

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

B.P.J., by her next friend and mother, HEATHER
JACKSON,

Plaintiff,

v.

Civil Action No. 2:21-cv-00316
Hon. Joseph R. Goodwin, District Judge

WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY BOARD
OF EDUCATION, WEST VIRGINIA
SECONDARY SCHOOL ACTIVITIES
COMMISSION, W. CLAYTON BURCH in his
official capacity as State Superintendent,
DORA STUTLER in her official capacity as
Harrison County Superintendent, PATRICK
MORRISEY in his official capacity as Attorney
General, and THE STATE OF WEST VIRGINIA,

Defendants,

and

LAINEY ARMISTEAD,

Defendant-Intervenor.

STIPULATION OF UNCONTESTED FACTS

IT IS HEREBY AGREED AND STIPULATED, by and between the undersigned counsel,
that:

1. The West Virginia State Board of Education and State Superintendent W. Clayton Burch acknowledge that Plaintiff has produced documentation that attests that B.P.J. is transgender and identifies as a girl.
2. Absent an injunction by a court, House Bill (“H.B.”) 3293, codified at West Virginia Code § 18-2-25d, prevents B.P.J. from participating on sports teams that are designated for girls

and are sponsored by Bridgeport Middle School because it applies to public secondary schools and states that “[a]thletic teams or sports designated for females, women, or girls shall not be open to students of the male sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport” and because of the definitions set forth in H.B. 3293.

3. Absent an injunction by a court, the West Virginia State Board of Education and Superintendent Burch would be compelled and required to follow H.B. 3293, codified at West Virginia Code § 18-2-25d, because it is a mandatory State law that applies to the West Virginia State Board of Education and the Superintendent of the West Virginia Department of Education that affords them no discretion.
4. Absent an injunction by a court, the West Virginia State Board of Education would be compelled and required to promulgate rules implementing H.B. 3293, codified at West Virginia Code § 18-2-25d, because it is a mandatory State law that affords it no discretion which states that “The State Board of Education shall promulgate rules, including emergency rules, pursuant to § 29A-3B-1 et seq. of this code to implement the provisions of this section.”
5. The State Superintendent, as a representative of the West Virginia Department of Education, does not support H.B. 3293, codified at West Virginia Code § 18-2-25d.

Dated this the 30th day of March, 2022.

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