

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.

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, and THE STATE OF WEST VIRGINIA,

Defendants,

and

LAINY ARMISTEAD,

Defendant-Intervenor.

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

DECLARATION OF LOREE STARK

I, Loree Stark, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Legal Director of the ACLU of West Virginia and counsel of record for Plaintiff B.P.J, with her next friend and mother, Heather Jackson. The following is true of my own personal knowledge, and, if called as a witness, I would and could testify competently thereto.
2. I submit this declaration in support of Plaintiff B.P.J.'s motion for summary judgment.
3. Attached to this declaration are true and correct copies of the documents listed in the table below. Entries in the table indicate where documents have been excerpted.

4. Sensitive, protected, and/or irrelevant information has been redacted on certain pages of the attached exhibits in accordance with Federal Rule of Civil Procedure 5.2(a) and Local Rule 5.2.1, with black boxes placed over the redacted text.

Exhibit	Description
Plaintiff Declarations	
1	Declaration of Heather Jackson & Exs. A, B, C (April 19, 2022)
2	Declaration of B.P.J. (April 19, 2022)
Discovery Responses	
3	Plaintiff's Second Set of Supplemental Responses and Objections to Defendant State of West Virginia's First Set of Interrogatories and Requests for Production (April 1, 2022)
4	Defendant State of West Virginia's Responses to Plaintiff's First Set of Interrogatories (November 23, 2021)
5	Defendant State of West Virginia's Responses to Plaintiff's Second Set of Requests for Admission (March 10, 2022)
6	Defendant Superintendent Dora Stutler's Responses and Objections to Plaintiff's Second Set of Requests for Admission (March 10, 2022)
7	Defendant Harrison County Board of Education's Responses and Objections to Plaintiff's Second Set of Requests for Admission (March 10, 2022)
8	Defendant West Virginia State Board of Education's Responses to Plaintiff's Second Set of Requests for Admission (March 10, 2022)
9	Defendant State Superintendent W. Clayton Burch's Responses to Plaintiff's Second Set of Requests for Admission (March 10, 2022)
10	Defendant WVSSAC's Responses to Second Set of Requests for Admission (March 9, 2022)
11	Defendant-Intervenor Lainey Armistead's Responses and Objections to Plaintiff's Second Set of Requests for Admission (March 10, 2022)

Exhibit	Description
Party and Third-Party Deposition Transcripts	
12	Deposition Transcript of B.P.J. (January 21, 2022)
13	Deposition Transcript of Heather Jackson (January 19, 2022)
14	Deposition Transcript of Heather Jackson (January 20, 2022)
15	Deposition Transcript of Wesley Scott Pepper (January 19, 2022)
16	Deposition Transcript of Dora Stutler and Dave Mazza, 30(b)(6) designees for Harrison County Board of Education (March 8, 2022)
17	Deposition Transcript of Bernard Dolan, 30(b)(6) designee for WVSSAC (February 11, 2022)
18	Deposition Transcript of Michele Blatt, 30(b)(6) designee for State Board of Education (February 14, 2022)
19	Deposition Transcript of Kacie Kidd, M.D. (February 21, 2022)
20	Deposition Transcript of Gerald Montano, D.O. (February 24, 2022)
21	Deposition Transcript of Lainey Armistead (March 11, 2022)
Expert Reports, Deposition Transcripts, and Exhibits	
22	Declaration and Expert Report of Deanna Adkins, M.D. (January 21, 2022)
23	Deposition Transcript of Deanna Adkins, M.D., & Ex. 4 (March 16, 2022)
24	Expert Report and Declaration of Joshua D. Safer, M.D., F.A.C.P., F.A.C.E. (January 21, 2022)
25	Rebuttal Expert Report and Declaration of Joshua D. Safer, M.D., F.A.C.P., F.A.C.E. (March 11, 2022)
26	Deposition Transcript of Joshua Safer, M.D., & Ex. 4 (March 24, 2022)
27	Expert Report and Declaration of Professor Mary D. Fry, Ph.D. (January 24, 2022)

Exhibit	Description
28	Deposition Transcript of Mary D. Fry, Ph.D. (March 29, 2022)
29	Declaration of Gregory A. Brown, Ph.D., F.A.C.S.M. (February 23, 2022)
30	Deposition Transcript of Gregory A. Brown, Ph.D. (March 25, 2022)
31	Declaration of Dr. Chad T. Carlson, M.D., F.A.C.S.M. (February 23, 2022)
32	Deposition Transcript of Chad T. Carlson, M.D., F.A.C.S.M. (March 28, 2022)
Other Documents	
33	Mountain Hollar Invitational Stats, available at https://www.athletic.net/CrossCountry/meet/193551/results/780092 [https://perma.cc/8HEH-LJT4] (September 2, 2021)
34	Doddridge Invitational Stats, available at https://www.athletic.net/CrossCountry/meet/200115/results/802438 [https://perma.cc/RX5W-W4G7] (September 16, 2021)
35	Transcription of testimony heard during the West Virginia House of Delegates Education Committee Meeting on or around March 18, 2021. A recording of the testimony is available for download at: https://liquidfiles.cooley.com/link/VAY6YMSs49iofRY7dff1Za
36	Transcription of testimony heard during the West Virginia House of Delegates Judiciary Committee Meeting on or around March 18, 2021. A recording of the testimony is available for download at: https://liquidfiles.cooley.com/link/QvxVjQjVip5fAvZaFNUINa
37	Transgender Policy, WVSSAC Board of Directors, WVSSAC000008-09
38	The Rules and Regulations of the West Virginia Secondary Schools Activities Commission, August 2021-2022, WVSSAC000012-26
39	Legislative Rule, WVSSAC, § 127-1-1, WVSSAC000133-220
40	Email chain re: “Transgender participation in secondary schools bill,” March 11-15, 2021, WVSBOE000006-09, WVSBOE000039
41	Enrolled Bill Review Form, Bill No. 3293, WVSBOE000037-38

Exhibit	Description
42	Jordan Bridges, "Update: The bill passed out of committee," Facebook, https://perma.cc/HA5C-VJ4N (March 16, 2021)
43	MSNBC on Twitter, https://twitter.com/MSNBC/status/1388132937707802629 [https://perma.cc/G8VM-QGYU] (April 30, 2021)
44	National Collegiate Athletic Association, <i>Board of Governors updates transgender participation policy</i> , https://www.ncaa.org/news/2022/1/19/media-center-board-of-governors-updates-transgender-participation-policy.aspx [https://perma.cc/EK55-VCZG] (January 19, 2022)

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 21, 2022

/s/ Loree Stark _____
Loree Stark

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CERTIFICATE OF SERVICE

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I, Loree Stark, do hereby certify that on this 21st day of April, 2022, I electronically filed a true and exact copy of the foregoing document with the Clerk of Court and all parties using the CM/ECF System.

/s/ Loree Stark

Loree Stark

West Virginia Bar No. 12936