

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

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-54

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

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

David P. Corrigan (VSB 26341)
Jeremy D. Capps (VSB No. 43909)
George A. Somerville (VSB No. 22419)
Harman, Claytor, Corrigan & Wellman
P.O. Box 70280
Richmond, Virginia 23255
804-747-5200 - Phone
804-747-6085 - Fax
dcorrigan@hccw.com
jcapps@hccw.com
gsomerville@hccw.com

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I. Introduction

From the beginning, the Gloucester County School Board (“School Board”) has treated Gavin Grimm (“Grimm”) with respect and attempted to accommodate Grimm’s gender identity based on Grimm’s assertions to School staff. Grimm’s bare *allegations*, however, are no longer sufficient to *prove* that the School Board violated his rights under Title IX and the Equal Protection Clause. The School Board enacted a restroom policy that is consistent with Title IX and the Constitution to address the interests and privacy concerns of all students.

Grimm’s opposition to the School Board’s motion for summary judgment conflates whether school districts, as a matter of social policy, should permit transgender students to use the restroom consistent with their expressed gender identity with whether the School Board has violated Grimm’s rights under Title IX and the Equal Protection Clause by providing separate restrooms based on physiological and anatomical differences between boys and girls, along with single stall restrooms for every student. In doing so, Grimm ignores the underlying allegations and basis for his legal challenge to the School Board’s policy – that the use of the boys’ restrooms at school was part of “medically necessary treatment” for gender dysphoria. ECF Doc. 1 ¶ 2; ECF Doc. 113 ¶ 1-2; ECF Doc. 177 ¶¶ 1, 2, 21, 38. That is because Grimm did not present expert evidence in this case that he was diagnosed with gender dysphoria, that it was medically necessary for him to use the boys’ restroom, that being provided with a single-stall restroom that was available for all students to use adversely impacted his gender dysphoria, or that he is a boy. Grimm’s opposition brief confirms that there is no genuine issue of fact in this case that precludes summary judgment in the School Board’s favor.

II. Law and Argument

A. **With the absence of expert and medical evidence, Grimm cannot prove a sex stereotype theory of liability under Title IX or the Equal Protection Clause.**

Grimm contends that the School Board's restroom policy discriminates against him "because he is transgender." ECF Doc. 201, p. 15. Grimm asserts that summary judgment should be denied, because his claims of discrimination on the basis of transgender status are actionable under a gender stereotyping theory. ECF Doc. 201, p. 9. Yet, to prove a gender stereotyping theory, Grimm must establish that he is a boy and that the School Board discriminated based on discriminatory stereotypes. Grimm, however, now ignores the allegations in his Complaint, Amended Complaint and Second Amended Complaint in an effort to shoehorn his claims into case law largely decided at the motion to dismiss stage.

Grimm has premised his discrimination claims on the *allegations* that he was "diagnosed by medical professionals as having Gender Dysphoria, which is a serious medical condition characterized by clinically significant distress," and that a "critical element" of "medically necessary treatment" for gender dysphoria is the need to use the boys' restroom at school. ECF Doc. 8, ¶ 2-3; ECF Doc. 113, ¶¶ 1-2, 37, 40, ECF Doc. 177, ¶¶ 1, 2, 21, 38, 42. According to Grimm, he requested to use the boys' restroom to alleviate his distress associated with gender dysphoria. ECF Doc. 8, ¶¶ 15, 20, 22-24; ECF Doc. 113, ¶¶ 20-21, ECF Doc. 177, ¶¶ 22-23, 25. Grimm alleged that using the girls' restroom would cause severe psychological distress and be incompatible with his medically necessary treatment for gender dysphoria. ECF Doc. 8, ¶ 46; ECF Doc. 113, ¶ 28.

Grimm, however, has not offered medical, mental health, or expert testimony to prove that Grimm is a boy or that he has been diagnosed with gender dysphoria. Grimm also has not designated a mental health expert, treating or retained, to offer testimony that the use of the boys'

restroom was a medical necessity for Grimm. See e.g., Plaintiff's Expert Witness Identification. Additionally, Grimm has not offered medical or expert testimony to prove the effects of gender dysphoria on Grimm or that the use of a single-stall restroom, restroom in the nurse's office, or a staff restroom adversely affected his alleged gender dysphoria.¹ Indeed, the expert that Grimm did proffer, Dr. Penn, is not a mental health provider, has never diagnosed anyone with gender dysphoria, and does not express any opinions specific to Grimm. Penn, 11:4-11.

Grimm's expert did testify, however, that using the boys' restroom at school is just one component of an overall social transitioning care plan. Even where a transgender student is not permitted to use the restroom consistent with his expressed gender identity, there are other methods of social transition that can be used to help treat gender dysphoria. Penn, 70:18-71:4. **Moreover, the "standards of care" that Grimm's expert, and "every major medical and mental health professional organization," relies on "to eliminate the clinically significant distress by helping boys who are transgender to live as boys," do not address the use of a transgender student's use of restrooms at school.**

Neither the WPATH standards of care nor the Endocrine Society guidelines has a standard of care related to the use of restrooms by transgender students at school. Penn, 66:21-67:2, 68:15-21; see also Penn, 63:8-65:19. Simply stated, Grimm does not present expert testimony to support his claims of gender identity, gender dysphoria, or the medical necessity to use the boys' restroom at school. See also ECF Doc. 200, pp. 19-22.

¹ On brief, Grimm disavows the allegations in his Complaints and now claims that his request for relief is "not based on the Board's refusal to facilitate his treatment plan or on the Board's exacerbation of his gender dysphoria ... His claims are based on the physical pain and discomfort of being unable to use the restroom and "the deprivation of personal dignity..." ECF Doc. 201, p. 16. Not only does this directly contradict his pleadings, this theory is not supported by expert testimony either.

Despite the allegations in this case, after the close of discovery, Grimm is left with his bare assertion that he was born a girl and now identifies as a boy. Grimm admits on brief that there is no factual dispute that he was born with female genital and reproductive organs, issued a birth certificate listing his sex as female, and enrolled in high school as a girl. Grimm does not have intersex characteristics.² Grimm, 112:19-20. Indeed, Grimm used the female restrooms during his freshman year in high school. Grimm, 89:14-20. The fact that Grimm underwent chest-reconstruction surgery does not change the underlying issue with his case – Grimm has not offered sufficient expert evidence to prove that he is a boy for purposes of Title IX or the Equal Protection Clause. The surgery did not create any biological changes in Grimm, nor did it complete gender reassignment. Penn, 78:8-80:1.

Grimm can no longer rely on his allegations in his pleadings, nor can he rely on this Court's opinion based on those allegations. Grimm had to come forward with admissible evidence to support his gender stereotyping theory. Yet, Grimm has not offered expert testimony to establish that he is a boy or that he was subject to sex stereotyping discrimination on the basis of his sex in violation of Title IX and the Equal Protection Clause. Instead, the evidence shows that the School Board's policy rejects classifying students based on whether they meet *any* stereotypical notion of maleness or femaleness. The policy designates multiple-stall restrooms based on *physiology*, period—regardless of how “masculine” or “feminine” a boy or girl looks, acts, talks, dresses, or styles their hair. Far from violating Price Waterhouse, the Board's policy is the *opposite* of the kind of sex stereotyping prohibited by that decision. See, e.g., Etsitty v. Utah Transit Auth., 502 F.3d 1215, 1224 (10th Cir. 2007) (concluding that Price Waterhouse

² Thus, this ends the speculation as to how the School Board's policy might apply to individuals with intersex characteristics. That concern is not a factual issue in this case.

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

Under these facts, the School Board’s restroom policy does not discriminate based upon sex stereotypes and, in fact, does not take sex stereotypes into consideration. The School Board is entitled to summary judgment on Grimm’s claims.

B. The School Board’s Policy does not discriminate on the basis of sex.

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

Notwithstanding the evidentiary deficiencies, Grimm’s case cannot escape that Title IX only prohibits discrimination under an education program or activity “on the basis of sex”— *not* on the basis of “gender” or “gender identity.” 20 U.S.C. § 1681(a). Grimm now asserts on brief that “this case is not about the definition of ‘sex,’” but is about the meaning of discrimination “on the basis of sex.” ECF Doc. 201, p. 10. Grimm’s attempt to change the meaning of Title IX cannot be read so narrowly.

Grimm’s emphasis on the word “discrimination” does not obscure that the only “discrimination” that falls within the statute is discrimination “on the basis of sex.”³ Sex has to

³ Grimm cites Fabian v. Hosp. of Cent. Conn., 172 F. Supp. 3d 509, 527 (D. Conn. 2016), a Title VII case, for the proposition that “‘discrimination 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 literally discrimination ‘because of sex.’” ECF Doc. 201, pp. 10-11. Fabian is based on interpretation of “Title VII’s prohibition of discrimination ‘because of sex’ to include discrimination on the basis of factors that are sufficiently ‘related to sex or [that] ha[ve] something to do with sex.’ ... Discrimination against transgender people because they are transgender people, by that reading, is quite literally discrimination ‘because of sex.’” 172 F.Supp.3d at 525, quoting Ulane v. Eastern Airlines, Inc., 581 F. Supp. 821, 822 (N.D. Ill.1983), rev’d, 742 F.2d 1081 (7th Cir. 1984). That interpretation transparently distorts the statutory language in an effort to generate support for a preordained conclusion.

(footnote continued)

be defined in order to determine whether there is discrimination on the “basis of sex.” The word “sex” in 2019, no less than in 1972, has a plain, simple, straightforward, and well understood meaning that refers to the anatomical, physiological, and even biological differences between males and females.

2. The legislative history and other evidence of legislative intent confirm the straightforward, plain language, “binary” meaning of the statutory language, “on the basis of sex.”

Grimm does not dispute “the Board’s litany of dictionary definitions” of the term “sex.” ECF Doc. 201, p. 11. Further, Grimm does not deny the clear message of the dictionaries – that anatomical and physiological characteristics are a criterion for distinguishing men from women, male from female, one sex from the other.⁴ Indeed, both experts in this case agree that anatomical and physiological differences are appropriate criteria for distinguishing boys and girls.

Yet, Grimm states that the Board relies on “*its own assumptions* about legislative intent” to determine the meaning of “sex” under Title IX. ECF Doc. 201, p. 11. That is a curious description of the Board’s straightforward presentation of the legislative history of Title IX. That history unambiguously shows that Congress employed and intended that Title IX be interpreted consistently with what was the universal understanding that “sex” as a binary term encompassing the anatomical and physiological distinctions between men and women.

⁴ Grimm does argue that the “plain meaning” of the statutory language extends far beyond what Congress intended or any person who was aware of its enactment would have understood. See ECF Doc. 201, p. 11. That is simply an unreasoned and unexplained denial of reality, calling to mind Humpty Dumpty’s “rather scornful” declaration that “[w]hen I use a word ... it means just what I choose it to mean – neither more nor less.” E.g., Rector v. Approved Federal Savings Bank, 265 F.3d 248, 254 n.2 (4th Cir. 2001) (King, J., dissenting) (citation omitted).

Grimm also argues that legislative intent is not relevant to the reach of Title IX and the definition of “sex.” ECF Doc. 201, pp. 11-12. That, however, is not the law. “[W]here Congress has made its intent clear, ‘[courts] must give effect to that intent.’” Miller v. French, 530 U.S. 327, 336 (2000), quoting Sinclair Refining Co. v. Atkinson, 370 U.S. 195, 215 (1962). Indeed, “[t]he purpose of statutory interpretation is ‘to try to determine congressional intent.’” Federal Energy Regulatory Comm’n v. Powhatan Energy Fund, LLC, 286 F.Supp.3d 751, 758 (E.D. Va. 2017), quoting Dole v. United Steelworkers of America, 494 U.S. 26, 35 (1990). See also, e.g., Broughman v. Carver, 624 F.3d 670, 674 (4th Cir. 2010) (“Our objective in all cases of statutory interpretation is ‘to ascertain and implement the intent of Congress.’”) (citation omitted); Sierra Club v. United States Army Corps of Engineers, 909 F.3d 635, 645 (4th Cir. 2018):

In interpreting a statute, the “cardinal rule ... is that the intent of [Congress] is to be given effect.” ... To ascertain congressional intent, we first “determine whether the language at issue has a plain and unambiguous meaning.” ... When considering the plain meaning of the statutory language, we also “must consider the context in which the statutory words are used because ... we read statutes as a whole.” ... If the statute is unambiguous, “our inquiry into Congress’ intent is at an end, for if the language is plain and the statutory scheme is coherent and consistent, we need not inquire further.” ... We also look to a statute’s legislative history as further evidence of congressional intent. [Citations omitted.]

And while the plain meaning of statutory language frequently is the best guide to the legislators’ intent, as it is here, one of “two extremely narrow exceptions to the Plain Meaning Rule.... applies when literal application of the statutory language at issue produces an outcome that is demonstrably at odds with clearly expressed congressional intent to the contrary.” Hillman v. I.R.S., 263 F.3d 338, 342 (4th Cir. 2001) (citation omitted). The Court need not consider that exception in this case, however, because all indicators of Congress’ intent – the plain, unambiguous meaning of the statutory language, its context, and the legislative history – point to the same clear interpretation, that the word “sex” refers to the differences between male

and female, based on the anatomical, physiological, and biological differences between the sexes.

“Gender,” on the other hand, is a “‘societal construct’ that encompasses how a ‘society defines what male or female is within a certain cultural context.’” Doe v. Boyertown Area School District, 897 F.3d 518, 522 (3rd Cir. 2018), *petition for cert. pending*, No. 18-658. And “gender identity” refers to a person’s “deeply felt, inherent sense of one’s gender” (ECF Doc. 177, ¶ 20). As this case illustrates, a person’s concept or understanding of his or her gender or gender identity may differ from his or her sex, but it does not alter the statutory language of Title IX, which only prohibits discrimination “on the basis of sex” and not “on the basis of gender identity” or “transgender status.”

3. The Department of Education’s implementing regulations are consistent with the statute.

The statutory language is unambiguous, so it is not necessary to consult the regulations for purposes of interpreting Title IX. *Cf.*, e.g., Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 842-43 (1984) (“If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.” But “if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”) (see, e.g., Carlton & Harris Chiropractic, Inc. v. PDR Network, LLC, 883 F.3d 459, 469-70 (4th Cir. 2018)). Under either a “step one” or a “step two” analysis,

however, the result is the same. The regulations, like the statute, employ a “binary,” two-sex meaning of the words “on the basis of sex” in the statute.⁵

The same interpretation is compelled by what Grimm calls the “Restroom Regulation,” 34 C.F.R. § 106.33. ECF Doc. 201, p. 22. That regulation provides that “[a] recipient 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*.” (Emphasis added.) Use of the definite article “the” in the highlighted phrase permits no interpretation other than a binary, two-sex reading of the regulation. Similar language is found in other related regulations.⁶ In short, the Department’s regulations consistently employ an unambiguously “binary” understanding of the statutory term “sex” – consistently with “the

⁵ See 34 C.F.R. § 106.21 (recipient of Federal financial assistance “may make pre-admission inquiry as to the sex of an applicant ... only if such inquiry is made equally of such applicants of *both sexes* ...”); 34 C.F.R. § 106.17 (a “transition plan” must state “whether the educational institution or administratively separate unit admits students of *both sexes* ...”); 34 C.F.R. § 106.2; 34 C.F.R. § 106.41 (“A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of *both sexes*.”).

⁶ See 34 C.F.R. § 106.31 (an educational institution may administer ... scholarships ... restricted to members of *one sex*, ... only if it also “makes available reasonable opportunities for similar studies for members of *the other sex*.”); 34 C.F.R. § 106.32 (housing provided ... provided “to students of *one sex*, when compared to that provided to students of *the other sex* ...”); 34 C.F.R. § 106.37 (in providing financial assistance to its students, a recipient shall not treat “persons of *one sex* differently from persons of *the other sex* with regard to marital or parental status.”); 34 C.F.R. § 106.41 (“where a recipient operates or sponsors a team in a particular sport for members of *one sex* but operates or sponsors no such team for members of *the other sex*, and athletic opportunities for members of that sex have previously been limited, members of *the excluded sex* must be allowed to try-out for the team offered unless the sport involved is a contact sport.”); 34 C.F.R. § 106.58 (state or local law may not impose “prohibitions or limits upon employment of members of *one sex* which are not imposed upon members of *the other sex* ...” (All emphases added.) Cf. ECF Doc. 201, p. 25 (“the regulation must be interpreted within ‘the broader context of the statute or regulation as a whole’”) (citation omitted).

‘then-universal understanding ...’ during the passage of Title IX and the promulgation of § 106.33.” ECF Doc. 148, p. 16.

Grimm argues, however, that the “Restroom Regulation,” is ineffective, because it “does not state that the statute’s ban on sex-based discrimination ‘shall not apply’ to restrooms.” ECF Doc. 201, pp. 22-23. That argument is circular. It assumes the conclusion – that the “ban on sex-based discrimination” applies to restrooms. Yet, the regulation makes clear that schools such as Gloucester are permitted to have sex segregated restrooms. Grimm’s logic would eviscerate the regulation.⁷

C. The School Board’s Policy does not violate the Equal Protection Clause.

Not only is the School Board entitled to summary judgment as a result of Grimm’s failure of proof, the School Board’s policy satisfies constitutional scrutiny. Grimm’s argument rises or falls on his claim that “discrimination against transgender individuals is subject to heightened scrutiny under the Equal Protection Clause.” ECF Doc. 201, p. 27, citing ECF Doc. 148, pp. 25-26. The Board respectfully submits that for the reasons stated in its Brief in Support of its Motion for Summary Judgment at pages 32-33, this Court should reconsider the reasoning and conclusion of its May 22, 2018, Order and hold that heightened scrutiny does not apply. Neither the United States Supreme Court nor the Fourth Circuit has recognized transgender status as a suspect classification under the Equal Protection Clause, and the Supreme Court has admonished

⁷ This is particularly true where Grimm now attempts to prove his case of discrimination without expert testimony, thus in essence stating that an expression of gender identity is sufficient to invalidate the School Board’s provision of sex segregated restrooms. Further, perhaps in an attempt to hedge his bets, Grimm mischaracterizes the “Restroom Regulation” as requiring that a school that “establish[es] sex-separated restrooms” (which of course are well-nigh universal) “must provide access to ‘comparable’ restrooms *for all students.*” Plaintiff’s Opposition at 23 (emphasis added). The regulation does not say that. It mandates that “facilities provided for students of one sex shall be comparable to such facilities provided *for students of the other sex.*” (emphasis added).

lower courts not to create new suspect classifications. See City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 441 (1985).

In addition, this Court previously reasoned in part that “transgender status is immutable.” ECF Doc. 148, page 26, quoting M.A.B. v. Bd. of Educ. of Talbot Cty., 286 F.Supp.3d 704, 720-21 (D. Md. 2018). That is *at best* a disputed material fact. Dr. Van Meter, the School Board’s expert, testified that scientific evidence shows that 80%-95% of pre-pubertal children with gender identity disorder come to identify with their biological sex by late adolescence and that the vast majority of boys and girls with gender identity disorder identify with their biological sex by the time they emerge from puberty to adulthood, through either watchful waiting or family and individual counseling. Van Meter Report, ¶¶ 29, 30, 33; Van Meter, 81:4-83:2. At this point, those are *undisputed* facts, as Grimm has offered nothing to contradict them. With such a high rate of “desistance,” transgender status cannot be characterized as “immutable.”

The rational basis standard therefore should be applied. It is satisfied as discussed in ECF Doc. 196, pp. 34-37. In fact, Grimm offers no argument to the contrary.

Even if a higher degree of “scrutiny” applied, the School Board’s policy is fully justified and should be upheld. See ECF Doc. 196, pp. 39-40. Grimm argues that the Board has not submitted “sufficient evidence to create ... a triable issue of fact” with respect to whether its

policy survives intermediate scrutiny.⁸ Yet, Grimm is compelled to go on at great length – pages 28-33 of his Response – in an effort to prove that negative.⁹

Grimm’s arguments distort the School Board’s arguments and policies. Indeed, Grimm argues that the School Board has not introduced any evidence to support its conclusion that its policy protects “student privacy related to nudity.” ECF Doc. 201, p. 1. If there is any room for common sense in this case, the School Board’s policy separating children’s restroom use based on their most private anatomical features, where they perform what are universally recognized as private biological functions, is clearly substantially related to protection of those children’s privacy. Indeed, Grimm recognized this when he told school administrators that he only wanted to use the boys’ restroom if the stall had a door. Collins, 55:14-57:21.

D. Grimm’s new birth certificate does not establish a Title IX or Equal Protection claim.

Grimm has created an inaccurate narrative to characterize the School Board’s restroom policy. Contrary to Grimm’s assertion, the School Board’s policy of providing separate restrooms for boys and girls is based on students’ physiology and anatomy. The School Board

⁸ The parties agree to the applicable standard: a policy survives “heightened” or “intermediate” scrutiny if it serves “important governmental objectives” and the means employed are “substantially related” to the achievement of those objectives.

⁹ Grimm asserts on brief that the School Board’s arguments in support of summary judgment on Grimm’s Equal Protection claim “blatantly contradict prior assertions of counsel” concerning privacy interests in locker rooms, because “the Board once again talks about how allowing Gavin to use the boys’ restrooms would threaten students’ privacy interests in locker rooms,” citing to Def.’s Mem. 27. ECF Doc. 201, pp. 28-30, 32. The passage that Grimm refers to in the School Board’s brief relates to the School Board’s arguments concerning the definition of sex and the implementation of § 106.33 under Title IX – not argument on the privacy interests associated with the restroom policy under Grimm’s Equal Protection claim. The School Board did not invoke privacy issues related to locker room use in response to Grimm’s Equal Protection claim. ECF Doc. 196, pp. 38-40. Seemingly, Grimm has intentionally mischaracterized the School Board’s position on these issues. The same is true with respect to Grimm’s mention of sports and the Virginia High School League. ECF Doc. 201, p. 31.

testified that although there is not a set process or procedure, the School Board relies on social norms, binary sexes, **and students using the restroom that corresponds to their physiological sex.** Andersen, 14:8-15:9, 16:15-21.

While the School Board accepts a student's birth certificate as evidence of determining a student's physiology when the student enrolls in school, there has never been a conflict between a birth certificate and the student's physiological sex. This case is the only time there has been a conflict between those concepts. Andersen, 14:8-15:9, 16:15-21. Grimm's attempt to establish a Title IX and Equal Protection claim based on the birth certificate that was issued during Grimm's senior year in high school does not change the evidentiary analysis in this case.

Grimm's principal argument appears to be that the state Circuit Court's order directing the State Registrar to amend Grimm's birth certificate is not subject to collateral attack under Virginia law (citing Hicks v. Mellis, 275 Va. 213, 219-20 (2008)) and is entitled to full faith and credit in this Court under 28 U.S.C. § 1738. ECF Doc. 201, p. 21.¹⁰ That argument misses the point.

Grimm's amended birth certificate does not change Grimm's physiological and anatomical sex – which remains female. While Grimm had chest reconstruction surgery, it did not create any biological changes in Grimm. Instead, it is only a physical change. Penn, 78:8-12. There is no evidence in the record to suggest that Grimm has completed surgical gender reassignment, and to that extent, Grimm remains biologically and anatomically female. Penn, 78:8-12; 79:19-80:1; Grimm, 118:7-12. Thus, while Grimm was enrolled in Gloucester High

¹⁰ Grimm also states that his mother “testified that she gave the Gloucester High School counseling department an original copy of the birth certificate with a raised seal.” ECF Doc. 2-1, p. 21, citing Deirdre Grimm Decl. ¶ 27, ECF No. 187 at 5-6. Mrs. Grimm's declaration does not say that.

School, the School Board was aware that Grimm remained physiologically and anatomically a female.

Moreover, the undisputed facts establish that the birth certificate Grimm provided was not issued in conformity with Virginia law. See ECF Doc. 196, pp. 43-45. According to Grimm's expert, Grimm did not have a "surgical gender reassignment procedure" and Grimm still has female genitalia and reproductive organs in place. Penn, 78:19-79:15; 79:19-80:1. The School Board declined to revise Grimm's official school transcript, because the information that Grimm provided was at odds with the process and procedures outlined by Virginia law and the Virginia Administrative Code to amend a birth certificate. Additionally, the birth certificate provided was stamped void and not "amended." Andersen, 65:8-66:1; GCSB 04247.¹¹

Grimm relies on this Court's holding that the language of 20 U.S.C. § 1221(d) "makes clear that FERPA does not preclude a suit pursuant to Title IX." ECF Doc. 176, p. 2. Respectfully, that does not address the School Board's argument. The question is not whether FERPA provides the sole remedy for a student seeking an amendment of his records or precludes a suit pursuant to Title IX. The question is whether a student may bypass an available administrative remedy and proceed directly to a federal court with a challenge to a school board's refusal to grant such an amendment.

The School Board offered Grimm the opportunity to submit additional materials and have a hearing on whether his records should be changed. Indeed, Grimm's counsel received a letter stating, **"Please feel free to submit additional materials, and, of course, [Grimm] has the right under school policy JO, see page 8 Correction of Education Records, to a hearing to**

¹¹ For purposes of brevity, the School Board incorporates its arguments set out in its opposition to Grimm's motion for summary judgment at ECF Doc. 200, pp. 23-27.

challenge the information believed to be ‘inaccurate, misleading or in violation of the student’s rights.’ I look forward to hearing further from you.” Grimm did not request a hearing on the School Board’s denial of his request to have his transcript changed, either while he was a student at Gloucester High School or after his graduation in the spring of 2017. ECF Doc. 171-1; Andersen Declaration.

The decision of an educational agency or institution, after a hearing upholding a refusal to amend a record, is reviewable, as stated in the Board’s Summary Judgment Brief at 46. A student presumably may assert that the refusal constitutes a Title IX violation, if that argument is preserved in the administrative proceeding. Grimm cites Gonzaga University v. Doe, 536 U.S. 273, 287 (2002), as contradicting the authorities cited in the Board’s Summary Judgment Brief, but Gonzaga does no such thing. The Supreme Court held only that FERPA’s *nondisclosure* provisions create no rights enforceable in a suit for damages under 42 U.S.C. § 1983. Id. at 287-90. That holding does not speak in any way to the reviewability of an administrative agency’s decision not to grant a request for amendment of a student’s records.

E. Grimm’s “pretext” argument and numerous others are based on distortions of arguments presented by the Board.

Grimm argues that a trier of fact could conclude that the Board’s stated reasons for its restroom policy are pretextual, “based on its shifting and internally inconsistent arguments regarding Gavin’s birth certificate,” ECF Doc. 201, p. 5, and more generally that “[a] reasonable finder of fact could infer that the Board acted with an invidious motive based on its shifting and internally inconsistent arguments.” Id., p 34. Those numerous arguments are diverse and, at best, misleading.

As set out above, the School Board’s 30(b)(6) witness did not testify “that the restroom policy defines ‘biological gender’ according to birth certificates, not according to physiology,” as

stated by Grimm on brief. ECF Doc. 201, p. 17. The School Board has consistently applied its restroom policy on the basis of physiological and anatomical sex. Andersen, 14:8-15:9, 16:15-21; Clemons, 69:3-8, 70:4-5. Grimm's arguments are a distortion of the record. The School Board incorporates its response to Grimm's motion for summary judgment to address this point. ECF Doc. 200, pp. 23-24.

Similarly, the School Board's arguments "based on physiology" are not "internally inconsistent" as Grimm asserts. ECF Doc. 201, p. 18. The evidence in this case establishes that Grimm has not been diagnosed with intersex characteristics, was born with female genitalia, and has not completed gender reassignment surgery. Grimm has not put forth expert testimony to establish that he is a boy, the extent of his medical treatment, or that he suffers from gender dysphoria. Grimm cannot rely on general assertions concerning transgender individuals to prove a case of discrimination against him by the School Board.¹²

Further, the Board has neither "offered shifting [nor] contradictory reasons" for declining to accept Grimm's revised birth certificate nor "contradict[ed] itself ... in its brief in support of summary judgment." ECF Doc. 201, pp. 19-20. The School Board has explained why it has not changed Grimm's school records in counsel's letter of January 18, 2017, in the Rule 30(b)(6) deposition, in its Summary Judgment Brief at pp. 7-8, 43-45, and in its opposition to Grimm's

¹² Grimm's assertion that a fact finder could infer discriminatory animus on the part of the School Board based on the testimony of the School Board's expert witness, Dr. Van Meter, as supporting a possible inference of "animus" is remarkable. ECF Doc. 21, p. 5. Even assuming, for the purpose of argument, that Dr. Van Meter's expert opinions with respect to the medical and social undesirability of encouraging children and adolescents to claim a gender identity at odds with their natural (anatomical, chromosomal, biological) sex are somehow tainted, Grimm has not articulated any mechanism by which those opinions can be attributed to the School Board itself. That is especially true when it is recognized that the School Board adopted the policy challenged in this case in December 2014, that it declined Grimm's request for an amended transcript in February 2019, and Dr. Van Meter's deposition was taken in March 2019.

motion for summary judgment at pp. 12, 13, 14, and 23-27. While the School Board's 30(b)(6) witness testified that it was not within the "purview" of the School Board to determine whether the medical procedures that Grimm had undergone were sufficient to change his gender marker on his birth certificate **under Virginia law**, that does not foreclose the argument that Grimm has not satisfied the requirements of Virginia law sufficient to impose liability on the School Board under Title IX or the Equal Protection Clause, nor does it foreclose the argument that the School Board is aware that Grimm remained physiologically and anatomically a female. Indeed, Grimm has not offered expert testimony, retained or treating, to satisfy his burden.

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

Title IX is a Spending Clause statute. Davis v. Monroe County Bd. of Ed., 526 U. S. 629, 640 (1999). Respectfully, this Court has not yet fully considered the implications of that fact. It has made only a summary ruling, in its Order entered May 22, 2018, at page 20 n.11 (ECF Doc. 148), that the statute need not "explicitly refer to discrimination against transgender students to fulfill the notice requirements under Pennhurst State School & Hospital v. Halderman, 451 U.S. 1 (1981)," because

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."

Id.

That analysis does not confront the fact that this is a Spending Clause argument. But more importantly, it disregards the thrust of the Board's position – that at the time the Board both accepted federal funds and enacted the policy that is challenged in this case, it could not possibly

have known or anticipated that Title IX or its regulations might somehow be interpreted as treating “gender identity” or “transgender status” as synonymous with the statutory term “sex,” and therefore it could not possibly have voluntarily and knowingly accepted federal funds with that condition attached. See Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy, 548 U.S. 291, 296 (2006). “States cannot knowingly accept conditions of which they are ‘unaware’ or which they are ‘unable to ascertain.’” Id. (citation omitted). The Court therefore

must view [Title IX] from the perspective of a state official who is engaged in the process of deciding whether the State should accept [Title IX] funds and the obligations that go with those funds. We must ask whether such a state official would clearly understand that one of the obligations of the Act is the obligation to [admit transgender students to the restrooms of their choice]. In other words, we must ask *whether [Title IX] furnishes clear notice* regarding the liability at issue in this case.

Id. (emphasis added). Here, Title IX does not provide such notice; and respectfully, the fact that an implied right of action was recognized in 1979 and that subsequent cases have interpreted Title IX “broadly to encompass diverse forms of intentional sex discrimination” (ECF Doc. 148 at page 20 n.11) does not compel or even support a contrary answer.

III. Conclusion

For all of the foregoing reasons, the Gloucester County School Board respectfully requests that the Court grant the School Board’s Motion for Summary Judgment.

**GLOUCESTER COUNTY SCHOOL
BOARD**

By Counsel

/s/

David P. Corrigan (VSB No. 26341)
Jeremy D. Capps (VSB No. 43909)
George A. Somerville (VSB No. 22419)
Attorneys for Gloucester County School Board
Harman, Claytor, Corrigan & Wellman
P.O. Box 70280
Richmond, Virginia 23255
804-747-5200 - Phone
804-747-6085 - Fax
dcorrigan@hccw.com
jcapps@hccw.com
gsomerville@hccw.com

C E R T I F I C A T E

I hereby certify that on the 15th day of April 2019, I filed a copy of the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send a Notice of Electronic Filing to all counsel of record.

/s/

David P. Corrigan (VSB No. 26341)
Jeremy D. Capps (VSB No. 43909)
George A. Somerville (VSB No. 22419)
Attorneys for Gloucester County School Board
Harman, Claytor, Corrigan & Wellman
P.O. Box 70280
Richmond, Virginia 23255
804-747-5200 - Phone
804-747-6085 - Fax
dcorrigan@hccw.com
jcapps@hccw.com
gsomerville@hccw.com

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

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-54

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

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

- A. Plaintiff's Expert Witness Identification
- B. Melinda Penn, M.D. Deposition Excerpts
- C. Gavin Grimm Deposition Excerpts
- D. Quentin Van Meter, M.D. Report
- E. Quentin Van Meter, M.D. Deposition Excerpts
- F. Nathaniel Collins Deposition Excerpts
- G. Troy Andersen Deposition Excerpts
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- I. Troy Andersen – Declaration
- J. Walter Clemons Deposition Excerpts

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

GAVIN GRIMM,

Plaintiff,

v.

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

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

PLAINTIFF'S EXPERT WITNESS IDENTIFICATION

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

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

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

Date: December 26, 2018



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
Joshua A. Block*



Leslie Cooper*
Shayna Medley-Warsoff*
American Civil Liberties Union
125 Broad Street
18th Floor
New York, NY 10004
(212) 549-2627 (Phone)
(212) 549-2650 (Fax)
jblock@aclu.org
lcooper@aclu.org
smedley@aclu.org

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF VIRGINIA
Eden B. Heilman (VSB No. 93554)
Nicole Tortoriello (VSB No. 91129)
Jennifer Safstrom (VSB No. 93746)
ACLU of Virginia
701E. Franklin Street, Suite 1412
Richmond, VA 23219
(804) 644-8022 (Phone)
(804) 649-2733 (Fax)
eheilman@acluva.org
ntortoriello@acluva.org
jsafstrom@acluva.org

Counsel for Plaintiff Gavin Grimm

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

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

Deposition of MELINDA PENN, M.D.
Richmond, Virginia
Thursday, March 14, 2019

10:15 a.m.

Job No.: 234511
Pages 1 - 92
Reported by: Helen B. Yarbrough, RPR, CCR



Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

11

1 that refer to or relate to Gavin Grimm?

2 MR. BLOCK: Objection.

3 A Can you state that question again?

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

6 A Yes.

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

10 A Yes.

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

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

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

19 A Yes.

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

22 A I have done some additional

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

35

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

5 A No.

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

8 A Not that I'm aware of.

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

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

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

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

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

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?

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 transition plan?

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

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

7 A Yes.

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

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

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

20 A (Witness reviewing document.)

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

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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

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

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

8 MR. CAPPS: Document.

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

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

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

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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

10 Do you see that? Yes?

11 A Yes.

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

14 A Yes.

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

19 A Not specifically.

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

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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. It says
9 that, "Housing and shower/bathroom facilities for
10 transsexual, transgender, and gender nonconforming
11 people living in institutions should take into
12 account their gender identity and role, physical
13 status, dignity, and personal safety."

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

20 A Yes.

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

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 students at schools, correct?

2 A Not that I see.

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

7 A Yes.

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

10 A Yes.

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

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

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

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

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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

3 MR. BLOCK: Objection.

4 MR. CAPPS: What's the objection?

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

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

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

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

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

22 Q If, as part of the treatment plan for

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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

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

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

10 A I'm not aware of any studies.

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

16 A Not specifically looking at the
17 bathroom.

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

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

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1 student's gender dysphoria?

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

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

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

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

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 Q So what is chest reconstructive
2 surgery?

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

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

12 A It's just physical changes.

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

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

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

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 A Yes.

2 Q What does that mean?

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

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

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

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

18 A Yes. I don't.

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

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 A Yes.

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

6 A Yes.

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

9 A Yes.

10 Q How many?

11 A I can think of two.

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

14 A Yes.

15 Q What was your role?

16 A Continuing to provide hormone . . .

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

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

Transcript of Melinda Penn, M.D.

Conducted on March 14, 2019

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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Helen B. Yarbrough, Registered

3 Professional Reporter, Certified Court Reporter,

4 and Notary Public, the officer before whom the

5 foregoing deposition was taken, do hereby certify

6 that the foregoing transcript is a true and

7 correct record of the testimony given, to the best

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

9 stenographically and thereafter reduced to

10 typewriting under my supervision; that reading and

11 signing was requested; and that I am neither

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

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

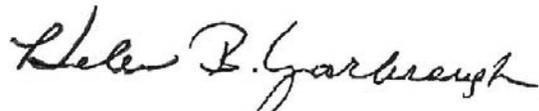
14 financial or otherwise, in its outcome.

15 IN WITNESS WHEREOF, I have hereunto set my

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

17 March 2019.

18



19

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

20

21 My Commission Expires:

July 31, 2021

22

Notary Registration Number: 158897

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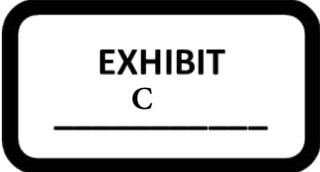
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION

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

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

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



Transcript of Gavin Grimm
Conducted on October 19, 2018

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

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

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

13 A Absolutely not.

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

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

19 Q Of 9th grade?

20 A Yes, sir.

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

Transcript of Gavin Grimm
Conducted on October 19, 2018

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1 at any point.

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

4 A No.

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

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

19 Do you have intersex traits?

20 A I have never been diagnosed as intersex.

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

Transcript of Gavin Grimm
Conducted on October 19, 2018

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

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

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

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

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

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

Transcript of Gavin Grimm
Conducted on October 19, 2018

1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

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

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

17 
18

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

My commission expires February 28, 2019

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

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-54

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

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

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

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

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

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

Quentin L. Van Meter, M.D.
1800 Howell Mill Road NW
Suite 475
Atlanta, GA 30318

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

**GLOUCESTER COUNTY SCHOOL
BOARD**

By Counsel



David P. Corrigan (VSB No. 26341)
Jeremy D. Capps (VSB No. 43909)
Attorneys for Gloucester County School Board
Harman, Claytor, Corrigan & Wellman
P.O. Box 70280
Richmond, Virginia 23255
804-747-5200 - Phone
804-747-6085 - Fax
dcorrigan@hccw.com
jcapps@hccw.com

CERTIFICATE

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

Joshua A. Block, Esq.
NYSB 4370573
American Civil Liberties Union
125 Broad Street
18th Floor
New York, NY 10004
212-549-2627 - Phone
212-549-2593 - DD
212-549-2650 - Fax
jblock@aclu.org

Leslie Cooper, Esq.
NYSB 2759835
American Civil Liberties Union Foundation
125 Broad Street
18th Floor
New York, NY 10004
212-549-2500 - Phone
212-549-2584 - DD
212-549-2650 - Fax
lcooper@aclu.org

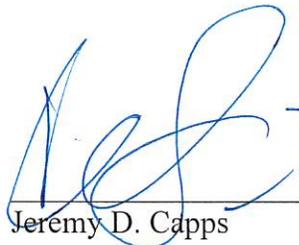
Shayna Medley-Warsoff, Esq.
American Civil Liberties Union Foundation
125 Broad Street
18th Floor
New York, NY 10004
212-549-2500 - Phone
212-549-2584 - DD
212-549-2650 - Fax
smedley@aclu.org

Clare P. Wuerker, Esq.
VSB No. 79236
United States Attorney's Office
101 West Main Street
Suite 8000
Norfolk, VA 23510
757-441-6361 - Phone
757-441-6689 - Fax
Clare.Wuerker@usdoj.gov

Victoria Lill, Esq.
DCBN1008599
United States Department of Justice
950 Pennsylvania Ave., N.W.
Educational Opportunities Section, PHB
Washington, DC 20530
202-514-4092 - Phone
202-307-6083 - DD
202-514-8337 - Fax
victoria.lill@usdoj.gov

Eden B. Heilman, Esq.
LSBA No. 30551
ACLU
701 E. Franklin Street
Suite 1412
Richmond, VA 23219
804-523-2152 - Phone
804-649-2733 - Fax
eheilman@acluva.org

Nicole Tortoriello, Esq.
VSB No. 91129
ACLU
701 E. Franklin Street
Suite 1412
Richmond, VA 23219
804-726-6013 - DD
804-649-2733 - Fax
ntortoriello@acluva.org



Jeremy D. Capps

VAN METER

1800 Howell Mill Road NW
Suite 475
Atlanta, Georgia 30318
678-961-2100
www.Pediatrics.net.com

26 February, 2019

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

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

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

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

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

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

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

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

EXHIBIT

1

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

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

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

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

Sexual Differentiation in the Fetus

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Etiology of Gender Disorders

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Gender Dysphoria vs. Gender Identity Disorder

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

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

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

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

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

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

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

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

Treatment of Gender Dysphoria

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

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

Science vs. Pseudoscience

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

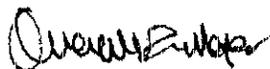
29. Hembree WC et al, Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: an Endocrine Society Clinical Practice Guideline, *J Clin Endo Metab* 2017 ;102:3869-3903.

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

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

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

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



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

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

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

updated 7 January 2019
(678) 961-2100

PERSONAL

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

EDUCATION:

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

CLINICAL TRAINING:

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

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

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

PROFESSIONAL CERTIFICATION & SOCIETIES:

Diplomate, National Board of Medical Examiners, 1974

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



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

Chairman, Georgia Chapter Legislative Committee, 1996 – 2006

Fellow: The American College of Pediatricians, 2007 – present
Member of the Board of Directors, 2008- present
Vice President/President, 2015-present

Member: Pediatric Endocrine Society, 1989 – present

Member: American Diabetes Association Professional Section, 1988 – present

Member: Endocrine Society, 1994-present

Member: Southern Pediatric Endocrine Society, 1992 – Present

Member: American Association of Clinical Endocrinologists, 2005 – present

Licensure: Georgia, #34734

FACULTY POSITIONS:

Institution: Morehouse School of Medicine
Position: Associate Clinical Professor, Pediatrics, 2004 – present

Institution: Emory University School of Medicine
Position: Associate Clinical Professor, Pediatrics, 1991 – present

Institution: University of California, San Francisco
Position: Associate Clinical Professor, Pediatrics, 1989 – 1991

Institution: University of California, San Diego, School of Medicine
Position: Assistant Clinical Professor, Pediatrics, 1980 – 1986

Institution: LSU School of Medicine, Clinical Instructor, Pediatrics, 1977 – 1978

MILITARY SERVICE:

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

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

Staff Pediatrician, Naval Regional Medical Center,
Oakland, 1976

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

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

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

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

OTHER PROFESSIONAL ACTIVITIES:

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

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

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

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

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

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

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

PUBLICATIONS: (Articles in Peer Reviewed Journals)

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

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1991 Annual Meeting of the Endocrine Society and the 6th Annual Naval
Academic Research Competition, Bethesda, MD, 17 May, 1991).

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2007, Toronto).

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

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

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

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

ADDITIONAL PRESENTATIONS/LECTURES:

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

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

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

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

Pediatric Grand Rounds, Tanner Medical Center, October 1997

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

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

Pediatric Grand Rounds, Columbus Regional Medical Center, January 2004

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CURRENT HOSPITAL APPOINTMENTS:

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

PAST AND CURRENT CLINICAL RESEARCH:

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

LEGAL EXPERT WITNESS:

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

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

Retainer- \$1500

Record review- \$350/h

Deposition and Testimony- \$450/h

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

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

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

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

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

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

Transcript of Dr. Quentin Van Meter

Conducted on March 18, 2019

81

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

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

7 A Yes, he has.

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

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

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

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

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

Transcript of Dr. Quentin Van Meter

Conducted on March 18, 2019

82

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

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

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

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

Transcript of Dr. Quentin Van Meter

Conducted on March 18, 2019

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

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

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

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

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

Transcript of Dr. Quentin Van Meter

Conducted on March 18, 2019

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CERTIFICATE

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

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

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



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

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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF VIRGINIA

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

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Deposition of NATHAN COLLINS
 Glen Allen
 Friday, September 21, 2018
 9:32 a.m.

Job No.: 207622
 Pages 1 - 177
 Reported by: Lisa M. Blair, RMR



Transcript of Nathan Collins
Conducted on September 21, 2018

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

5 A. That's correct, yes.

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

9 A. It is, yes.

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

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

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

21 A. That's correct.

22 Q. Now, question about the sentence that

Transcript of Nathan Collins
Conducted on September 21, 2018

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

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

6 Q. That --

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

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

11 A. Correct.

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

15 A. Sure.

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

20 A. Uh-huh.

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

Transcript of Nathan Collins
Conducted on September 21, 2018

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

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

12 Q. Yes, it does.

13 A. Thanks.

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

16 A. Are there currently or were there?

17 Q. Were there?

18 A. I believe so, yes.

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

21 A. I can't recall, sorry.

22 Q. So it's your understanding that Gavin

Transcript of Nathan Collins
Conducted on September 21, 2018

1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC
2 I,
3 LISA BLAIR, the officer before whom the foregoing
4 deposition was taken, do hereby certify that the
5 foregoing transcript is a true and correct record
6 of the testimony given; that said testimony was
7 taken by me stenographically and thereafter
8 reduced to typewriting under my direction; that
9 reading and signing was requested; and that I am
10 neither counsel for, related to, nor employed by
11 any of the parties to this case and have no
12 interest, financial or otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto
14 set my hand and affixed my notarial seal this 22nd
15 day of September 2018.

16 My commission expires October 31, 2020.

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Lisa Blair, RMR

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

- - - - - x

GAVIN GRIMM, :
Plaintiff, :
v. : Civil Action No.
GLOUCESTER COUNTY : 4:15-cv-00054-AWA-DEM
SCHOOL BOARD, :
Defendant. :

- - - - - x

Deposition of TROY ANDERSEN
Glen Allen, Virginia
Tuesday, March 12, 2019
10:00 a.m.

Job No.: 232148
Pages: 1 - 98
Reported By: Scott D. Gregg, RPR

Transcript of Troy Andersen
Conducted on March 12, 2019

1 restroom at the same time as plaintiff.

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

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

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

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

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

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

Transcript of Troy Andersen
Conducted on March 12, 2019

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

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

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

10 BY MR. BLOCK:

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

13 MR. CORRIGAN: Same objection.

14 Go ahead.

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

17 BY MR. BLOCK:

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

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

Transcript of Troy Andersen
Conducted on March 12, 2019

1 associated with their physiological sex.

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

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

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

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

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

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

22 Q How does the Board determine what a

Transcript of Troy Andersen
Conducted on March 12, 2019

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1 administrative person for the school, consulted
2 with legal counsel, reviewed the documentation
3 provided, and made the decision.

4 Q But the superintendent had authority on
5 behalf of the Board to make that decision; is that
6 right?

7 A Correct.

8 Q So why did Gloucester County Public
9 Schools not update the gender marker on Gavin's
10 school records to update his birth certificate?

11 MR. CORRIGAN: To the extent the question
12 has anything to do with anything not provided as
13 legal counsel, he can answer.

14 THE WITNESS: Sure. So that was going to
15 be my first one, input from legal counsel. The
16 second was the information provided seemed to be
17 at odds with the process and procedures outlined
18 in Virginia law and the Virginia Administrative
19 Code as far as what an amended birth certificate
20 looks like. And also because the birth
21 certificate provided as part of the request was
22 stamped void, so it was those three reasons that

Transcript of Troy Andersen
Conducted on March 12, 2019

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1 resulted in the denial of the change.

2 BY MR. BLOCK:

3 Q How was the process apparently at odds
4 with Virginia Code and regulations?

5 A I would have to pull out the Code, but my
6 recollection is if you look in the Code, it says
7 that amended birth certificates will have the
8 issue scratched out with the correct one written
9 next to it. And also somewhere on the document
10 the word "amended" is added to it.

11 Q So the Board -- so the concern is that
12 this could not -- could be a non authentic birth
13 certificate?

14 A Correct.

15 Q Have you seen the copy of the birth
16 certificate that was filed in this litigation?

17 A I've seen a version in a packet somewhere,
18 yes.

19 Q And does that copy have the same features
20 that you think call into question its
21 authenticity?

22 A I would have to look at it again. It's

Transcript of Troy Andersen
Conducted on March 12, 2019

1 CERTIFICATE OF SHORT HAND REPORTER - NOTARY PUBLIC

2 I, Scott D. Gregg, RPR, a Notary Public,
3 the officer before whom the foregoing deposition
4 was taken, do hereby certify that the foregoing
5 transcript is a true and correct record of the
6 testimony given; that said testimony was taken by
7 me stenographically and thereafter reduced to
8 typewriting under my supervision; that reading and
9 signing was requested; and that I am neither
10 counsel for or related to, nor employed by any of
11 the parties to this case and have no interest,
12 financial or otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my notarial seal this day of
15 2019.

16 My commission expires July 31, 2020.

17 *Scott D. Gregg / RPT*
18

19 _____

20 NOTARY PUBLIC IN AND FOR THE
21 COMMONWEALTH OF VIRGINIA

22 Notary Registration No. 215323

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S2032B modified

CERTIFICATE OF VITAL RECORD

VERIFY PRESENCE OF WATERMARK HOLD TO LIGHT TO VIEW

7180852

COMMONWEALTH OF VIRGINIA

DEPARTMENT OF HEALTH - DIVISION OF VITAL RECORDS

CERTIFICATE OF LIVE BIRTH

STATE FILE NUMBER: 145-99-028204

NAME OF REGISTRANT: GAVIN ELLIOT GRIMM

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

PLACE OF BIRTH: NEWPORT NEWS, VIRGINIA

MAIDEN NAME OF MOTHER: DEIRDRE ANNE SMITH

AGE OF MOTHER: 34

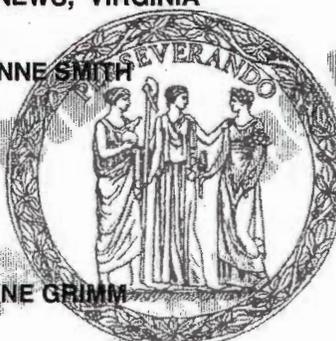
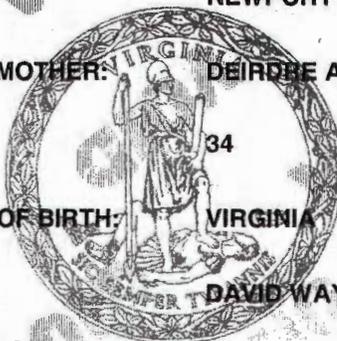
MOTHER'S PLACE OF BIRTH: VIRGINIA

NAME OF FATHER: DAVID WAYNE GRIMM

AGE OF FATHER: 38

FATHER'S PLACE OF BIRTH: PENNSYLVANIA

DATE RECORD FILED: MAY 17, 1999



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

DATE ISSUED **October 27, 2016**

Janet M. Rainey
Janet M. Rainey, State Registrar

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

VS 15B

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

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-54

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

DECLARATION OF TROY ANDERSEN

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

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

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

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

Executed on: 3/25/2019 (date)



Troy Andersen

BETHEL ELEMENTARY

School Name

STUDENT REGISTRATION FORM

Homeless
 Foster Care
 YOE
 Continual Enrollment
 Transfer
 Homeless
 Collaborative
 Other

Former Student of Gloucester County Public Schools YES/NO If Yes, School No.

Student's Name

REDACTED

REDACTED

Social Security No.

REDACTED

DOB

Nickname

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

REDACTED

Gender (Circle) Male/Female

Grade

Date of Birth

2004

Place of Birth

U.S.

U.S.

U.S.

Birth Certificate No.

REDACTED

Ethnic Group (Circle One)

Unspecified

American Indian

Asian

Black

Hispanic

White

Native Hawaiian

Mailing Address

REDACTED

City/State/Zip

Gloucester, VA 23061

Home Phone

REDACTED

Cell Address

Home Email Address

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

Circle One

Home

Steparent

Guardian

Working

Circle One

Mother

Father

Steparent

Guardian

Other

Name

REDACTED

Name

REDACTED

Address (if different from student)

REDACTED

Address (if different from student)

REDACTED

Place of Employment

REDACTED

Place of Employment

REDACTED

Work Phone

REDACTED

Work Phone

REDACTED

Cell Phone (optional)

REDACTED

Cell Phone (optional)

REDACTED

E-Mail Address

REDACTED

E-Mail Address

REDACTED

Educator

REDACTED

Educator

REDACTED

EMERGENCY CONTACT INFORMATION

Contact Person 1

(Other than parent/guardian)

Phone 1

Relationship to Student

Contact Person 2

(Other than parent/guardian)

Phone 2

Relationship to Student

Family Physician

Phone 3

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

Revised School

REDACTED

Mailing Address

REDACTED

Phone

City/State/Zip

REDACTED

Fax

EXHIBIT

PLEASE COMPLETE THE BACK OF THIS FORM

CONFIDENTIAL

Other Children in the Family

REDACTED

Living in home: YES / NO
YES / NO
YES / NO
YES / NO

REDACTED

Grade:
Country: US

Others in the Home

Name	Relationship to Student	Place of Employment

Is your child receiving any specialized services? (Special Education including Speech, 504, Gifted, etc.) YES / NO
If yes, specify which service(s):

Directions to Home

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

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

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

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

Dorinda A. [Signature]
Parent / Legal Guardian Signature

03/31/15
Date

No student can be prevented from participation in any program solely because of his/her race, color, national origin, sex, age, religion, or disability. A procedure for resolving complaints alleging discrimination on the basis of race, color, national origin, sex, age, religion, or disability may be found in the manual of Policies and Regulations of the Gloucester County Public Schools. His Section 504 and Title IX Coordinator for the Gloucester County Public Schools is: Mr. William W. Fox, Coordinator, Section 504 and Title IX, Gloucester County Public Schools - 6242 Main Street - Building Two, Suite F, Gloucester, VA 23061-4104 803-7763

STUDENT REGISTRATION FORM

New Federal Legislation, the No Child Left Behind Act, requires that all school districts report student information regarding the needs listed below. Please read each statement of fact. The registrar read the statements for you, and answer each question as requested.

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

In order to be eligible to be enrolled, a child must be a child of a child of a resident of the State of Michigan. A child is considered to be neglected or delinquent if the child is a child of a child of a resident of the State of Michigan who would have been considered to be neglected or delinquent if the child had been in the State of Michigan. This is due to the child's residence in a state of Michigan and the child's age, together with the child's status in Michigan.

When a child is considered to be neglected or delinquent, the child is not eligible for enrollment in any Michigan public school. The child is also eligible for enrollment in any private school which has been approved by the Department of Education. The child is also eligible for enrollment in any public institution of higher learning.

Is your child Neglected/Delinquent? Yes No

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

- Shakes his/her situation due to economic conditions or other reasons.
- Lives in hotels, motels, or other places of temporary lodging due to a lack of alternative adequate accommodations.
- Lives in a vehicle, or transient shelter.
- Abandoned by his/her parents.
- A victim of a natural disaster.
- Has a primary residence that is public housing or a place not licensed for residential occupancy.
- Lives in a shelter, public housing, or transitional housing, but does not have a permanent address.

Is your child Homeless? Yes No

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Page 6 of 6

Your child is considered to be a Migrant Child if any of the following is true:

- The child (migrant child) means a child who is or whose parent or spouse is temporarily unemployed, working in other than his or her usual occupation, or working in the agricultural industry in order to obtain seasonal employment, or whose work is seasonal or temporary.
- (A) has moved from one State to another.
- (B) is a State that is currently enrolling a child in school in that State or from one community school to another within such a State, or
- (C) resides in a school district of more than 15,000 years in the United States and is located more than 100 miles from the child's home of origin.

Is your child a Migrant Child? Yes No

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

An individual who is on the list of countries which is able to provide information that he or she is well founded fear that he or she will be persecuted because of race, religion, or political opinion, or membership in a particular social group, or because he or she has been persecuted by a particular situation or because he or she has been persecuted by a particular social group, or because he or she has been persecuted by a particular situation or because he or she has been persecuted by a particular social group.

Is your child a Refugee? Yes No

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

- The term "immigrant child" or "youth" means individuals who—
- (A) are aged 18 through 21;
- (B) were not born in any State; and
- (C) have not been attending one or more schools in any one or more States for more than 5 full academic years.

Is your child an Immigrant? Yes No

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

Darlene Armenta 03/23/16
Parent/Guardian Signature Date

No student can be prevented from participation in any program solely because of his or her race, color, national origin, sex, age, religion, or disability. A procedure concerning this complaint during the school year on the basis of race, color, national origin, sex, age, religion, or disability may be found in the official school policy regulations of your child's school. The Section 504 and Title IX coordinator at the Glendale Unified Public Schools is: Mr. William W. Fox, Coordinator, Section 504 and Title IX, Glendale Unified Public Schools, 4400 Faber Place, Glendale, CA 91205, Fax: (818) 243-7034.



WELCOME TO
GLOUCESTER COUNTY PUBLIC SCHOOLS

Student Registration Form

School's Name: Bethel Elementary School

CONFIDENTIAL

FOR OFFICE USE ONLY

Student ID#	_____	
Entry Date:	_____	
VOC:	_____	
Bus Code:	PK Code	PK Time
Alpineman #:	_____	
Guardian/Teacher	_____	
Team:	_____	
Bus #:	_____	

PLEASE PRINT ALL INFORMATION

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

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

Abingdon Achilles Bethel Botetourt Patsworth T. C. Walker Paus Middle Paus Middle High School

Student's Legal Name: Grimm

REDACTED

Gender: Male Female LAST FIRST MIDDLE NICKNAME

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

Student's Birth D: 1999 Place of Birth: Newport News, VA Birth Certificate # _____

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

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

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

Student's Mailing Address: _____

REDACTED

Student's Home Phone Number _____

Student's 911 Address required:

(If different than mailing): Number Street Name City Zip Code

Does your child currently receive special services? YES NO If yes, please check all that apply:

Speech Special Education 504 Gifted BSL Occupational Therapy/Physical Therapy Other

Student Resides With: <input checked="" type="checkbox"/> Mother & Father <input type="checkbox"/> Mother only <input type="checkbox"/> Father only <input type="checkbox"/> Grandparents <input type="checkbox"/> Foster Parent(s) <input type="checkbox"/> Mother & Stepfather <input type="checkbox"/> Father & Stepmother <input type="checkbox"/> Guardian/Custodian <input type="checkbox"/> Other	
Name: <u>David + Dorene Grimm</u>	Name: _____
Address (if different from student): <u>same</u>	Address (if different from student): _____
Place of Employment: <u>REDACTED</u>	Place of Employment: _____
Work Phone #: <u>REDACTED</u>	Work Phone #: _____
Cell Phone #: _____	Cell Phone #: <u>REDACTED</u>
Email address: <u>stgrimm@com.net</u>	Email address: _____
If the student is NOT residing with BOTH biological/adoptive parents, please list other parent's information (i.e., name, address, etc.)	

EMERGENCY CONTACT INFORMATION

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

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

Contact Person 2: _____ Phone #: (603) 76 Relationship to Student: older sister

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REDACTED

Name of Student

[REDACTED]

STUDENT REGISTRATION FORM (continued)

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

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

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

OR

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

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

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

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

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

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

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

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

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

Gloucester County Public Schools
Report Card

CONFIDENTIAL

Gloucester High School
6680 Short Lane
Gloucester, VA 23061

Report Card Printed on June 17, 2014

School Year: 2013-2014

Reporting Period: Q4

REDACTED GRIMM-
REDACTED

Grade: 9
Counselor: HARRIS
Homeroom: HOMEBOUND

Course	Teacher	Q1	Q2	S1	Q3	Q4	S2	VI	ABS	TAR	Comment
HOMEBOUND	STAFF, GHS								0	0	
VLA HEALTH 9	WYATT, WENDY S								0	0	
VLA PE 9	WYATT, WENDY S								0	0	
VLC ALGEBRA I	WYATT, WENDY S								0	0	
VLC WORLD I	WYATT, WENDY S								0	0	
VLC ENGLISH 9	WYATT, WENDY S								0	0	
VLC EARTH SCI	WYATT, WENDY S								0	0	

Total Daily Absences Q4: 0.000

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

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

SUMMER SCHOOL CLASS RECOMMENDED _____

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

EXHIBIT
2

GCSB - 1117



harman claytor corrigan wellman
THE CIVIL LITIGATION FIRM

Celebrating 25 years

DAVID P. CORRIGAN
804.762.8017
dcorrigan@hcew.com

January 18, 2017

VIA EMAIL

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

RE School Records for G.G.

Dear Josh:

I am writing in response to your December 20, 2016 letter with respect to school records for G.G. I apologize for taking so long to get back to you, but I was waiting for a School Board meeting, and one finally occurred on January 17, 2017. The previous meeting was snowed out.

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

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

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

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

POST OFFICE BOX 70280 | RICHMOND, VA 23268
4801 LAKE BROOK DR. | SUITE 100 | GLEN ALLEN, VA 23060
OFFICE 804.747.8000 | FAX 804.747.8085 | WEB HCEW.COM
member of the harman group

EXHIBIT

3

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

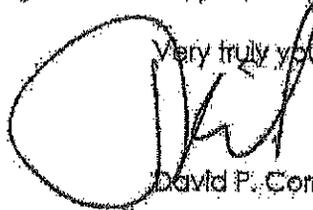
January 18, 2017

Page 2

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

I look forward to hearing further from you.

Very truly yours,



David P. Corrigan

DPC/kns
Enclosures

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
CIVIL CASE NO. 4:15-CV-54

----- x
GAVIN GRIMM :
Plaintiff :
v. :
GLOUCESTER COUNTY SCHOOL BOARD :
Defendant :
----- x

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

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

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

1 was that your answer?

2 A. Yes.

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

7 MR. CORRIGAN: Object to form.

8 THE WITNESS: Genitalia.

9 BY MR. BLOCK:

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

13 A. Not that I'm aware of.

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

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

19 THE WITNESS: I would speculate.

20 BY MR. BLOCK:

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

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

1 biological gender by a student's genitalia?

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

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

6 BY MR. BLOCK:

7 Q. Internal organs?

8 A. Well, just organs.

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

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

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

18 BY MR. BLOCK:

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

21 A. I would not have knowledge of that.

22 Q. Certainly no one has spoken to you

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

1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC
2 I,
3 LISA BLAIR, the officer before whom the foregoing
4 deposition was taken, do hereby certify that the
5 foregoing transcript is a true and correct record
6 of the testimony given; that said testimony was
7 taken by me stenographically and thereafter
8 reduced to typewriting under my direction; that
9 reading and signing was requested; and that I am
10 neither counsel for, related to, nor employed by
11 any of the parties to this case and have no
12 interest, financial or otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto
14 set my hand and affixed my notarial seal this 23rd
15 day of September 2018.

16 My commission expires October 31, 2020.

17

18

19

20



21

22

Lisa Blair, RMR