstruate.

Prepubertal natal boys with gender dysphoria may express the wish to be a girl or assert they are a girl or that they will grow up to be a woman. They have a preference for dressing in girls' or women's clothes or may improvise clothing from available materials (e.g., using towels, aprons, and scarves for long hair or skirts). These children may role-play female figures (e.g., playing "mother") and often are intensely interested in female fantasy figures. Traditional feminine activities, stereotypical games, and pastimes (e.g., "playing house"; drawing feminine pictures; watching television or videos of favorite female characters) are most often preferred. Stereotypical female-type dolls (e.g., Barbie) are often favorite toys, and girls are their preferred playmates. They avoid rough-and-tumble play and competitive sports and have little interest in stereotypically masculine toys (e.g., cars, trucks). Some may pretend not to have a penis and insist on sitting to urinate. More

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

Attachments:

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

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

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

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

Other students sitting around them include:

[REDACTED] - NJROTC student and probably reliable

[REDACTED] - Probably reliable

[REDACTED] - NOT reliable

-Amy Bergh