

EXHIBIT F

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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,)

vs.) Case No.

WEST VIRGINIA STATE BOARD OF) 2:21-cv-00316
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.)

-----)

REMOTE VIDEOTAPED DEPOSITION OF

DORA STUTLER

AND

DAVE MAZZA

Tuesday, March 8, 2022

Volume I

Reported by:

ALEXIS KAGAY, CSR No. 13795

Job No. 5079542

PAGES 1 - 240

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

4 B.P.J. by her next friend and)
5 mother, HEATHER JACKSON,)
6 Plaintiff,)

vs.) Case No.

7 WEST VIRGINIA STATE BOARD OF) 2:21-cv-00316
8 EDUCATION, HARRISON COUNTY)
9 BOARD OF EDUCATION, WEST)
VIRGINIA SECONDARY SCHOOL)
10 ACTIVITIES COMMISSION, W.)
11 CLAYTON BURCH in his official)
12 capacity as State)
Superintendent, DORA STUTLER,)
13 in her official capacity as)
14 Harrison County)
Superintendent, and THE STATE)
15 OF WEST VIRGINIA,)
16 Defendants.)

And)

17 LAINEY ARMISTEAD,)
18 Defendant-Intervenor.)

19
20 Videotaped deposition of DORA STUTLER and DAVE
21 MAZZA, Volume I, taken on behalf of the Plaintiff,
22 B.P.J., with all participants appearing remotely
23 beginning at 12:32 p.m. and ending at 7:18 p.m. on
24 Tuesday, March 8, 2022, before ALEXIS KAGAY, Certified
25 Shorthand Reporter No. 13795.

1 APPEARANCES (via Zoom Videoconference):

2

3 For West Virginia Secondary School Activities

4 Commission:

5 SHUMAN MCCUSKEY & SLICER

6 BY: ROBERTA GREEN

7 Attorney at Law

8 1411 Virginia Street E

9 Suite 200

10 Charleston, West Virginia 25301-3088

11 RGreen@Shumanlaw.com

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 APPEARANCES (Continued):

2

3 For The Plaintiff, B.P.J.:

4 COOLEY

5 BY: ELIZABETH REINHARDT

6 BY: VALERIA M. PELET DEL TORO

7 BY: KATHLEEN HARTNETT

8 BY: ZOE HELSTROM

9 BY: ANDREW BARR

10 Attorneys at Law

11 500 Boylston Street

12 14th Floor

13 Boston, Massachusetts 02116-3740

14 617.937.2305

15 EReinhardt@cooley.com

16 VPeletdeltoro@cooley.com

17 Khartnett@cooley.com

18 ZHelstrom@cooley.com

19

20

21

22

23

24

25

1 APPEARANCES (Continued):

2

3 For West Virginia Board of Education and Superintendent
4 Burch, Heather Hutchens as general counsel for the
5 State Department of Education:

6 BAILEY & WYANT, PLLC

7 BY: KRISTEN HAMMOND

8 BY: KELLY MORGAN

9 Attorneys at Law

10 500 Virginia Street

11 Suite 600

12 Charleston, West Virginia 25301

13 KHammon@Baileywyant.com

14

15

16

17

18

19

20

21

22

23

24

25

1 APPEARANCES (Continued):

2

3 For the Intervenor:

4 ALLIANCE DEFENDING FREEDOM

5 BY: HAL FRAMPTON

6 BY: RACHEL CSUTOROS

7 BY: TIMOTHY DUCAR

8 BY: CHRISTIANA HOLCOMB

9 Attorneys at Law

10 20116 Ashbrook Place

11 Suite 250

12 Ashburn, Virginia 20147

13 HFRampton@adflegal.org

14 RCsutoros@adflegal.org

15 TDucar@adflegal.org

16

17

18 For the State of West Virginia:

19 WEST VIRGINIA ATTORNEY GENERAL

20 BY: DAVID TRYON

21 Attorney at Law

22 112 California Avenue

23 Charleston West Virginia 25305-0220

24 681.313.4570

25 David.C.Tryon@wvago.gov

Page 6

1 APPEARANCES (Continued):

2

3 For defendants Harrison County Board of Education and

4 Superintendent Dora Stutler:

5 STEPTOE & JOHNSON PLLC

6 BY: SUSAN L. DENIKER

7 BY: JEFFREY CROPP

8 Attorney at Law

9 400 White Oaks Boulevard

10 Bridgeport, West Virginia 26330

11 304.933.8154

12 Susan.Deniker@Steptoe-Johnson.com

13

14 For Plaintiff:

15 LAMBDA LEGAL

16 BY: SRUTI SWAMINATHAN

17 Attorney at Law

18 120 Wall Street

19 Floor 19

20 New York, New York 10005-3919

21 SSwaminathan@lambdalegal.org

22

23 Also Present:

24 MITCH REISBORD - CONCIERGE

25 HEATHER HUTCHENS

1 APPEARANCES (Continued) :

2 Videographer :

3 DAVE HALVORSON

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

WITNESS EXAMINATION

DORA STUTLER 15

DAVE MAZZA 197

Volume I

BY MS. REINHARDT 15

BY MS. GREEN 150

BY MS. MORGAN 153

BY MR. TRYON 155

BY MR. FRAMPTON 166

BY MS. REINHARDT 187

BY MS. DENIKER 189

BY MR. FRAMPTON 193

BY MS. REINHARDT 197

BY MS. GREEN 223

BY MR. TRYON 225

BY MS. DENIKER 235

EXHIBITS

NUMBER DESCRIPTION PAGE

Exhibit 24 Plaintiff's Amended Notice of 21

30 (b) (6) Deposition

1		Plaintiff's Amended Notice of	203
2		30(b)(6) Deposition	
3			
4	Exhibit 25	E-mail Chain	63
5			
6	Exhibit 26	E-mail Chain	84
7			
8	Exhibit 27	E-mail Chain	97
9			
10	Exhibit 28	Defendants Harrison County Board	101
11		of Education and Dora Stutler's	
12		Answers to Plaintiff's Second Set	
13		of Interrogatories to Defendant's	
14		Harrison County Board of	
15		Education and Dora Stutler	
16			
17	Exhibit 29	Handwritten Copy	130
18			
19	Exhibit 30	E-mail Chain	135
20			
21	Exhibit 31	E-mail Chain	137
22			
23	Exhibit 32	E-mail Chain	139
24			
25	Exhibit 33	E-mail Chain	169

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Exhibit 34	Excel Spreadsheet	171
Exhibit 35	Intervenor Exhibit	172
Exhibit 36	Intervenor Exhibit, E-mail Chain	174
Exhibit 37	Excel Spreadsheet	177
Exhibit 38	Intervenor Exhibit, WVSAC Eligibility Certificate	179
Exhibit 39	E-mail Chain	180
Exhibit 40	Intervenor Exhibit	183
Exhibit 41	Stipulation of Uncontested Facts	188
Exhibit 42	Regional Principals' Meeting	207

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PREVIOUSLY MARKED EXHIBITS

NUMBER	PAGE
Exhibit WV-17	110
Exhibit WV-18	134
Exhibit WV-19	118

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Tuesday, March 8, 2022

12:33 p.m.

THE VIDEOGRAPHER: Okay. Good afternoon.

We are on the record at 12:33 p.m. on 12:32:54
March 8th, 2022. This is media unit 1 in the
video-recorded deposition of Dora Stutler in the
matter of B.P.J. by Heather Jackson versus the West
Virginia State Board of Education, et al. It's
filed in the U.S. District Court for the Southern 12:33:16
District of West Virginia, in the Charleston
Division. The case number is 2:21-cv-00316.

This deposition is being held virtually.

My name is Dave Halvorson. I'm the
videographer here from Veritext. And I'm here with 12:33:37
the court reporter, Alexis Kagay, also from
Veritext.

Counsel, can you please all identify
yourselves so the witness can be sworn in.

MS. REINHARDT: Good afternoon. This is 12:33:47
Elizabeth Reinhardt. I'm in the room with
Andrew Barr from Cooley, LLP, and we're here on
behalf of the plaintiff, B.P.J.

MS. HARTNETT: Hi. This is Kathleen Hartnett
from Cooley, also on behalf of Plaintiff, B.P.J. 12:34:02

1 MS. PELET DEL TORO: Hi. This is Valeria
2 Pelet del Toro, also on behalf of Plaintiff, for
3 Cooley, LLP.

4 MS. HELSTROM: Hi. This is Zoe Helstrom from
5 Cooley, LLP, on behalf of Plaintiff. 12:34:11

6 MR. TRYON: This is David Tryon. I'm -- I'm
7 with the Attorney General's Office of West Virginia
8 on behalf of the State of West Virginia.

9 MS. MORGAN: This is Kelly Morgan on behalf
10 of the West Virginia Board of Education and 12:34:39
11 Superintendent Burch, along with Heather Hutchens as
12 general counsel for the State Department of
13 Education.

14 MS. DENIKER: Good afternoon. This is Susan
15 Deniker, and with me is Jeff Cropp. We are counsel 12:34:51
16 for defendants Harrison County Board of Education
17 and Superintendent Dora Stutler.

18 MS. GREEN: This is Roberta Green, Shuman,
19 McCuskey Slicer, here on behalf of West Virginia
20 Secondary School Activities Commission. 12:34:57

21 MS. MORGAN: This is Kelly Morgan again. I
22 also have Kristen Hammond from my office as well.

23 MR. FRAMPTON: This is Hal Frampton at
24 Alliance Defending Freedom on behalf of the
25 Intervenor. And we also have on the call, for the 12:35:19

1 Intervenor, Timothy Ducar, Christiana Holcomb and
2 Rachel Csutoros.

3 THE VIDEOGRAPHER: And I believe somebody
4 just logged in.

5 MS. SWAMINATHAN: Hi there. This is 12:35:35
6 Sruti Swaminathan from Lambda Legal on behalf of
7 Plaintiff.

8 THE VIDEOGRAPHER: Okay. I believe that's
9 everyone, so can we please swear in the witness.

10 (Witness sworn.) 12:35:50

11 THE VIDEOGRAPHER: Please begin.

12 MS. REINHARDT: For the sake of the record,
13 we were just off record, and we agreed that
14 objections to form would -- would reserve all
15 rights, except as to privilege. 12:36:22

16
17 DORA STUTLER,
18 having been administered an oath, was examined and
19 testified as follows:

20
21 EXAMINATION

22 BY MS. REINHARDT:

23 Q How are you this afternoon, Mrs. Stutler?

24 A I'm just fine. How are you?

25 Q I'm doing well. 12:36:32

Page 15

1 A Yes.

2 Q And, unfortunately, the court reporter will
3 not be able to transcribe any gestures, such as
4 nodding, so we'll need to speak verbally.

5 Is that okay with you? 12:37:41

6 A Yes.

7 Q Wonderful. Thank you.

8 And I will try to take a break every hour,
9 and we'll take a somewhat longer break, around
10 12:00, Mountain Time, or -- but if I'm in the middle 12:37:52
11 of a question and you need to take a break, please
12 let me finish my question or a series of questions
13 in order to get your answer before we take the
14 break, if that's okay with you.

15 A Sure. 12:38:06

16 Q Wonderful. And do you understand that you're
17 testifying under oath today just as if you were
18 testifying in a court of law?

19 A I do.

20 Q And without disclosing any communications you 12:38:18
21 had with your counsel, what did you do to prepare
22 for today's deposition?

23 A Met with counsel.

24 Q How long ago did you meet with your counsel?

25 A Yesterday. We spent a day. 12:38:34

1 MS. DENIKER: You don't need to -- I'm just
2 going to -- just to clarify for the witness, the
3 substance of our communications is protected here,
4 so you don't need to talk about what we talked
5 about. 12:38:48

6 To the extent that you talked to other people
7 to prepare for your deposition today, you can also
8 disclose that.

9 THE WITNESS: When we spoke -- we spoke with
10 witnesses yesterday. 12:39:02

11 BY MS. REINHARDT:

12 Q Which witnesses did you speak with?

13 A We spoke with -- I spoke with Tarra Shields,
14 principal at Norwood Elementary; Jasmine Lowther.
15 She's a fourth grade teacher at Norwood Elementary. 12:39:12
16 Dave Mazza was in the room during the preparation.
17 He's a principal at Bridgeport Middle School. And
18 spoke with Natalie McBrayer, an assistant -- she's a
19 volunteer coach for the cross-country team at
20 Bridgeport Middle School. 12:39:37

21 Q Did you review any documents during that
22 meeting?

23 A I did.

24 I also am remembering Amber Davis. She's the
25 current counselor at Norwood Elementary School. I 12:39:52

1 had a conversation with her as well.

2 Q And which documents did you review?

3 A We looked at the transgender support plans
4 that were created at Norwood and at Bridgeport
5 Middle. We looked at rostering information from 12:40:10
6 cross-country that was submitted to the SSAC. We
7 looked at the statute in question. We looked at
8 some articles that were on West Virginia News and
9 other news organizations.

10 It was a lot of material. 12:40:36

11 Q I understand. I understand. I appreciate
12 you listing those.

13 Were all of those documents provided to you
14 by your attorney?

15 A Yes. 12:40:47

16 Q And did you bring any document to that
17 meeting that were not provided by your attorney?

18 A I did not.

19 Q And do you have any documents with you today?

20 A I do not. 12:41:03

21 Q Is there anything that would prevent you from
22 answering my questions truthfully today?

23 A No.

24 Q Did you discuss the case with anyone other
25 than the folks you listed at the meeting yesterday 12:41:14

1 and your attorneys?

2 A No.

3 Q Were you asked to provide any documents to
4 anyone in preparation for this deposition?

5 A No. 12:41:29

6 Q B.P.J. filed a lawsuit against the County
7 Board of Education; correct?

8 A Yes.

9 Q You're here today in connection to that
10 lawsuit; correct? 12:41:42

11 A Yes.

12 Q Wonderful. And now I'm just going to ask a
13 few foundational questions, just in order to get my
14 bearings and so that you can see kind of where I'm
15 planning on going today. 12:41:54

16 So do you understand that you're here in
17 response to a 30(b)(6) Deposition Notice?

18 A Yes.

19 Q Do you know what a 30(b)(6) Deposition Notice
20 is? 12:42:06

21 A Yes.

22 Q Did you review the 30(b)(6) Deposition
23 Notice?

24 A I did.

25 Q If you could go into the "Marked Exhibits" 12:42:16

1 folder, I'm going to introduce to you a document
2 that's been marked as Exhibit 24. Please let me
3 know when you have it.

4 (Exhibit 24 was marked for identification
5 by the court reporter and is attached hereto.) 12:42:27

6 THE WITNESS: It's there. I have that.

7 BY MS. REINHARDT:

8 Q Is this -- I'll let you flip through it for a
9 moment, if you would like to, but my question is, is
10 this the document that you reviewed yesterday? 12:42:43

11 A Yes.

12 Q Have you prepared to testify regarding the
13 topics listed on the 30(b)(6) notice?

14 A Yes.

15 Q Do you understand -- 12:42:59

16 MS. DENIKER: Excuse me, Ms. Reinhardt, just
17 to -- just to clarify, we had a discussion off the
18 record, Ms. Stutler will be testifying with regard
19 to topics except those topics the plaintiff has
20 agreed to withdraw, which were topics 3, 6, 9, 12 12:43:16
21 and 15. And she also will not be testifying with
22 regard to topics 10 and 11, as another witness will
23 be testifying on those topics.

24 MS. REINHARDT: Understood. Thank you for
25 putting that on the record. 12:43:36

1 BY MS. REINHARDT:

2 Q I'll only be asking you about the topics your
3 attorney has just confirmed, but I'd like to go
4 through them now to make sure that you understand
5 each of these topics, if that's okay with you, Mrs. 12:43:46
6 Stutler.

7 A Yes.

8 Q Wonderful. So let's look at topic 1.

9 Do you understand this topic?

10 A I do. 12:44:03

11 Q Did you review any documents related to this
12 topic?

13 A We had a discussion about --

14 MS. DENIKER: I'm going to -- so, again, I'm
15 going to instruct you not to answer and provide any 12:44:11
16 information about communications you had with
17 counsel about --

18 THE WITNESS: Okay.

19 MS. DENIKER: -- this matter.

20 BY MS. REINHARDT: 12:44:24

21 Q As I understand it, you reviewed several
22 documents yesterday with your counsel, as well as a
23 few other folks related to this case.

24 Were there any documents or conversations not
25 with your counsel that helped you prepare for this 12:44:34

1 topic?

2 A No.

3 Q And do you understand topic 2?

4 A I do.

5 Q Without disclosing any conversations you had 12:44:49
6 with your attorney, did you review any documents
7 pertaining to topic 2?

8 A I did.

9 Q And do -- which documents were those?

10 A It was any policies that we would have had 12:45:03
11 regarding the authority of school-sponsored
12 athletics. We looked at that. We also looked at
13 SSAC rules.

14 Q How about topic 4, do you understand that
15 topic? 12:45:26

16 A Yes.

17 Q And did you review any documents pertaining
18 to that topic?

19 A I did. I reviewed documents pertaining to
20 gender support plans dating back to 2019. 12:45:46

21 Q And topic 5, do you understand that topic?

22 A I do. It was the same -- the same documents
23 for the gender support plans.

24 Q And for topics 7 and 8, did you review those
25 topics? 12:46:11

1 A Yes.

2 Q Do you understand them?

3 A I do.

4 Q And did you review any documents you have not
5 already listed relating to those topics? 12:46:27

6 A We have no documents specific to that topic.

7 Q Both topic 7 and topic 8; is that correct?

8 A Yeah, at Harrison County schools, we have no
9 documents specific to that topic.

10 Q Thank you. And we're almost done. I'm going 12:46:56
11 to ask you about topics 13 and 14.

12 Do you understand what those topics say?

13 A Yes.

14 Q And did you review any documents pertaining
15 to those topics? 12:47:11

16 A The statute, the House Bill 3293.

17 Q Did you review your discovery responses
18 listed under topic 14?

19 A I did.

20 Q Thank you. Throughout the deposition, if I 12:47:34
21 use a term that you're unfamiliar with, please let
22 me know. Just so you're aware, there may be a few
23 terms that I'd like to define now, and there may
24 also be a few terms as we go that I will ask if it's
25 okay if I use the abbreviated version. 12:47:50

1 If it's okay with you, do you mind if I go
2 over two terms now?

3 A No, please do. Thank you.

4 Q No, thank you.

5 So I'm going to use the word "transgender." 12:48:00
6 When I use the term "transgender," I'm referring to
7 someone whose gender identity does not match the sex
8 they were assigned at birth.

9 So, for example, if someone was assigned male
10 at birth, but they identify as female, that person 12:48:14
11 would be a transgender girl or woman.

12 Do you understand my reference of
13 transgender?

14 MR. TRYON: Objection to form.

15 David Tryon. 12:48:28

16 THE WITNESS: Yes.

17 BY MS. REINHARDT:

18 Q I'll also be using the word "cisgender."
19 When I use the word "cisgender," I am referring to
20 someone whose gender identity matches the sex they 12:48:44
21 were assigned at birth.

22 So as an example, if someone was assigned
23 male at birth and they also identify as male, that
24 person is a cisgender boy or male.

25 Do you understand my reference to cisgender? 12:48:54

1 MR. TRYON: Same objection.

2 This is David Tryon.

3 THE WITNESS: Yes.

4 BY MS. REINHARDT:

5 Q Thank you. And when I refer to the County 12:49:06
6 Board of Education, is it okay with you if I just
7 say "county board"?

8 A Yeah, that's fine.

9 Q Wonderful. And unless I state otherwise,
10 when I use the word "you," I'm referring to the 12:49:21
11 county board, not you as an individual.

12 Understood?

13 A Yes.

14 Q Are you aware of any issues under the -- are
15 you aware of any issues underlining this lawsuit? 12:49:31

16 MS. DENIKER: Objection to the form.

17 If you do not understand, you can -- you can
18 advise her that you do not understand.

19 THE WITNESS: I am -- I do not understand
20 that, those terms. 12:49:50

21 BY MS. REINHARDT:

22 Q Thank you. And as I said, as I continue to
23 go along, if there's something that you don't
24 understand, please let me know. Otherwise, if you
25 answer, I'll assume that you do understand. 12:49:58

1 So I'll put it slightly differently.

2 Does the county board have a position
3 regarding the validity of the underlying lawsuit?

4 MS. DENIKER: Objection to the form of the
5 question. 12:50:13

6 It also calls for a legal conclusion.

7 THE WITNESS: I can't comment. I have no
8 comment on that.

9 BY MS. REINHARDT:

10 Q No problem. I am now going to ask you a 12:50:28
11 series of questions as you, Superintendent Dora
12 Stutler. So for the purpose of the next following
13 questions, when I use the term "you," I do mean you,
14 Superintendent Stutler, and this is just for
15 background purposes. 12:50:43

16 Do you understand?

17 A Yes.

18 Q Can you please let me know what your
19 education level is?

20 A I have a Master's in educational leadership. 12:50:50

21 Q And did you receive that Master's after
22 obtaining your Bachelor's degree?

23 A I did.

24 Q And what was your Bachelor's degree in?

25 A Elementary education. 12:51:02

1 Q Was that a four-year program?

2 A It was.

3 Q And how long was your Master's program?

4 A I did it quickly. It was a

5 two-and-a-half-year program. 12:51:19

6 I also have a Master's in special education.

7 Q And how long did it take for you to obtain
8 your Master's in special education?

9 A I worked on them concurrently, so -- it's
10 been a long time ago. Two and a half -- two and a 12:51:38
11 half years.

12 Q Understood. And did you obtain those
13 Master's degree immediately after obtaining your
14 Bachelor's?

15 A I did not. 12:51:50

16 Q What did you do in between your Bachelor's
17 and your Master's?

18 A Substitute taught. And then I actually
19 stayed home with my children for six years, worked
20 on my Master's at that time and then immediately 12:52:06
21 went back into the field.

22 Q When you were teaching during this time, was
23 it in Harrison County?

24 A I was a substitute in Harrison and Taylor
25 County, which is an adjoining county. 12:52:23

1 Q Thank you. Where do you currently work?

2 A Harrison County schools.

3 Q How long have you worked for the Harrison
4 County schools?

5 A 24 years as a regular employee. I had seven 12:52:36
6 years as a substitute employee.

7 Q And when you say "regular employee," what do
8 you mean by that?

9 A It means regular employee with full benefits,
10 hired, not in a substitute capacity, regular 12:52:52
11 schedule.

12 Q Understood. And when you say "Harrison
13 County schools," is that the County Board of
14 Education, or are you referring to a broader
15 umbrella term? 12:53:06

16 A No. It's Harrison county schools.

17 Q Wonderful. And what's your current role?

18 A Superintendent.

19 Q Do you report to anyone?

20 A I do. I have four -- five elected board 12:53:18
21 members.

22 Q Who are those elected board members?

23 A Frank Devono, Junior. He's my -- he's a
24 vice president. Gary Hamrick is the president of
25 the board. Michael Daugherty, member. 12:53:38

1 Kristin Messenger, member. And Doug Hogue, member.

2 Q How are these members selected?

3 A They are elected for four-year terms.

4 Q What do the county board members do?

5 A They oversee the -- I oversee day-to-day 12:54:00
6 operations. They're there overseeing what I do and
7 the County.

8 Q And what are your day-to-day
9 responsibilities?

10 A Operations of the schools every day, my 12:54:17
11 county office, everything from personnel -- I have
12 several divisions that report to me. We're a large
13 organization. We have 1500 employees, close to
14 10,000 students. And ultimately, they report to me.

15 Q And the -- Bridgeport Middle School falls 12:54:49
16 under your jurisdiction?

17 A Yes.

18 Q What is your role as it relates to Bridgeport
19 Middle School?

20 A I'm their supervisor. I have 26 12:54:58
21 administrators, full-time administrators, that
22 report to an administrative assistant over the
23 schools, and that administrative assistant reports
24 to me. But ultimately, the schools are my
25 responsibility. 12:55:19

1 Q How often does the administrative assistant
2 report to you?

3 A Daily.

4 Q And how is it reported to you?

5 A We do an official Monday meeting. We meet as 12:55:30
6 a group every -- at least once a week. And
7 throughout the day, my supervisors are reporting to
8 me or contacting me.

9 Q You said you meet as a group on Mondays.

10 Who attends that meeting? Who is this group? 12:55:52

11 A My department heads.

12 Q How many department heads are there?

13 A I have ten.

14 Q And if you wouldn't mind, can you please list
15 those departments. 12:56:05

16 A Sure. I have an administrative assistant
17 over secondary education. I have an administrative
18 assistant over elementary education. I have a -- an
19 assistant superintendent over facilities and
20 transportation. I have a supervisor over special 12:56:21
21 education, a supervisor over federal programs, a
22 chief financial officer, a supervisor over
23 technology.

24 And then we kind of drop down. They still
25 come to these meetings. They -- I go down to a 12:56:42

1 director of student support and safety and a
2 director of school attendance.

3 Q Is your role similar as it pertains to
4 Norwood Elementary School?

5 A I -- yes. I mean, I would oversee 12:56:57
6 Norwood Elementary School.

7 Q And those --

8 A I was -- I was the principal there for a lot
9 of years, so...

10 Q Understood. And do those same ten department 12:57:20
11 heads also report to you as it pertains to
12 Norwood Elementary School?

13 A Yes.

14 Q And you mentioned you were the principal of
15 Norwood Elementary School. 12:57:32

16 When were you principal?

17 A 2009 till 2018.

18 Q And what did you do starting in 2018?

19 MS. MORGAN: Can I stop you guys for a
20 second? 12:57:55

21 I just got a message from Dave Tryon that his
22 computer crashed.

23 Can you hold a moment so he can get back on?

24 MS. REINHARDT: No problem. Let's go off the
25 record while we wait. 12:58:01

1 THE VIDEOGRAPHER: All right.

2 MR. TRYON: Yeah, I -- I just got back.

3 THE VIDEOGRAPHER: Oh.

4 MR. TRYON: It crashed right as you were

5 talking about education and the Master's degree and 12:58:07

6 Bachelor's degrees (sic), so that's -- just for the

7 record, that's when my computer crashed, and I got

8 back on as fast as I could.

9 So we can go on. Thank you.

10 This is David Tryon speaking, by the way. 12:58:23

11 MS. REINHARDT: Thank you.

12 BY MS. REINHARDT:

13 Q Superintendent Stutler, what did you do

14 starting in 2018?

15 A I moved to the central office as the 12:58:33

16 personnel director.

17 Q And what does that role -- what -- what do

18 you do in that role?

19 A Well, it was technically supervisor, but --

20 you just oversee all personnel in the county, as far 12:58:44

21 as hiring, processing information for the

22 superintendent to make recommendations to the board,

23 dealing with employee attendance. Any matter as it

24 related to school personnel.

25 Q And did you do that role until you became 12:59:01

1 superintendent in 2020?

2 A Yes.

3 Q Thank you. Do you understand what
4 interscholastic sports are?

5 A No. 12:59:19

6 Q So it refers to sports where students compete
7 against students at other schools.

8 Does that make sense?

9 A Yes.

10 Q So for the purposes of today, I might refer 12:59:29
11 to it as sports or athletics, but I'm really only
12 referring to interscholastic sports and athletics
13 when I say that.

14 A Okay. Thank you.

15 Q Do you know if there are any sports in 12:59:46
16 Harrison County?

17 A Yes. Many.

18 Q What is your role as it relates to sports in
19 Harrison County?

20 A It would fall under the same role as any 12:59:58
21 of -- any of my other responsibilities. I do have
22 supervisors that are the immediate contact for that.
23 But if this is an issue or problem, generally it
24 gets to me.

25 Q And -- 01:00:19

1 A And it would be handled as any other -- yeah.

2 Q I apologize for interrupting you. Please go
3 ahead.

4 A I said it would be handled as any other piece
5 of my role. 01:00:30

6 Q So these supervisors would report to you if
7 there was anything they felt you needed to know?

8 A Yes.

9 Q And what is your role as it relates to
10 policies in Bridgeport Middle School? 01:00:45

11 A Policies in our county are -- really come
12 from our board, and we only have a policy if the
13 board agrees and enacts that policy.

14 Q What does it take for the board to agree to a
15 policy? 01:01:11

16 A I would never know what it would take. I
17 offer a policy or we -- if a policy is generated --
18 and I will tell you, generally our policies are
19 generated from things coming from state statute or
20 things that we need to cover, and the stakeholders 01:01:32
21 in my organization would get -- would get together
22 and we create a policy, work, generally, with
23 counsel on a policy. That goes to a -- goes to the
24 board, and the five board members will look at that
25 policy, make changes to that policy, discuss that 01:01:47

1 policy. It could be put out on a 30-day comment,
2 for public comment and policy.

3 And then it would come back to the board and
4 that does not become policy unless the board acts on
5 that, takes action, and then it becomes a policy. 01:02:03

6 Q So am I understanding correctly that you
7 would present a policy to the board?

8 A Sometimes it would occur that way.

9 Q In cases where it does not occur that way,
10 how are policies presented to the board? 01:02:28

11 A Generally, it's a policy that -- it's already
12 in state statute, and we've just added some local
13 language that would be specific to Harrison County,
14 adopting what's already in state language. That's a
15 lot of times how policies get there. 01:02:49

16 We're just either -- we're adapting our local
17 policy to match state policy. And that has to be
18 board acted on as well because sometimes there's
19 something, maybe, in our county that might be
20 county-specific or, you know, we need to address. 01:03:04

21 Q And does the board vote on those -- in order
22 to implement those policies?

23 A All policies are voted and acted on by the
24 five board members.

25 Q Does it take a majority vote consensus, do 01:03:22

1 you know?

2 A It's a majority vote, yes. We have a
3 five-member board.

4 Q You mentioned that -- and please correct me
5 if I'm misrepresenting your statement. 01:03:43

6 As I understand it, you would revise policies
7 from the State in order to make them applicable to
8 the County; is that correct?

9 MS. DENIKER: Objection to the form.

10 THE WITNESS: I can't state what's in state 01:04:02
11 policy. I can only -- I can do what's in state
12 policy, and I -- I'm trying to think of a good
13 example.

14 But I can't change what's in state policy.
15 I -- and a lot of times we just adopt its straight 01:04:16
16 language. We use the language directly from the
17 state policy.

18 And occasionally there's something at the
19 State that we find out that we do not have a local
20 policy on, and we will adopt the State language and 01:04:30
21 create a policy that mirrors the State.

22 BY MS. REINHARDT:

23 Q I can give you a real example.

24 Is this what happened for H.B. 3293?

25 A No. 01:04:47

1 Q Did you or anyone at the county board present
2 the county board members with the -- with the bill
3 H.B. 3293?

4 A No.

5 Q Has the board voted in any way relating to 01:05:04
6 policies around H.B. 3293?

7 A No.

8 Q What is the county board's relationship with
9 the Department of Education?

10 A I believe, as the superintendent, I am the 01:05:21
11 conduit from the County Board of Education to my
12 board. So information that comes from the state
13 board is usually a conduit through me to the board,
14 although my board has -- our state boards have their
15 own association that also has a relationship with 01:05:50
16 the state board, and they do have a fall meeting and
17 a winter meeting to update board members. So
18 they -- they have a relationship outside of my
19 relationship with the state board through that
20 organization. 01:06:08

21 Q When you say "they," who are you referring
22 to?

23 A My board members. My five board members are
24 part of a state -- it's just an association. Like I
25 have an association for superintendents, there's an 01:06:23

1 association for state board members, and they meet a
2 couple of times of the -- a year, and they are given
3 information that's coming down from our State Board
4 of Education and the Department of Ed.

5 Q And does the county superintendent attend 01:06:41
6 those meetings?

7 A I am allowed to attend those meetings with my
8 board members.

9 Q Do you regularly attend those meetings as
10 they're held? 01:06:57

11 A I attend if my board members are attending.
12 They're optional meetings. If -- a board member in
13 our county or in our state has to have so many hours
14 to remain on a board. It's kind of like a
15 professional development-type thing, they have to 01:07:13
16 have so many hours. And so I'm not going to say
17 that my board attends every meeting. If they have
18 their hours, they don't always attend.

19 Q Does the county board have any rulemaking
20 power? 01:07:27

21 A We can adopt a policy, and then it becomes a
22 rule for our county.

23 Q Do you -- do you make those policies? Does
24 the county board make those policies?

25 A We can adopt the policy. 01:07:53

1 Q Just so I understand, you've said "adopt a
2 policy." What I'm asking is, are there instances
3 where the policy comes directly from the county
4 board?

5 A No. As far as creating the policy, like 01:08:07
6 writing it, the actual making of the policy, I
7 don't --

8 Q No problem. Thank you.

9 If the county board disagrees with a policy
10 that's been presented by the state board, will it 01:08:40
11 still adopt that policy?

12 A We have no choice but to follow state board
13 policy.

14 Q So what is the purpose of having votes as it
15 relates to policies? 01:08:56

16 A They're -- I guess it's -- we adopt state
17 policy. We use the language for state policy. And
18 that is our guidance.

19 If we have a local policy, and it would be
20 something like our local discipline policy, we have 01:09:08
21 an overarching state policy for safe and supportive
22 schools, policy 4373, and it gives you examples of
23 how you would discipline, if this occurs.

24 A local policy would take that policy, adopt
25 all the same language as the state policy, but we 01:09:31

1 may add in a third progressive discipline.

2 Like, if -- we may not want to go strictly
3 to -- now, there are things in that behavior policy
4 that we have to do, if there's a weapon, if
5 there's -- there are things that you have to do, but 01:09:50
6 when it is a -- something where two children are
7 arguing and we want to say, you know what, we want
8 to do ISS, put them in an in-school suspension,
9 instead of an out-of-school suspension.

10 That's what I mean by adding things that are 01:10:05
11 specific to a county that we feel that would be good
12 for our students, and I think that's -- anytime we
13 make a policy change, it's based on, you know, our
14 students and what our administrators are seeing in
15 the schools. 01:10:18

16 Q I really --

17 A The overarching policy would be state policy.
18 We would just add things like that. That's just an
19 example.

20 Q I really appreciate that example, as I 01:10:31
21 haven't had the privilege of being a part of this
22 process. So thank you.

23 I'll move on and ask you, how many schools
24 are in the county board's jurisdiction?

25 A We have five high schools, five middle 01:10:43

1 schools and 13 elementary schools and one
2 alternative education high school/middle school.
3 It's a combination. It's one building.

4 Q And of those schools, is Bridgeport Middle
5 School part of the County Board of Education's 01:11:05
6 jurisdiction?

7 A Yes.

8 Q Norwood Elementary School as well?

9 A Yes.

10 Q Do rules and regulations between schools ever 01:11:18
11 vary?

12 A Schools follow our policies, our county
13 policies. It's their guidance.

14 Q And schools are allowed to implement their
15 own policies on top of those; is that correct? 01:11:34

16 A Not -- not a policy. But a school could
17 have -- if you wanted to have different rules for
18 the kids, like, you know, raise your hand and -- I
19 mean, they do things like that.

20 You know, as a school administrator, we give 01:11:51
21 them some autonomy to run their schools with
22 scheduling. You know, how they're going to run
23 their lunches, we don't have that in policy. But
24 our policy is what -- that governs all of our
25 schools. 01:12:10

1 Q So these rules that a school may choose to
2 implement, does the county board review them?

3 A Not always. If there -- if it's a rule --
4 if -- if a -- a principal has had something
5 happening in their building and they want to change 01:12:34
6 a lunch schedule or a master schedule or -- we would
7 not review that. But our policy would say, you need
8 to have 350 minutes of instruction. That's what our
9 policy would say.

10 Now, within that school, they could have the 01:12:50
11 autonomy to -- to make that 350-minute schedule,
12 what works for their building and their staffing.

13 Q Understood. I'm going to ask you a few
14 questions about superintendents.

15 I first want to know, who employs the county 01:13:08
16 board superintendent?

17 A I am hired by the five elected board members.

18 Q And are you a state official?

19 MS. DENIKER: Objection to the form.

20 THE WITNESS: I believe I'm considered a 01:13:26
21 state employee. I have all the rights and benefits
22 of a state employee.

23 BY MS. REINHARDT:

24 Q Are you responsible for executing educational
25 policies? 01:13:38

1 A That's been approved by my board, by my
2 five-member board.

3 Q Understood. Is the county board
4 superintendent responsible for monitoring H.B. 3293?

5 MS. DENIKER: Objection to the form. 01:14:04

6 THE WITNESS: That -- there is a current
7 injunction with that rule, so we're...

8 BY MS. REINHARDT:

9 Q Is the county board superintendent
10 responsible for monitoring state policies that are 01:14:30
11 adopted by the county board?

12 MS. DENIKER: Objection to form.

13 THE WITNESS: Would you repeat that question.

14 BY MS. REINHARDT:

15 Q Is the county board superintendent 01:14:41
16 responsible for monitoring policies, let's say state
17 policies, that are adopted by the county board?

18 MS. DENIKER: Same objection.

19 THE WITNESS: Our -- our county board
20 policies are following state board policy. 01:15:01

21 BY MS. REINHARDT:

22 Q And is the county board superintendent
23 responsible for monitoring those?

24 MS. DENIKER: Same objection.

25 THE WITNESS: We enforce the policy as it 01:15:13

1 comes down from the State and our local board
2 because we're required to enforce state policy.

3 BY MS. REINHARDT:

4 Q And how do you enforce it, state policy?

5 A We follow what the rule says. 01:15:40

6 Q Does the rule describe how it should be
7 enforced?

8 MS. DENIKER: Objection to the form.

9 THE WITNESS: Generally, we know how to
10 enforce the rule. And if we had questions about a 01:16:02
11 state board policy, we would contact the state board
12 to make clarification.

13 BY MS. REINHARDT:

14 Q Understood. And what is your relationship
15 with the county board superintendent -- I'm sorry, 01:16:14
16 let -- let me rephrase that.

17 What is your relationship with the state
18 board superintendent?

19 A I contact him when I need to. He's -- he is
20 available, and our state board is available, our 01:16:32
21 state department.

22 Q In what instances would you need to -- in
23 what instances would you need to discuss things with
24 the state board superintendent?

25 A I've had contact with our state board 01:16:49

1 superintendent when I wanted to have something
2 clarified that was said, possibly, at a meeting with
3 us. They do meet with us regularly. They are great
4 to give us -- great to keep us informed in
5 information. So we -- we see them often. 01:17:19

6 So it's -- it's not like I call him every day
7 , but if I needed something, I -- I have called to
8 verify something that one of his departments maybe
9 have said to us and I wanted to talk with him. It's
10 not often, but he is available and there when we 01:17:42
11 have questions.

12 Q Who is the state board superintendent?

13 A Clayton Burch.

14 Q And did you discuss H.B. 3293 with
15 Clayton Burch? 01:18:00

16 A No.

17 Q Does the county board superintendent defer to
18 the state board superintendent?

19 MS. DENIKER: Objection to the form.

20 THE WITNESS: No. 01:18:14

21 BY MS. REINHARDT:

22 Q Have you heard of the West Virginia Education
23 Information System?

24 A I believe we call that WVEIS, West Virginia
25 EIS. We -- we refer to it as WVEIS, so I'm sure 01:18:32

1 that -- I haven't heard it called that for a long
2 time.

3 Q Wonderful. So it's an acronym --

4 A Thanks for the memory.

5 Q Is it okay with you if I also call it WVEIS? 01:18:40

6 A Yes. You can also call it an antiquated
7 system, but that's okay.

8 Q And why do you call it an antiquated system?

9 A It's been around as long as I have, so...

10 Q What is WVEIS, if you could please explain it 01:18:57
11 to me?

12 A WVEIS is just the state database that we use.
13 All counties are connected to WVEIS. And it's a --
14 just a student information database. It also holds
15 financial -- our county financial menus as well. 01:19:12
16 It's a large -- it's a large database.

17 Q So the county board superintendent has access
18 to WVEIS?

19 A I do.

20 Q Do the county board members have access to 01:19:30
21 WVEIS?

22 A No.

23 Q Who controls WVEIS?

24 MS. DENIKER: Objection to the form.

25 THE WITNESS: I believe it would be the state 01:19:47

1 department. It's just a database. So there's a lot
2 of people involved with WVEIS in different
3 departments. There's a lot of sides to it. There's
4 a student information side. There's, like I said,
5 the finance side. That's where we keep our student 01:19:59
6 attendance. It's just a recordkeeping large
7 database.

8 BY MS. REINHARDT:

9 Q Does the county board -- I'll rephrase.

10 Is the county board able to enter information 01:20:12
11 into WVEIS?

12 A Are you referring to county board members, in
13 that sense, or are you speaking about just --

14 Q I'll take it from a high level first.

15 So can you, as county superintendent, enter 01:20:30
16 information into WVEIS?

17 A I can.

18 Q And are the various departments -- and when I
19 say "departments," I'm referring to the ten
20 departments that report to you. Are they able to 01:20:47
21 enter information into WVEIS?

22 A For their specific department. My attendance
23 director has access to attendance menus. My school
24 supervisors have access to menus that involve their
25 schools. 01:21:04

1 So it depends on what their need is. We
2 don't just allow anybody WVEIS access.

3 Q Understood. And I am -- I have just a few
4 more questions for you, and then we can take a
5 break, if you would like. 01:21:19

6 My first question is if you've ever heard of
7 the county board superintendent's advisory council?

8 A Repeat that.

9 Q The county board superintendent's advisory
10 council. 01:21:43

11 A I am not familiar with that. And I could
12 be -- I just maybe have not -- maybe it's like the
13 WVEIS thing. I'm just not --

14 Q As I --

15 A Is it -- 01:22:07

16 Q Sorry, I did not mean to interrupt you.

17 Go ahead.

18 A I was going to ask, as it relates to just our
19 county superintendents?

20 Q As I understand it -- and again, I don't know 01:22:17
21 if it exists, but as I understand it, it's a council
22 to promote collaboration among the county districts
23 and to provide input to the State Board of
24 Education.

25 Is there a council similar to that that 01:22:35

1 you're aware of?

2 A I am not a member of that council.

3 Q Do you know if there's an annual report that
4 goes to the state superintendents regarding concerns
5 the county board may have? 01:22:56

6 A I am not aware.

7 Q Thank you. And similarly, have you heard of
8 the West Virginia education advisory team?

9 A I'm not sure that's what it's titled. I know
10 we have some superintendents that are involved in 01:23:27
11 different things from the state superintendent. I
12 am not on that team.

13 Q Understood. And those are all the questions
14 I have pertaining to this topic, if you would like
15 to take a break at this time. 01:23:44

16 MS. DENIKER: Is that topic 1 that we have
17 concluded, Ms. Reinhardt?

18 MS. REINHARDT: It is the conclusion of
19 topic 1. I may have some questions later that kind
20 of inter- -- that cross with topic 1, but for now, 01:23:58
21 that's the conclusion of topic 1.

22 THE WITNESS: Do we need a break?

23 MS. DENIKER: We do not need a break, if you
24 want to continue, but if you would like to take a
25 break, that is fine. 01:24:15

1 MS. REINHARDT: One second.

2 Let's take a five-minute break for now. If
3 folks are able to return at 11:30, we'll go off the
4 record.

5 THE VIDEOGRAPHER: We are going off the 01:24:33
6 record at 1:24 p.m., and this is the end of Media
7 Unit No. 1.

8 (Recess.)

9 THE VIDEOGRAPHER: All right. We are back on
10 the record at 1:36 p.m., and this is the beginning 01:35:51
11 of Media Unit No. 2.

12 Go ahead.

13 BY MS. REINHARDT:

14 Q Does the county board have a role as it
15 relates to sports in Harrison County? 01:35:59

16 A The same as they would with any policy, as it
17 relates to sports or any other topic.

18 Q Can you speak a little bit more to that?
19 What role would they have?

20 A Are you asking specific to sports? 01:36:36

21 Q I am.

22 A The understanding is, is that our board, when
23 they have policies in place -- like I said, I am
24 there for the day-to-day operations. So I think the
25 questions are, is the board, everyday, in the 01:36:59

1 day-to-day operations. They are not, until we have
2 a board meeting and they're in as a group. They --
3 they take no action. They -- they really have no
4 authority as single board members.

5 So I guess my -- my thing is, is they -- 01:37:17
6 they've got me for day-to-day operations, and I --
7 they adopt policy to support that as a group.

8 But as far -- are you speaking of day-to-day
9 operations of athletics in the county?

10 Q I am not. But let me ask you another 01:37:38
11 question first.

12 Is the county -- when I'm referring to the
13 county board, are you answering only as it relates
14 to the county board members?

15 A Well, I believe my role here is in the -- I 01:37:52
16 am in that capacity as representing the -- the
17 board, but they -- they are my supervisors or they
18 are over my --

19 MS. DENIKER: Ms. Reinhardt, this is Susan
20 Deniker. Could we go off the record for a minute 01:38:21
21 and I think that we can maybe make some
22 clarifications that would be helpful moving forward?

23 MS. REINHARDT: Thank you. Yes, let's go off
24 the record, please.

25 THE VIDEOGRAPHER: All right. We're going 01:38:31

1 off the record. The time is 1:38 p.m.

2 (Recess.)

3 THE VIDEOGRAPHER: All right. We are back on
4 the record at 1:41 p.m.

5 Go ahead. 01:40:46

6 MS. REINHARDT: While off the record, we
7 discussed the definition of county board, as I refer
8 to it here.

9 BY MS. REINHARDT:

10 Q So Superintendent Stutler, when I refer to 01:40:54
11 "county board," I'm talking about the entire County
12 Board of Education, not just the elected members.
13 I'll clarify, going forward, when I'm talking about
14 the county board's elected members. Is that clear?

15 A Yes. Thank you. 01:41:14

16 Q Wonderful. And as I go through this line of
17 questioning, if there's anything that you don't
18 believe you reviewed while reviewing the topics in
19 the 30(b)(6) notice, just let me know, but I will
20 try to stick to only topics that you've noted as 01:41:30
21 reviewed.

22 A Thank you.

23 Q I'm going to ask my previous question again.

24 Does the county board have a role as it
25 relates to athletics or sports? 01:41:44

1 A Yes.

2 Q And what is that role?

3 A We -- well, it's under my jurisdiction.

4 Each -- each school has an athletic director that

5 would be under the administrator in that building. 01:42:01

6 So each athletic program has its own athletic

7 director that oversees the programs in that

8 building. And that athletic director reports to the

9 school principal, and, of course, the school

10 principal reports to the county board. 01:42:19

11 Q Are the coaches at Bridgeport Middle School

12 employees of the county board?

13 A Not all. We have volunteer coaches that are

14 vetted by the school board, but they are not

15 employees; they are unpaid volunteer coaches. 01:42:51

16 Q Are they required to sign a contract as

17 volunteer coaches?

18 A No. We are -- we do vet them. They have

19 background checks, and we vet them, but they're not

20 under contract. 01:43:06

21 Q And when you say "we," do you mean the county

22 board?

23 A Yes.

24 Q Thank you.

25 A Thank you. 01:43:13

1 Q Does the county board have a role -- and I
2 know we discussed this briefly -- as it pertains to
3 policies regarding sports in Harrison County?

4 A Yes.

5 Q What is that role? 01:43:32

6 A It would be the same role as other policies
7 that we would have -- that we -- that my board would
8 adopt.

9 Q Does the county --

10 A It would follow -- 01:43:47

11 Q Oh, I -- I apologize. Go ahead.

12 A It would follow that same process.

13 Q Would you bother reminding me what the
14 process is?

15 A If -- if there's a state policy and we want 01:43:59
16 to adopt the processes for our county, we would
17 adopt the local policy, with those processes, and it
18 would go to the board, and they would adopt an
19 official policy, and it would be enacted.

20 Q And when you say it would go to the board, do 01:44:18
21 you mean the elected board members?

22 A The elected board. I'm sorry, I will say
23 elected board as well.

24 Q No problem. I know --

25 A They're such a big part of our world. 01:44:28

1 Q Understood. Does the county board have any
2 policies pertaining to sports?

3 A We have minimal. We have two.

4 Q And what are those two policies?

5 A We have a policy on extracurricular 01:44:45
6 activities for 6 to 12, just defining what
7 extracurricular would be for 6 to 12th grade. And
8 the other policy that we have is on how you obtain a
9 letter, how are you a lettermen, as far as sports is
10 concerned. 01:45:07

11 Q When were those policies developed?

12 A I believe 2008 was one. I don't remember the
13 date on the other. They were early. They're --
14 they're older policies.

15 Q So as it relates to the lettermen policy, 01:45:20
16 I'll use that as an example, who is responsible for
17 enforcing it?

18 A That would be the school AD and the athletic
19 program at the school. That would be really
20 pertaining to the high school athletic directors. 01:45:40

21 Q And does the county board ever need to step
22 in, as far as enforcing those policies?

23 A Only if there would be a disagreement. I
24 would assume that if a child thought they were
25 supposed to get a letter, and they didn't, then I 01:46:00

1 would probably be -- it would be brought to my
2 attention.

3 Q Understood. And just for clarity, does the
4 county board have any policies related to sex
5 separation in sports? 01:46:12

6 A No, we do not have an adopted policy for
7 that. We follow SSAC guidelines on what teams are
8 coed.

9 Q Does the County have any policies pertaining
10 to transgender students? 01:46:40

11 A No.

12 Q What do you know about H.B. 3293?

13 MS. DENIKER: Objection to the form.

14 THE WITNESS: It -- it was a state law passed
15 in July of '21. 01:47:05

16 BY MS. REINHARDT:

17 Q What does H.B. 3293 do?

18 MS. DENIKER: Objection to the form.

19 THE WITNESS: I can really only tell you what
20 I know when I read the statute. It's a -- it makes 01:47:24

21 a distinction between -- it begins by saying that
22 there is an inherent difference between a male and a
23 female. It talks about safety during sporting
24 activities or doing -- during athletics. And it
25 also addresses the equity or displacement of female 01:47:46

1 athletes.

2 I can only speak to the statute and what it
3 says.

4 BY MS. REINHARDT:

5 Q How did you come to know about H.B. 3293? 01:48:03

6 MS. DENIKER: I'm going to object to the form
7 and ask if you're asking her -- are you asking her
8 this as the superintendent?

9 I mean, this is a little bit of a
10 complicating factor as it relates to a 30(b)(6) 01:48:19
11 deposition.

12 Are you asking Superintendent Stutler how she
13 became aware of that as the superintendent?

14 MS. REINHARDT: I'm asking
15 Superintendent Stutler to speak to it as the county 01:48:30
16 board designee.

17 When I'm referring to Superintendent Stutler,
18 I'll be sure to reference you and make it clear when
19 I'm asking. I apologize if that wasn't clear.

20 MS. DENIKER: Well, I'm not sure how she can 01:48:47
21 answer how an entity became aware of something.

22 MS. REINHARDT: Can we go off the record for
23 just one moment, please?

24 MS. DENIKER: Sure.

25 THE VIDEOGRAPHER: Okay. We are going off 01:48:55

1 the record. The time is 1:49 p.m.

2 (Recess.)

3 THE VIDEOGRAPHER: All right. We are back on
4 the record at 1:55 p.m.

5 Go ahead. 01:55:19

6 BY MS. REINHARDT:

7 Q Superintendent Stutler, when did you, in your
8 individual capacity, become aware of H.B. 3293?

9 A I cannot give a specific date or time. I can
10 tell you the process with any legislative updates 01:55:36
11 that I received, and it involves all of them.

12 Generally, when our legislative group in
13 Charleston convene, they are always, you know,
14 putting forth new bills. You never know where
15 they're at and what process. 01:55:54

16 And we have multiple organizations, one being
17 my superintendent's organization, that gives us
18 usually a weekly update on where the bills are.
19 There's not commentary on those. It's just a
20 snippet of what the bill is and kind of an overview 01:56:07
21 of what the bill is, and I get those -- a list of
22 all of them that's been introduced, and then they'll
23 update us occasionally. And those come from
24 different directions.

25 We have a superintendent's organization. Our 01:56:25

1 school board, I'm talking about the elected members,
2 and their association will send out legislative
3 updates on everything coming out of the legislation
4 for the legislative body in -- in our Charleston
5 legislature.

01:56:42

6 So I can't give you a specific time, but I
7 did receive updates in general from -- from those
8 sources.

9 Q And how often are those updates provided?

10 A It depends on how busy Charleston is. If
11 there's a lot going on, we get them frequently. No
12 more than once a week during the session.

01:56:56

13 Q And if the superintendent of the county board
14 has questions related to legislation, who does the
15 county superintendent go to?

01:57:15

16 MS. DENIKER: Objection to the form.

17 Are you speaking about Dora Stutler as county
18 superintendent?

19 MS. REINHARDT: I'm generally speaking to a
20 superintendent in this role.

01:57:29

21 BY MS. REINHARDT:

22 Q Is there a specific person who has been
23 designated or is in a position to answer questions
24 about legislation?

25 A When there is a legislative update, I -- I

01:57:42

1 guess I'm in a different role. In my role as
2 superintendent here, I -- I am not one that's making
3 decisions on legislation. I'm watching it. I'm
4 being updated on it. I am not in that role.

5 Now, whether other superintendents are, I am 01:58:00
6 unaware. But I am not in that role. But I am
7 paying attention and reading the updates that are
8 coming to me.

9 Q Do you recall who updated you about H.B.
10 3293? 01:58:13

11 A It came specifically from our superintendent
12 organization. They do -- like I said, it's that
13 same -- it's the same group. We -- we have an
14 association of all the superintendents, 55 counties.

15 Q Who is the superintendent -- and I 01:58:35
16 apologize -- superintendent of organizations, is
17 that what you've said?

18 A Yeah, it's an association of superintendents.
19 It's just our -- all -- all 55 counties. There's an
20 executive director of that group, and they inform us 01:58:51
21 of anything that's -- of anything that's going to
22 affect school systems or legislation or rules,
23 anything.

24 Q Are you a member of this association?

25 A I am. 01:59:09

1 Q And once the association made you aware of
2 H.B. 3293, did you report -- did you report anything
3 related to H.B. 3293 to someone you report to?

4 And I can rephrase that if that was not
5 clear. 01:59:29

6 A No.

7 Q Did you discuss H.B. 3293 with anyone who
8 reports to you?

9 A No.

10 Q Was the County Board of Education -- did the 01:59:45
11 County Board of Education have a role in drafting
12 H.B. 3293?

13 A No.

14 Q Did the county board provide any comments or
15 thoughts to the legislature regarding H.B. 3293 that 02:00:01
16 you are aware of as Superintendent Stutler?

17 A Are you speaking about my county-elected
18 board or --

19 Q The County Board of Education, generally.

20 A No. 02:00:22

21 Q How was H.B. 3293 described to you as
22 Superintendent Stutler?

23 MS. DENIKER: Objection to the form.

24 THE WITNESS: I truly just read the

25 administrative updates, and I will tell you that we 02:00:42

1 had someone that presented to my board, but he did
2 all the legislative updates, like we would with any
3 legislative session, to inform my board.

4 (Exhibit 25 was marked for identification
5 by the court reporter and is attached hereto.) 02:01:04

6 BY MS. REINHARDT:

7 Q Understood. If you could go into the "Marked
8 Exhibits" folder, I'm going to introduce a document
9 that's been marked as Exhibit 25.

10 Please let me know when you have that up. 02:01:18

11 A I see that.

12 Q And for now, we're just going to be looking
13 at that first page.

14 Have you seen this e-mail before?

15 A I had not seen that e-mail until counsel 02:01:58
16 shared that.

17 Q What is WVASA?

18 A That is the West Virginia association of
19 superintendents.

20 Q And are you a member of that Listserv? 02:02:12

21 A I am.

22 Q Thank you. Now, if you wouldn't mind, I
23 would also like to ask you who Sarah Starkey is.

24 A She's our county Title IX investigator.

25 Q And who is Kenneth Winkie? 02:02:36

1 A He's our safety and support director.

2 Q And, finally, who is Donna Hage, if I'm
3 pronouncing that correctly?

4 A Donna Hage, at that time, in 2021, the date
5 of that, she was an assistant superintendent for 02:02:56
6 Harrison County schools.

7 Q Thank you. Now, attached to this e-mail is a
8 Title IX presentation.

9 Have you seen this before?

10 A I -- yesterday, I saw that. I don't recall 02:03:10
11 seeing that previous, prior to yesterday, when I
12 did -- met with counsel.

13 Q Understood. I will give you an opportunity,
14 if you would like it, to flip through the PowerPoint
15 presentation, or I can just direct you to the pages 02:03:41
16 that I'll be asking about. What do you prefer?

17 A Just direct me to the pages.

18 Q Wonderful. I'm going to direct you to the
19 page that's Bate-numbered HCBOE 00343.

20 Are you there? Let me -- please let me know 02:04:20
21 when you're there.

22 A Yes.

23 Q So on this page, at the top, it says,
24 "Title IX and Current Issues." And on the following
25 page, it says, "Recent Cases of Note." 02:04:38

1 Do you see that?

2 A Yes.

3 Q Then on the following page, which is
4 HCBOE 00345, it says, "WV House Bill 3293."

5 Do you see that? 02:04:54

6 A Yes.

7 Q And is it correct that you, as Dora Stutler,
8 were not present for this presentation?

9 A I do not attend all of those association
10 meetings. So I do not recall that particular 02:05:12
11 presentation. These attorneys do present often at
12 these organization meetings.

13 Q After this presentation, did any of the --
14 other superintendents that are members of this
15 associations speak with you about a presentation? 02:05:33

16 A No.

17 Q Has the county board had any conversations
18 with the State Board of Education, prior to the
19 enactment of H.B. 3293, about students who are
20 transgender participating in sports? 02:05:54

21 A No.

22 Q Now, looking at this page, which I believe is
23 345, is that the same page you're currently on?

24 A Yes.

25 Q Can you just review it and let me know if 02:06:07

1 this is how you recall H.B. 3293 being summarized to
2 you?

3 MS. DENIKER: Objection to the form of the
4 question.

5 I'm unclear about -- summarized by who? 02:06:24

6 BY MS. REINHARDT:

7 Q As I understand it, Superintendent Stutler,
8 you received various e-mails about upcoming
9 legislation.

10 Did any of those e-mails categorize H.B. 3293 02:06:32
11 similarly to the page before you Bates-Stamped
12 numbered HCBOE 00345?

13 A I could not speak to that.

14 MS. DENIKER: Objection to the form.

15 BY MS. REINHARDT: 02:06:52

16 Q Can you please go to the page Bates-Stamped
17 HCBOE 00347?

18 A Yes, I see that.

19 Q And it says (as read):

20 "Cause of Action. Any student 02:07:18

21 aggrieved by a violation of this

22 section may bring an action against

23 a county board of education or state

24 institution of higher education

25 alleged to be responsible for the 02:07:29

1 alleged violation."

2 Have you seen this cause of action prior to
3 now?

4 MS. DENIKER: Objection to the form.

5 THE WITNESS: This document, during prep, was 02:07:41
6 shown to me.

7 BY MS. REINHARDT:

8 Q Okay. And has any student brought an action
9 against the county board under H.B. 3293?

10 MR. TRYON: Objection. 02:08:03

11 THE WITNESS: We have been named, with
12 several other entities.

13 BY MS. REINHARDT:

14 Q In what action?

15 A It's a lawsuit against multiple entities, and 02:08:14
16 we are included in that for B.P.J.

17 Q Have there been any actions related to
18 H.B. 3293 other than this case?

19 A No.

20 Q Has the county board taken any steps in 02:08:41
21 addressing this Cause of Action section?

22 MS. DENIKER: Objection to the form.

23 THE WITNESS: No. I mean...

24 BY MS. REINHARDT:

25 Q Has the county board taken any steps in 02:09:04

1 preparation for actions brought under this section?

2 A We have retained counsel for the current
3 lawsuit that we've been named in.

4 Q Other than this action, has there been any
5 other preparation as to this Cause of Action section 02:09:30
6 from House Bill 3293?

7 A No.

8 Q Did the county board have any conversations
9 with employees at Bridgeport Middle School prior to
10 the enactment of H.B. 3293? 02:09:47

11 MS. DENIKER: Objection to the form.

12 Are you asking about --

13 MR. TRYON: Objection.

14 MS. DENIKER: -- 3293?

15 MS. REINHARDT: Can you please repeat that, 02:10:01
16 Ms. Deniker?

17 MS. DENIKER: Yes, I'm sorry, I objected to
18 the form. And then I was asking for clarification.

19 Why don't I just let you re-ask the question.
20 I apologize. 02:10:11

21 MS. REINHARDT: No problem.

22 BY MS. REINHARDT:

23 Q Did the county board have any conversations
24 with employees at Bridgeport Middle School prior to
25 the enactment of H.B. 3293 related to transgender 02:10:18

1 students participating in sports?

2 A There was a gender support plan being created
3 at Norwood Elementary for B.P.J. She was going to
4 attend Bridgeport Middle School.

5 Q So -- 02:10:49

6 A And there's a section -- there's a section on
7 that plan, Are you an athlete?

8 Q Other than the gender support plan that
9 you're speaking of, were there any other
10 conversations with Bridgeport Middle School 02:11:04
11 employees about transgender students
12 participations -- participation in sports?

13 A No.

14 Q Did the county board have any conversations
15 with employees at Norwood Elementary School prior to 02:11:18
16 the enactment of H.B. 3293 about students who are
17 transgender participating in sports?

18 A No.

19 Q What is the county board's rule as it relates
20 to H.B. 3293? 02:11:45

21 MS. DENIKER: Objection to the form.

22 THE WITNESS: It's like any other state law.
23 But there's an injunction, so that was never
24 enacted.

25 BY MS. REINHARDT: 02:11:58

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Has H.B. 3293 been enforced against any other student other than B.P.J.? I apologize.

A There's an injunction against it. We take -- we've taken no action. 02:12:17

MS. REINHARDT: Susan, I believe the rest of my questions relate to topic 10, so if it suits the parties, we'll take a break now for about 20 minutes, and then I would ask the county board to have David Mazza present. 02:12:39

MS. DENIKER: And then are done with all other topics upon which Ms. Stutler will be testifying on?

MS. REINHARDT: I am not.

MS. DENIKER: Okay. 02:12:51

THE VIDEOGRAPHER: So -- okay.

MS. REINHARDT: We can also go off the record.

THE VIDEOGRAPHER: Yeah, let's discuss -- okay. We're -- we're going off the record. The time is 2:13 p.m., and this is the end of Media Unit No. 2. 02:13:00

One moment.

(Recess.)

THE VIDEOGRAPHER: All right. We are back on 02:53:32

1 the record at 2:54 p.m., and this is the beginning
2 of Media Unit No. 3.

3 Go ahead.

4 BY MS. REINHARDT:

5 Q Have you heard -- I'll rephrase. 02:53:57

6 Have you, as Dora Stutler, heard of
7 West Virginia Secondary School Activities
8 Commission?

9 A Yes.

10 Q Can you tell me what it is? 02:54:06

11 MS. GREEN: Object to the form.

12 This is Roberta Green on behalf of WVSSAC.

13 THE WITNESS: It's -- it's a governing body,
14 but it's made up of member -- members of the -- of
15 the schools. It's a principals organization with 02:54:26
16 the governing body of the SSAC.

17 BY MS. REINHARDT:

18 Q Is it okay if I refer to it as "WVSSAC" going
19 forward?

20 A Yes. 02:54:42

21 Q Is the county board able to delegate powers
22 to another body?

23 A Can you rephrase that or ask that in another
24 way?

25 Q Of course. I can ask a more direct question. 02:54:55

1 Has the county board delegated any of its
2 powers, as it relates to sports, to WVSSAC?

3 MS. DENIKER: Object to the form.

4 MS. GREEN: Also object to the form.

5 THE WITNESS: No. 02:55:13

6 BY MS. REINHARDT:

7 Q Has the county board delegated any of its
8 powers, as it relates to sports, to any other entity
9 other than the County itself?

10 MS. DENIKER: Objection to the form. 02:55:31

11 MS. GREEN: Object to the form.

12 THE WITNESS: Can we talk about what the
13 SSAC -- I mean, how it -- the oversight of the SSAC
14 for counties in general? Because the confusion is,
15 is we don't -- my board, delegating authority -- I 02:55:53
16 mean, my board, we're following state policy and
17 guideline. That's what we do.

18 The West Virginia SSAC is an oversight board
19 and provides guidance for our schools and our
20 athletic programs. It's a guiding body. 02:56:11

21 So I don't know that my board, if you're --
22 well, see, I'm thinking elected members. You're --
23 you're thinking of the board in general.

24 I'm trying to just explain the relationship.
25 I mean, we -- we have members of the SSAC. 02:56:28

1 They're -- it's a member body. It's our principals.

2 MS. DENIKER: This is Susan Deniker. I just
3 want to also state that to the extent we're talking
4 about the relationship between the Harrison County
5 board and the WVSSAC, I believe that that is topic 02:56:43
6 10, and we've designated a different witness for
7 that.

8 MS. REINHARDT: Understood. I am asking
9 Superintendent Stutler questions as it relates to
10 topic 8 at this moment. 02:56:54

11 BY MS. REINHARDT:

12 Q Does WVSSAC have any powers as it relates to
13 sports?

14 MS. GREEN: Object to the form.

15 MS. DENIKER: Same objection. 02:57:09

16 THE WITNESS: Yes. They set guidelines for
17 us to follow.

18 BY MS. REINHARDT:

19 Q When you say "us," they set guidelines for
20 the County Board of Education to follow? 02:57:18

21 MS. GREEN: Object to the form.

22 THE WITNESS: There are athletic -- yes, for
23 our athletics, in each -- our programs need to
24 follow. There's certain examples. Transfer of a --
25 of a student from one school to another. There's 02:57:34

1 guidelines. They have to follow that. There's
2 eligibility requirements. Those are all -- but
3 those are all rules that were voted on as the -- the
4 principals vote on that as members of the West
5 Virginia SSAC. But there is a governing body that 02:57:53
6 govern all of our sport programs.

7 BY MS. REINHARDT:

8 Q I apologize if I'm not quite understanding.
9 So if I can just have a little bit of clarity, I'm
10 wondering -- so I'll ask several questions and maybe 02:58:06
11 that will help get me to the point of understanding.

12 WVSSAC provides guidelines, and those are
13 presented to the county board, and the county board
14 must follow those guidelines.

15 Is that a correct summary of what you've 02:58:26
16 said?

17 MS. DENIKER: Object to the form.

18 MS. GREEN: Objection to the form.

19 THE WITNESS: I guess my frustration is I'm
20 not sure what you're asking me. I know how the 02:58:40
21 West Virginia SSAC works. I know how it governs our
22 sporting events. And they work with our
23 administrators and our ADs to put programs together
24 for our kids and their athletics. It's -- it's a --
25 it's a guide. They provide guidelines for them. 02:58:59

1 BY MS. REINHARDT:

2 Q And what happens if there's a dispute about
3 implementing a certain rule?

4 MS. GREEN: Object to the form.

5 MS. DENIKER: Objection to the form. 03:00:25

6 I also believe that this is a topic 10 issue.

7 MS. REINHARDT: I'm going to ask the witness
8 to continue to answer, as I believe this falls under
9 topic 8.

10 MS. DENIKER: And I will permit her to answer 03:00:37

11 with the understanding that I will not permit
12 multiple witnesses to be asked the same questions
13 with regards to the same issues.

14 MS. REINHARDT: Understood. Thank you.

15 BY MS. REINHARDT: 03:00:53

16 Q Would you like me to repeat my question?

17 A Yes, please.

18 MS. REINHARDT: Could the court reporter
19 please read back my last question?

20 THE REPORTER: Yes. 03:01:11

21 (Record read.)

22 MS. GREEN: Object to the form.

23 MS. DENIKER: Same objections I've already
24 raised.

25 THE WITNESS: I can tell you, in Harrison 03:01:23

Page 76

1 County, our ADs and our administrators are following
2 those rules.

3 BY MS. REINHARDT:

4 Q So all of the rules set by WVSSAC are
5 currently being followed by the County Board of 03:01:38
6 Education?

7 MS. GREEN: Object to the form.

8 MS. REINHARDT: I can also --

9 THE WITNESS: That I'm aware of.

10 MS. REINHARDT: Oh, I apologize. 03:01:51

11 Would Mrs. Deniker and Mrs. Green make a
12 standing objection to these topics?

13 MS. GREEN: I'm perfectly fine to keep
14 objecting. It's possible some of them would be,
15 yeah. But my -- my objections go to foundation and 03:02:05
16 scope, and I'm not sure what else, so...

17 MS. DENIKER: At this point, I don't see a
18 need for a continuing objection, but if we get to a
19 place where I think that that is appropriate, I will
20 -- we can discuss that. Thank you for that offer. 03:02:25

21 MS. REINHARDT: No problem.

22 BY MS. REINHARDT:

23 Q You may answer, Superintendent Stutler.

24 A Are you asking if a -- an administrator has
25 an objection to the rule or the athlete has an 03:02:36

1 objection to the rule?

2 Q I'm asking about the County Board of
3 Education. So if -- if it makes more sense, an
4 administrator.

5 MS. DENIKER: Objection to the form. 03:02:54

6 THE WITNESS: I am unaware of any objections
7 to the SSAC rules in Harrison County from our
8 administrators.

9 BY MS. REINHARDT:

10 Q Thank you. Does the County determine player 03:03:05
11 eligibility?

12 MS. GREEN: Object to the form.

13 MS. DENIKER: Also object to the form.

14 And again, I'm going to object that this is
15 beyond the scope of topic 9, and I believe that it 03:03:27
16 clearly falls within -- within topic 10.

17 BY MS. REINHARDT:

18 Q I'm going to ask you to go into the "Marked
19 Exhibit" folder and please pull up Exhibit 24.

20 Please let me know once you have it up. 03:03:56

21 A Yes, it's there.

22 Q So if you look at topic 8, which I believe,
23 at the bottom, is page 7, it states (as read):

24 "The Harrison County Board and the

25 County Superintendent's current 03:04:15

1 and/or expected role in
2 implementing, monitoring,
3 supervising, regulating, and
4 enforcing H.B. 3293, including any
5 delegation of authority to or 03:04:24
6 supervision over the West Virginia
7 Secondary School Activities
8 Commission."

9 Did you prepare for this topic?

10 A I did. 03:04:34

11 Q And can you please remind us what you did in
12 preparation of topic 8?

13 MS. DENIKER: And again, I will instruct you
14 not to answer about any communications you had with
15 counsel. 03:04:49

16 THE WITNESS: Reading over documents in -- in
17 prep for this meeting today.

18 BY MS. REINHARDT:

19 Q And --

20 A And House Bill 3293. 03:05:00

21 Q And which documents were those?

22 A I read the house bill, 3293.

23 Q That was the only document you read related
24 to this topic?

25 MS. DENIKER: Objection to the extent that 03:05:16

1 this has been asked and answered.

2 MR. TRYON: Objection.

3 David Tryon.

4 BY MS. REINHARDT:

5 Q Were there any additional documents that you 03:05:25
6 reviewed?

7 MS. DENIKER: Same objection.

8 THE WITNESS: Information on the secondary
9 school activities commission.

10 BY MS. REINHARDT: 03:05:37

11 Q What information on the West Virginia
12 Secondary School Activities Commission?

13 A When they're governing body and how they
14 interact with counsels in their role.

15 MS. REINHARDT: So, Susan, I believe these 03:05:54
16 fall directly under the questions that I'm asking,
17 and it sounds like Superintendent Stutler is
18 prepared to answer these questions.

19 MS. DENIKER: Well, I object to that because
20 I believe that topic 8 is in the context of House 03:06:06
21 Bill 3293. You're asking general questions with
22 regard to the relationship between Harrison County
23 Board of Education and the WVSSAC, which I believe
24 are within the scope of topic 10. I -- I understand
25 topic 8 to be in the context solely of House Bill 03:06:23

1 3293.

2 MS. REINHARDT: I will continue to set a
3 foundation, and I will allow you to have a standing
4 objection, if you would like, or you can continue to
5 object.

03:06:36

6 BY MS. REINHARDT:

7 Q But I would ask you, Superintendent Stutler,
8 if the county board determines player eligibility.

9 MS. GREEN: Object to the form.

10 MS. DENIKER: I object to the form, too.

03:06:48

11 And I just want to say one more time that I
12 will object to you asking these general questions of
13 a different witness if you get -- if you have these
14 questions asked and answered of this witness.

15 MS. REINHARDT: Understood.

03:07:01

16 MS. DENIKER: And to the extent you do not
17 know the answers to the question --

18 THE WITNESS: Just say "I don't know"?

19 MS. DENIKER: -- you may answer accordingly.

20 THE WITNESS: Eligibility is -- there's a
21 guideline for what eligibility -- the requirements
22 for eligibility for a student athlete.

03:07:13

23 BY MS. REINHARDT:

24 Q And is that guideline through the County
25 Board of Education?

03:07:23

1 MS. DENIKER: Objection to form.

2 THE WITNESS: No. It's SSAC rules.

3 BY MS. REINHARDT:

4 Q What happens if there's a dispute between the
5 county board and WVSSAC as it pertains to player 03:07:32
6 eligibility?

7 MS. GREEN: Object to the form.

8 MS. DENIKER: Objection to the form.

9 THE WITNESS: I am unaware of any objections
10 with my ADs, my school administrators, with SSAC 03:07:49
11 rules.

12 BY MS. REINHARDT:

13 Q Is there a process in place for a dispute
14 between the county board and WVSSAC regarding their
15 guidelines? 03:08:06

16 MS. GREEN: Object to the form.

17 A There is a process for a student
18 athlete or -- yeah, an athlete. If they disagree
19 with something that the AD or the coach or the
20 administrator has said, they can ask for a hearing. 03:08:28

21 BY MS. REINHARDT:

22 Q And would this also be true for H.B. 3293?

23 MS. GREEN: Object to the form.

24 MS. DENIKER: Objection to the form.

25 MR. TRYON: I'm going to join the objection. 03:08:48

1 THE WITNESS: No. Because we are not
2 operating under House B. -- House Bill 3293.

3 BY MS. REINHARDT:

4 Q Despite the injunction, if one was not put in
5 place, would the process that you've described be 03:09:05
6 the same for H.B. 3293?

7 MS. DENIKER: Object to the form.

8 THE WITNESS: If a student -- if a student
9 athlete is objecting to something, according to SSAC
10 rules, they could follow that process. 03:09:20

11 BY MS. REINHARDT:

12 Q Thank you. Did the county board have any
13 conversations with WVSSAC prior to the enactment of
14 H.B. 3293 about students who are transgender
15 participating in sports? 03:09:40

16 A No.

17 Q Do you know who Bernie Dolan is?

18 A Yes.

19 Q Who is Bernie Dolan?

20 A He's the executive director of the SSAC. 03:09:52

21 Q Did the county board have any conversations
22 with Mr. Dolan, prior to the enactment of H.B. 3293,
23 about students who are transgender participating in
24 sports?

25 A No. 03:10:11

1 Q Did you, Superintendent Stutler, have any
2 conversations with Mr. Dolan regarding transgender
3 students participation in sports?

4 A No.

5 MS. REINHARDT: I am now going to move tab 7 03:10:27
6 into the exhibit folder, if you could please just
7 give me one second. That will be marked as
8 Exhibit 26.

9 I'll let you know once I've placed it in the
10 folder. 03:10:47

11 Okay. You may refresh. And please let me
12 know once you see Exhibit 26.

13 (Exhibit 26 was marked for identification
14 by the court reporter and is attached hereto.)

15 THE WITNESS: I see that. 03:11:16

16 BY MS. REINHARDT:

17 Q Have you, Superintendent Stutler, seen this
18 document before?

19 A I don't recall seeing that.

20 Q Now, I know there are quite a few people 03:11:23
21 listed on this e-mail. I'm wondering if these are
22 all employees of the county board?

23 MS. DENIKER: Objection to the form.

24 And, also, I don't believe that there's a
25 question. 03:11:41

1 BY MS. REINHARDT:

2 Q Are any of these e-mails in the "To" column
3 employees of the county board?

4 A I'm looking at the names. I do not --
5 there's a -- it looks like David that's under the 03:12:11
6 exhibit, Exhibit 26. What's that? I don't know
7 that name.

8 There is one AD on there for Harrison County,
9 high school principal, high school assistant. It
10 looks like this may have went to high school 03:12:21
11 principals, ADs.

12 Q So there are -- great.

13 A Okay.

14 Q You're seeing several employees of the County
15 Board of Education in the "To" column; correct? 03:12:39

16 A Yes.

17 Q And so in this e-mail, it reads "Dear
18 Principals and ADs."

19 Does ADs stand for administrators?

20 A No. That's athletic director. 03:12:51

21 Q Thank you for clarifying.

22 It goes on to say (as read):

23 "Below are a couple of bills that
24 will impact your school."

25 Am I reading that correctly? 03:13:09

Page 85

1 A Yes.

2 Q On the next page, it says (as read):

3 "HB 3293 - Transgender bill. Please

4 read."

5 Am I reading that correctly?

03:13:16

6 A Yes.

7 Q Do you, Superintendent Stutler, agree that

8 H.B. 3293 is properly characterized as a transgender

9 bill?

10 MS. DENIKER: Objection --

03:13:34

11 MS. GREEN: Object to the --

12 MS. DENIKER: -- to the form.

13 MS. GREEN: Object to the form.

14 MR. TRYON: Objection.

15 THE WITNESS: I'm reading that. I think that

03:13:53

16 was sent as just a small piece of information. I --

17 I take nothing from that, really.

18 BY MS. REINHARDT:

19 Q Do you know --

20 A I think that was sent to AEs (sic) -- ADs and

03:14:03

21 the -- and the administrators.

22 Q I apologize. Can you please just repeat the

23 last portion?

24 A I said that was sent to some ADs and

25 administrators. I don't know what the intent of

03:14:16

1 that was.

2 Q Do you know why Mr. Dolan would characterize
3 H.B. 3293 as a transgender bill?

4 MS. GREEN: Object to the form.

5 MS. DENIKER: Objection to the form. 03:14:28

6 MR. TRYON: Speculation.

7 THE WITNESS: No.

8 BY MS. REINHARDT:

9 Q Do you agree with the characterization that
10 H.B. 3293 is a transgender bill? 03:14:37

11 MS. DENIKER: Objection to the form.

12 MS. GREEN: And I'll object to the form.

13 MR. TRYON: Objection. Asked and answered.

14 (Simultaneous speaking.)

15 THE REPORTER: I can't get all of your
16 objections at the same time. I know it's hard being
17 on Zoom. If you don't mind going off the record --
18 it's hard, with the cameras off, to see who is
19 speaking and objecting, so maybe to make it easier,
20 we either turn them on or try and take our time and
21 answer one at a time. Thank you.

22 MR. TRYON: This is Dave Tryon. My objection
23 is asked and answered.

24 THE REPORTER: Thank you.

25 MS. DENIKER: This is Susan Deniker. I 03:15:13

1 objected to form and then also objected that it had
2 been asked and answered.

3 MS. GREEN: This is Roberta Green on behalf
4 of SSAC. I objected to the form.

5 BY MS. REINHARDT: 03:15:33

6 Q Unless your counsel directs you otherwise,
7 you may answer.

8 A I don't know what the intent is with that.

9 Q I'm asking if you agree with the
10 characterization. 03:15:47

11 MS. GREEN: Same objection.

12 MS. DENIKER: Same objection.

13 MR. TRYON: Objection.

14 THE WITNESS: I would not be able to speak
15 whether I agree or disagree for the board. 03:15:59

16 BY MS. REINHARDT:

17 Q Do you know why Mr. Dolan would send this
18 e-mail to the principals and -- and athletic
19 directors?

20 MS. GREEN: I'm going to object to the form, 03:16:13
21 foundation, scope and speculative.

22 MS. DENIKER: Object to form.

23 THE WITNESS: I would have no idea.

24 BY MS. REINHARDT:

25 Q Thank you. And just to expedite my next few 03:16:23

1 questions, I want to see if I can confirm what you
2 previously stated.

3 Can you confirm whether or not the county
4 board had any conversations with anyone outside of
5 the County Board of Education about H.B. 3293 as it 03:16:44
6 relates to students who are transgender
7 participating in school sports?

8 MS. DENIKER: Objection on the basis it's
9 been asked and answered.

10 You can answer. 03:16:59

11 THE WITNESS: I am unaware of any
12 conversations.

13 BY MS. REINHARDT:

14 Q If the preliminary injunction was not in
15 place, what would be required of the county board as 03:17:07
16 it relates to H.B. 3293?

17 MS. DENIKER: Objection to the form.

18 THE WITNESS: We -- we have not acted or
19 changed the way that we would continue with sports
20 in our athletic programs and -- 03:17:39

21 BY MS. REINHARDT:

22 Q And that -- and that's true even if the
23 injunction was not in place?

24 MS. DENIKER: Objection to the form.

25 THE WITNESS: The board has taken no action 03:17:52

1 as it relates to this house bill.

2 BY MS. REINHARDT:

3 Q I'm asking what that'd be required to do.

4 MS. DENIKER: Objection to the form.

5 THE WITNESS: We receive the house bill. 03:18:14

6 It's not enacted. We've made no action on that.

7 And I could not speak on what actions would be

8 taken. We have not had to address that.

9 BY MS. REINHARDT:

10 Q Who will be responsible for promulgating 03:18:36

11 rules to implement H.B. 3293?

12 MS. GREEN: Object to the form.

13 MS. DENIKER: Objection to the form.

14 THE WITNESS: It would be the same process we
15 would with any new house bill or rule that we have. 03:18:49

16 BY MS. REINHARDT:

17 Q And that's in line with how you characterized
18 the process earlier in this deposition; is that
19 correct?

20 MS. DENIKER: Objection to the form. 03:19:04

21 THE WITNESS: I believe so.

22 BY MS. REINHARDT:

23 Q I am just trying to not make you reiterate
24 the -- your process for implementing policies, but
25 if you prefer, I am happy to hear that. 03:19:20

1 A I think I have been asked that. It's a --
2 it's a complicated question. When you're talking
3 about board policies, our board can only enact
4 policies that they vote on and it becomes the
5 policy. We have adopted state board policy, and we 03:19:43
6 will mirror the language of the state board policy.

7 Can the County adopt their own policy? We
8 can. If it's presented to the board, it's acted on,
9 they vote on it.

10 I don't -- I guess I'm not sure what you're 03:20:03
11 asking me.

12 Q That answers my question. Thank you.

13 Could the county board issue any rules in
14 conflict with H.B. 3293?

15 A No. 03:20:26

16 Q To your knowledge, has the county board ever
17 violated any rules promulgated by the State Board of
18 Education?

19 MS. DENIKER: Objection to the form.

20 THE WITNESS: Not that I'm aware of. 03:20:43

21 BY MS. REINHARDT:

22 Q Thank you. I'm going to move on to topics as
23 they relate to topic 4.

24 I want to talk a little bit about
25 Plaintiff B.P.J. in this case and her experience in 03:20:59

1 Harrison County schools. Is that okay?

2 A Yes.

3 Q Do you, Superintendent Stutler, know who
4 B.P.J. is?

5 A Yes. 03:21:11

6 Q Have you ever met B.P.J.?

7 A I have.

8 Q How would you describe her?

9 A Energetic, pleasant, athletic.

10 Q Have you ever seen her be distressed? 03:21:37

11 MS. DENIKER: Objection to the form.

12 THE WITNESS: I believe the questions were

13 prior to 2019, so are you speaking about --

14 I think she's going back into possibly

15 when -- I can't speak to that. 03:22:07

16 BY MS. REINHARDT:

17 Q I can clarify.

18 A In this case -- in this case.

19 Q I can clarify.

20 A I was a -- I was a principal in the building 03:22:16

21 with her when she was younger.

22 Q I can clarify. I'm only asking about your
23 interactions since January 1st, 2019, to present.

24 So in that time, have you ever seen B.P.J. be

25 stressed -- distressed? 03:22:31

1 A No.

2 MS. DENIKER: Objection.

3 THE WITNESS: No.

4 BY MS. REINHARDT:

5 Q Have you -- have you, Superintendent Stutler, 03:22:38
6 interacted with any of B.P.J.'s family members?

7 A I have not.

8 Q When was the county board informed that
9 B.P.J. is a girl who is transgender?

10 MR. TRYON: Objection. 03:22:58

11 David Tryon.

12 THE WITNESS: Our county board gets
13 involved -- or my Title IX investigator gets
14 involved when a school reaches out to her to provide
15 assistance for a gender support plan. 03:23:12

16 BY MS. REINHARDT:

17 Q Great. And I'll have some questions about
18 the gender support plan in a moment.

19 I'm wondering, was the county board informed
20 that B.P.J. is a girl who is transgender only at the 03:23:24
21 time of the gender support plan?

22 MR. TRYON: Objection.

23 THE WITNESS: I am unaware of any time prior
24 to that.

25 ///

1 BY MS. REINHARDT:

2 Q Thank you. Was Norwood Elementary School
3 informed that B.P.J. is a girl?

4 MS. DENIKER: Objection to the form.

5 MR. TRYON: Objection. 03:23:52

6 THE WITNESS: Speaking with Tarra Shields,
7 the administrator of Norwood Elementary, she was
8 informed by her mother prior to going into her
9 fourth-grade year.

10 BY MS. REINHARDT: 03:24:13

11 Q Was anyone else informed that B.P.J. is a
12 girl, at Norwood Elementary School?

13 MR. TRYON: Objection.

14 THE WITNESS: I believe when the mother
15 reached out to the administrator, that is what set 03:24:25

16 in motion the gender support plan, and that's when
17 our Title IX director was brought into the process.

18 BY MS. REINHARDT:

19 Q Are you familiar with the counselors at
20 Norwood Elementary School during B.P.J.'s time there 03:24:44
21 as a student?

22 A Yes. Amber Davis.

23 Q Do you know who James Thorton is?

24 A No. There was a previous counselor there,
25 Josh Thorton. 03:25:07

1 Q Thank you. And Josh Thorton, you said, was a
2 counselor.

3 Are the counselors at Norwood Elementary
4 School employed by the county board?

5 A Yes. 03:25:20

6 Q What qualifications are required to become a
7 counselor in the county boar- -- in the county?

8 A They -- they have to be certified counselors
9 through the national school counseling association
10 and through our state. 03:25:39

11 Q Was Mr. Thorton made aware of B.P.J.'s status
12 as a girl who is transgender?

13 MS. DENIKER: Objection to form.

14 MR. TRYON: Objection.

15 THE WITNESS: I am unaware of that. 03:25:49

16 BY MS. REINHARDT:

17 Q Was Principal Mazza informed that B.P.J. is a
18 girl?

19 MS. DENIKER: Objection to the form.

20 THE WITNESS: I believe he was contacted when 03:26:05

21 she was going to go there as a sixth grader and
22 there was an update to the gender support plan.

23 That would be when Mr. Mazza was informed.

24 BY MS. REINHARDT:

25 Q Are you aware of any conversation between 03:26:19

1 Principal Mazza and Heather Jackson regarding
2 B.P.J. playing on girls' sports teams?

3 A I am only aware of the gender support plan
4 that took place between Heather Jackson, the mother;
5 and Mr. Mazza, and there were a few in that meeting, 03:26:39
6 at that gender support plan meeting.

7 Q Were you in attendance at that meeting?

8 A I was not.

9 Q So how did you become aware that
10 Principal Mazza and Heather Jackson had a meeting 03:26:58
11 regarding the gender support plan?

12 And please do not inform us of -- of any
13 conversations you may have had with counsel.

14 A I reviewed the gender support plan as it
15 related to this case. 03:27:10

16 Q And in preparation for this case, did you
17 speak with Principal Mazza?

18 A I did.

19 Q And did you -- did he inform you of any
20 conversation between him and Heather Jackson 03:27:26
21 regarding B.P.J.'s ability to play on girls' sports
22 teams?

23 MS. DENIKER: I'm going to object to the
24 extent that it -- that the question calls for
25 information that she learned as part of 03:27:38

1 attorney-client privileged communications.

2 To the extent that you have had
3 communications with Mr. Mazza that were not part of
4 the attorney-client privilege, you may answer, but
5 I'm going to instruct you not to answer with regard 03:27:51
6 to any attorney-client privileged communications.

7 THE WITNESS: The gender support plan
8 involved multiple people, and all the items on that
9 gender support plan were discussed, and she checked
10 that she would be an athlete at Bridgeport Middle. 03:28:05

11 (Exhibit 27 was marked for identification
12 by the court reporter and is attached hereto.)

13 BY MS. REINHARDT:

14 Q Thank you. I am now going to move tab 9 into
15 the "Marked Exhibits" folder. I'll let you know 03:28:20
16 once it's there. It will be marked as Exhibit 27.

17 You may refresh. And please let me know once
18 you see Exhibit 27.

19 A I see that.

20 Q Are you familiar with this e-mail? 03:29:05

21 And please take your time to review it, if
22 necessary.

23 A I am.

24 Q And are how are you familiar with this
25 e-mail? 03:29:16

1 A It was between the -- my board president and
2 myself.

3 Q Is Gary Hamrick the board president you're
4 referring to?

5 A Yes. 03:29:26

6 Q And what is his role?

7 A He's the -- I guess you want to say the
8 president of my board. He leads the meetings and...

9 Q Thank you. And if you look at the e-mail, he
10 writes (as read): 03:29:49

11 "Even though it is a new state law,

12 Mazza should have informed you that

13 he denied a transgender student."

14 Am I reading that correctly?

15 A You are. 03:30:01

16 Q And you respond (as read):

17 "Agree. First I heard."

18 Am I reading that correctly?

19 A I was agreeing that it was a new state law.

20 Q And were you saying -- and what did you mean 03:30:12
21 by "first I heard"?

22 A It's the first I heard that we had a -- a
23 lawsuit. I believe he's referring to the MetroNews
24 article. And I think that's where he got his
25 information, possibly. 03:30:36

1 Q Did you speak with Principal Mazza upon
2 learning about the incidents alleged in the
3 complaint, which I believe was attached to this
4 e-mail?

5 MS. DENIKER: And again, I will just instruct 03:30:47
6 you that to the extent that -- you're not to answer
7 with regard to any attorney-client privileged
8 communications, but if you had other communications,
9 you can answer with regard to those.

10 THE WITNESS: Would you ask me that again. 03:31:06

11 BY MS. REINHARDT:

12 Q Did you speak with --

13 MS. DENIKER: If you just give me a
14 continuing -- I'll just continue that same
15 instruction, but I won't interrupt you, if that's 03:31:16
16 okay, so the witness can hear the question.

17 MS. REINHARDT: Thank you, Mrs. Deniker.

18 BY MS. REINHARDT:

19 Q I'm wondering if you spoke with Mr. Mazza
20 upon learning about the allegations in the 03:31:28
21 complaint.

22 A I did not.

23 Q Did any employees of the county board raise
24 concerns about B.P.J. being a girl who is
25 transgender? 03:31:48

1 A No.

2 Q Under H.B. 3293, can cisgender girls play on
3 girls' sports teams?

4 MS. DENIKER: Objection to the form.

5 MR. TRYON: Objection. 03:32:07

6 THE WITNESS: Yes.

7 BY MS. REINHARDT:

8 Q Under H.B. 3293, can girls who are
9 transgender play on the girls' sports teams?

10 MS. DENIKER: Object to the form. 03:32:20

11 MR. TRYON: Same objection.

12 (Simultaneous speaking.)

13 MS. DENIKER: And I'm so sorry to interrupt
14 here, but I heard the same question you just asked,
15 which makes me believe that I didn't hear it 03:32:31
16 correctly.

17 So if you would preserve all of our
18 objections, could you ask that again, please?

19 MS. REINHARDT: Yes.

20 BY MS. REINHARDT: 03:32:41

21 Q Under H.B. 3293, can girls who are
22 transgender play on girls' sports teams?

23 A If it's a -- no, but they can on coed teams.

24 Q And what -- what's your --

25 (Simultaneous speaking.) 03:33:00

1 BY MS. REINHARDT:

2 Q Oh, I apologize. Please go ahead.

3 A I -- I was going to say, it says no. That's
4 what -- that's what the house bill is.

5 Q And you mentioned coed. Are you referring to 03:33:12
6 coed sports?

7 A Yes.

8 MS. GREEN: Object to the form.

9 BY MS. REINHARDT:

10 Q Can you please tell me what your 03:33:25
11 understanding of -- what your understanding is of
12 coed sports?

13 MS. GREEN: Object to the form.

14 THE WITNESS: That the team is available to
15 either male or female athletes. 03:33:37

16 (Exhibit 28 was marked for identification
17 by the court reporter and is attached hereto.)

18 BY MS. REINHARDT:

19 Q I'm going to move tab 20 into the "Marked
20 Exhibits" folder. It will be Exhibit 28. I'll let 03:33:55
21 you know when you can refresh.

22 You may refresh. Please let me know once you
23 have reviewed Exhibit 28.

24 A I see it.

25 Q It says on page 2, under "Bridgeport High 03:34:34

1 School," where it lists "Football," it says,
2 "Co-Ed."

3 Can you explain to me why football is -- why
4 it says football is coed?

5 MS. GREEN: Object to the form. 03:34:53

6 THE WITNESS: I believe there's not a -- a
7 football -- female football team, so they created a
8 coed team because there's not a counterpart for a
9 female athlete to participate.

10 BY MS. REINHARDT: 03:35:10

11 Q Can you please explain that to me a little
12 bit further?

13 So it's marked as coed because there's not a
14 girls team; is that correct?

15 A Correct. 03:35:19

16 MS. DENIKER: Object to the form.

17 BY MS. REINHARDT:

18 Q So why would it be marked co- -- I'll
19 rephrase.

20 Generally, if I'm understanding correctly, 03:35:29
21 the football team would be a boys' team, and it is
22 marked "Co-Ed" because there is no girls' team; is
23 that correct?

24 MS. GREEN: Object to the form.

25 A I have no idea. We've -- we've had girls 03:35:55

1 play on football teams for a long time. They could
2 be kickers. They've -- they've been on football
3 teams for quite a while.

4 BY MS. REINHARDT:

5 Q And is that true of the wrestling team as 03:36:06
6 well?

7 MS. GREEN: Object to the form.

8 A Yes, we do have -- yes, we have female
9 wrestlers.

10 BY MS. REINHARDT: 03:36:19

11 Q Okay. Great. You can take down that exhibit
12 for now.

13 Prior to H.B. 3293, what team would B.P.J. be
14 required to play on?

15 MS. DENIKER: Objection to the form. 03:36:32

16 THE WITNESS: She chose to run cross-country.
17 It's a coed sport.

18 BY MS. REINHARDT:

19 Q Sorry, I'm going to ask you to please re-pull
20 up Exhibit 28. 03:36:50

21 And if you look at page 4, under "Bridgeport
22 Middle School," it says (as read):

23 "Boys Cross-Country, Boys.

24 "Girls Cross-Country, Girls."

25 So what do you mean by it is a coed sport? 03:37:13

1 column and "Girls" in the second column.

2 So would that mean that girls would be the
3 winners on the girls' cross-country team?

4 A I would assume so.

5 Q Prior to H.B. 3293, what team would 03:39:11
6 B.P.J. play on?

7 MS. DENIKER: Objection to the form.

8 MS. GREEN: Object to the form.

9 THE WITNESS: Prior to that rule, she would
10 have been rostered as what her birth certificate 03:39:34
11 said.

12 BY MS. REINHARDT:

13 Q Are you aware of what her birth certificate
14 says?

15 A It's whatever is in WVEIS. 03:39:48

16 Q Are you aware of what is in WVEIS?

17 A I'm not aware of that. I'm not sure what --
18 where she's at.

19 Q Prior to H.B. 3293, what team would
20 transgender boys play on? 03:40:09

21 MS. DENIKER: Objection to the form.

22 MR. TRYON: Objection.

23 MS. GREEN: Objection.

24 THE WITNESS: You said transgender boys prior
25 to? 03:40:31

1 BY MS. REINHARDT:

2 Q Correct.

3 A They would be rostered the same as their --
4 whatever they are on WVEIS. We would be required to
5 roster them male or female. 03:40:49

6 Q Why are you required?

7 MS. GREEN: Object to the form.

8 THE WITNESS: That's the rules we have from
9 the WVSSAC say.

10 BY MS. REINHARDT: 03:41:15

11 Q You said the rules from WSSAC (sic)? Did I
12 hear that properly?

13 MS. GREEN: Object to the form.

14 A Yes. And we do go by what is in WVEIS.

15 BY MS. REINHARDT: 03:41:33

16 Q Is there a benefit to playing on sports
17 teams?

18 MS. DENIKER: Objection to the form.

19 THE WITNESS: Absolutely.

20 BY MS. REINHARDT: 03:41:45

21 Q What are those benefits?

22 A Cooperation, teamwork, watching out for your
23 fellow players. There's a lot of benefit to having
24 a team sport.

25 Q Would you say B.P.J. benefited from 03:41:59

1 participating in sports?

2 MS. DENIKER: Objection to the form.

3 MR. TRYON: Objection.

4 THE WITNESS: I can't speak for her, but I
5 hope she did. I hope she had a great experience. 03:42:09

6 BY MS. REINHARDT:

7 Q And I'm just trying to further understand how
8 WVEIS works.

9 What rule requires you to follow the gender
10 listed in WVEIS? 03:42:24

11 MS. GREEN: Objection to the form.

12 THE WITNESS: WVEIS allows us to put -- when
13 we have -- when we have a student ask for a certain
14 name, we're allowed to put that in there so that
15 during the course of the day, they can use their 03:42:42
16 name that they choose to be called by, but because
17 WVEIS is a database that generates legal documents,
18 graduation transcripts, is -- is the big thing. I
19 mean, it is -- it's a legal -- it's what generates
20 the legal documents later. It's a record of their 03:43:09
21 school. It's a -- it's a legal record.

22 So we only make changes in WVEIS if we have a
23 court order or a birth certificate that tells us
24 gender, their sex, male or female.

25 BY MS. REINHARDT: 03:43:29

1 Q For sports specifically, what rule requires
2 you to follow the gender/sex listed in WVEIS?

3 MS. GREEN: Object to the form.

4 MS. DENIKER: Same objection.

5 THE WITNESS: It's the -- it's the same. 03:43:45

6 It's -- it's a guideline for us. We -- we do not
7 have -- I do not have the legal authority and I sure
8 wouldn't want my AD or my administrator to have that
9 legal authority to make that change. We ask for
10 either a judge or someone above us to tell us that. 03:44:03

11 BY MS. REINHARDT:

12 Q Do you know where this rule comes from?

13 MS. DENIKER: Object to the form.

14 THE WITNESS: I do not.

15 BY MS. REINHARDT: 03:44:30

16 Q Are you aware of whether the County has
17 followed this rule across the board for all
18 students?

19 A I can speak to cases. We've -- we have
20 previous cases. When we get a court order or a 03:44:46
21 document with a new birth certificate and a name
22 change, we take care of that at the county level in
23 WVEIS, and we change that.

24 Q Thank you. Do you know where we might be
25 able to find the rule you are referring to? 03:45:08

1 MS. GREEN: Object to the form.

2 MS. DENIKER: Object to the form.

3 THE WITNESS: We -- we clarified that, there
4 was a call to our West Virginia Department of Ed --
5 I can't even recall when it was. It was under -- 03:45:22
6 when I was working for the previous
7 superintendent -- that we cannot change the legal
8 record in WVEIS without a court order or a new birth
9 certificate.

10 MS. REINHARDT: Court reporter, would you 03:45:46
11 please mind rereading my last question.

12 (Record read.)

13 BY MS. REINHARDT:

14 Q I just want clarity. If you could please
15 answer that question directly. 03:46:06

16 A I would direct you to the State Department of
17 Education.

18 Q Thank you. Did you ever receive any
19 complaints about any transgender students
20 participating in sports at Bridgeport Middle School? 03:46:25

21 A I did not.

22 Q Are you aware of any complaints about a
23 transgender student participating in sports at
24 Bridgeport Middle School?

25 A I am unaware of any complaints. 03:46:47

1 Q Are you aware if any transgender students,
2 other than B.P.J., have played sports in West
3 Virginia?

4 MR. TRYON: Objection.

5 THE WITNESS: I would -- I would not have 03:47:02
6 that knowledge.

7 MS. REINHARDT: So before I move on to the
8 next set of topics, we've been going for about an
9 hour, I'm happy to continue, but I wanted to see if
10 anyone needed a break. 03:47:18

11 THE WITNESS: I'm fine.

12 MS. REINHARDT: Great.

13 BY MS. REINHARDT:

14 Q So my next line of questioning pertains to
15 topics 4 and 5. I'm going to move tab 12 into the 03:47:27
16 "Marked Exhibits" folder. It's been previously
17 marked as Exhibit WV-17.

18 You may refresh. It should be there.

19 A We have it.

20 Q Have you seen this document before? 03:48:31

21 A I have.

22 Q And without disclosing any information you
23 may have had with counsel, when did you see this
24 document?

25 A In prep for this deposition. 03:48:45

1 Q And on the first page, do you see where it
2 says "Today's Date"?

3 A Yes.

4 Q And it says "8-23-19"; is that correct.

5 A Yes.

03:49:06

6 Q Do you know what the purpose of the gender
7 support plan is?

8 A Yes. It's the -- to bring everybody together
9 that's working with the -- the student and come up
10 with a plan.

03:49:21

11 Q Has the gender support plan ever been
12 requested other than for B.P.J.?

13 A Yes.

14 Q When was it requested?

15 MS. DENIKER: Objection to the form.

03:49:38

16 THE WITNESS: I could not give you specifics
17 on that. I know it has been requested throughout
18 Harrison County.

19 BY MS. REINHARDT:

20 Q Who created this document?

03:49:48

21 A This document was initially created with
22 support from Dr. Cris Mayo at WVU and with our
23 Title IX investigator. She was kind of given the
24 role to develop a plan. And we have an adolescent
25 coordinator that works for seven counties that had

03:50:15

1 been involved in some of this.

2 But it was with -- with Dr. Cris Mayo and my
3 Title IX director and just -- information, and they
4 put this together.

5 Q Do you recall when that was? 03:50:33

6 And I apologize if you said it and I did not
7 hear you.

8 A I'm trying to think of the year. '18 -- I'm
9 trying to think of the year. It would have been --
10 we had -- we had an issue a -- a few years ago, and 03:50:55
11 it generated this -- a need for it. As we
12 discovered, we had a need for this. So that's where
13 it came from.

14 I'm thinking 2018, the prior year. Might
15 have been '19. 03:51:13

16 Q And when you say there was a need for this,
17 can you -- can you explain what you mean by there
18 was a need for this?

19 MS. DENIKER: I'm going to object to the
20 form. I'm also going to object to any discussion 03:51:27
21 that is student-specific so we can avoid any HIPAA
22 issues.

23 THE WITNESS: Well, we have -- when our
24 administrators reach out and ask questions and we
25 had more students requesting to be called by other 03:51:46

1 names and -- you know, of course, it was new for us.
2 We're trying to understand it. So it generated a
3 need to have a -- a protocol in place or guidelines
4 for our schools to follows so we're all working in
5 the same direction and focused. 03:52:03

6 BY MS. REINHARDT:

7 Q Does the county board -- and again, when I
8 refer to the county board, I mean the entire County
9 Board of Education.

10 Does the county board provide the gender 03:52:15
11 support plan to the schools?

12 A The gender support plan was generated in our
13 county office and provided to the schools, yes.

14 Q Thank you. And does the county board receive
15 a copy of completed gender support plans? 03:52:37

16 A We do not. They're kept at the school level,
17 in the student file.

18 Q Are they kept in WVEIS at all?

19 A No. The only thing in WVEIS is a name that
20 the student uses, in parentheses, that they would 03:52:55
21 prefer to be called.

22 Q Do you know why it isn't stored in WVEIS?

23 A That's not the role of WVEIS. We have other
24 documents that we prepare at the school level that
25 take care of our kids. We have multiple plans that 03:53:11

1 we use, and -- and they're kept in the school file.

2 You have to understand that the kids that are
3 interacting -- or the people and -- and faculty that
4 are interacting with those children at the school
5 are the frontline people that need to know and -- so 03:53:30
6 it's kept there so the school has access to it and
7 input into it. They know the people involved.

8 Q Does sex change in WVEIS as a result of the
9 gender support plan?

10 A No. 03:53:55

11 Q I want to look at this first page where it
12 says "Meeting Participants."

13 Who is Sarah -- oh, I apologize, you've
14 already explained.

15 Sarah Starkey is the Title IX director; is 03:54:09
16 that correct?

17 A Yes, she is.

18 Q And why was she in attendance?

19 A When we began doing the gender support plans,
20 we put that under her purview, in her department. 03:54:24
21 So she is the one that's been with this from the
22 ground up. She's a great support for our -- our
23 administrators and our families. She also is a
24 social worker. She has an excellent background, a
25 Title IX investigator. She's the right person to be 03:54:40

1 involved in this.

2 Q Does she attend all gender support plan
3 meetings?

4 A She is invited to all of them, and she tries
5 to. But we're a large county. Sometimes she is 03:54:53
6 not.

7 Q And again, I apologize if you've already
8 said, but who is Tarra Shields?

9 A Tarra Shields is the principal at
10 Norwood Elementary. 03:55:08

11 Q And who is Jasmine Lowther?

12 A Jasmine Lowther is the fourth-grade teacher
13 at Norwood Elementary.

14 Q And why was she at the gender support plan
15 meeting? 03:55:24

16 A Jasmine Lowther was the fourth-grade teacher.
17 This would have been done in August when school was
18 starting, and [REDACTED] would have been going into the
19 fourth grade. So that would have been her classroom
20 teacher. 03:55:36

21 Q And, finally, why was Nurse Tina at the
22 gender support plan meeting?

23 A When we do a comprehensive plan at the
24 school, we generally bring in any health support
25 people. They're just usually part of the school 03:55:54

1 planning team. We have, you know, of course,
2 anybody related to counseling, and nursing is a big
3 part of that school, and so she was part of the
4 plan.

5 Q Thank you. I'm going to ask you to turn to 03:56:06
6 the next page. It's Bates-Stamped number, at the
7 bottom, BPJ 008.

8 And at the top, it states (as read):

9 How will teach --

10 "How will a teacher/staff member 03:56:21
11 respond to any questions about the
12 student's gender from:"

13 And then it lists three different incidents.

14 Do you see that?

15 A Yes, I see that. 03:56:39

16 Q And it lists "Other students? Staff members?
17 Parents/community?"

18 Is that correct?

19 A Yes.

20 Q For each group, it states (as read): 03:56:46

21 "Be open and honest - she is [REDACTED]."

22 Do you see that?

23 A Yes.

24 Q What does it mean by "be open and honest"?

25 MS. DENIKER: Objection to the form. 03:57:00

1 THE WITNESS: I think with any student, we --
2 we want to be open and honest and just -- we want
3 them to be -- be in a happy place.

4 BY MS. REINHARDT:

5 Q So is your understanding that when it states 03:57:18
6 "be open and honest," that they're directing the --
7 they're directing the teachers or staff members to
8 be open and honest?

9 MR. TRYON: Objection.

10 MS. DENIKER: Objection to form. 03:57:29

11 THE WITNESS: Well, it's talking about other
12 students, staff members. You've got to look at this
13 plan in -- in its entirety. You're looking at a
14 school and a group of individuals that's dealing
15 with [REDACTED] every day, and they're trying to make 03:57:44
16 this plan, and I want to say as open and honest and
17 as real as possible for her so that when she comes
18 to school every day, she feels safe and secure and
19 she belongs there.

20 So if you go back to the front page, every 03:58:00
21 person that's involved with [REDACTED] at that school is
22 listed. And including [REDACTED]. [REDACTED] was there.

23 So the language on here was developed as a
24 group so they could make it a great environment for
25 her. They wanted her to be successful. 03:58:12

1 BY MS. REINHARDT:

2 Q I'm simply trying to understand what "open
3 and honest" means.

4 MS. DENIKER: Same objection.

5 BY MS. REINHARDT: 03:58:27

6 Q So in this context, what does "open and
7 honest" mean?

8 A I --

9 MR. TRYON: Objection.

10 THE WITNESS: I was not in that meeting. 03:58:32

11 I was not in that meeting. It means what it
12 means, that you're open and honest. I -- I don't
13 know. I would not be able to speak to what that
14 meaning is --

15 BY MS. REINHARDT: 03:58:42

16 Q I'm going to --

17 A -- other than they -- they wanted her to be
18 in a safe, secure environment.

19 Q I'm going to move tab 13 into the "Marked
20 Exhibits" folder. And it was previously marked as 03:58:53
21 Exhibit WV-19.

22 Do you see that?

23 A I do.

24 Q And were you in attendance for this gender
25 support plan meeting? 03:59:15

1 A I was not. The participants are listed.

2 Q And if you go to that second page, where it
3 says "BPJ 003," similarly, under "How will a
4 teacher/staff member respond to any questions about
5 a student's gender from:" and lists those three 03:59:34
6 categories, it says (as read):

7 "Be open and honest - she is [REDACTED],
8 and that makes her happy."

9 Did you speak to anyone about either of these
10 gender support plans? 03:59:49

11 A When we were preparing for today's
12 deposition.

13 Q And not including your attorney, did anyone
14 provide clarity on what it means to be "open and
15 honest - she is [REDACTED]"? 04:00:09

16 A No, not specifically.

17 Q Thank you. If you could please go back to
18 that previously marked exhibit, WV-17.

19 A Yes.

20 Q And on that second page, BPJ 008, closer to 04:00:33
21 the bottom of the page, it says (as read):

22 "Gender will be male, but [REDACTED] will
23 be in () next to birth name."

24 Do you see that?

25 A I do. 04:00:50

1 Q What does the -- what does the double
2 parentheses mean?

3 A That means in WVEIS, in the -- in the WVEIS
4 system, outside of her official given name, it will
5 be in parentheses what her preferred name is. 04:01:05

6 Q So this -- what's written here is pertaining
7 to B.P.J.'s name; correct?

8 A Yes.

9 Q So the --

10 A How she would have identified in WVEIS. 04:01:23

11 Q So are the double brackets in WVEIS empty, or
12 is there somebody in -- I'll just ask that first.
13 Is the -- are the double brackets in WVEIS empty?

14 A No. It has "[REDACTED]."

15 Q So if I'm understanding correctly, it says 04:01:38
16 gender will be male, but in WVEIS, next to "male,"
17 it will say "[REDACTED]"; is that correct?

18 MS. DENIKER: Objection to the form.

19 THE WITNESS: It's by her name. It's her --
20 her -- her official name is there, and "[REDACTED]" is in 04:02:00
21 parentheses on that line.

22 BY MS. REINHARDT:

23 Q Thank you for clarifying.

24 I'm going to ask you to turn to what's page 4
25 that says BPJ 010, and near the bottom, it says (as 04:02:09

1 read):

2 "What training(s) will the school
3 engage in to build capacity for
4 working with gender-expansive
5 students? How will the school work
6 to create more gender inclusive
7 conditions for all students?"

04:02:26

8 Did I read that correct?

9 A Yes.

10 Q And the answer says (as read):

04:02:34

11 Norwood staff receives (sic)
12 training on tolerance and cultural
13 diversity and LGBTQ + AI (sic) on
14 8/23 -- sorry -- 8/21 and -- and
15 provided protocol and multiple
16 resource -- resources (sic) sources.

04:02:52

17 Did I read that correctly?

18 A Yes.

19 Q The date of the gender support plan, as we
20 noted earlier, is 8/23/19.

04:03:07

21 Are you aware if the training did in fact
22 occur two days prior to the gender support plan?

23 A I would not be able to speak specifically. I
24 know countywide we did multiple trainings. I do not
25 have those dates.

04:03:30

1 Q Did you, Superintendent Stutler, attend any
2 of these trainings?

3 A I did.

4 Q And what did the trainings entail?

5 A The trainings were provided by Dr. Cris Mayo. 04:03:41
6 We originally brought her in to meet with several
7 school staff, and then she did a training with all
8 of our school administrators and county office
9 administrators, and it was about how to make our
10 school environments inviting for -- and it really 04:04:03
11 was all-encompassing. The children -- children are
12 children. Students are students. Athletes are
13 athletes.

14 It really was -- it was a great training
15 because it made you focus on, you know, you're there 04:04:22
16 for kids and we need to make them comfortable and
17 out of the line of fooling or intimidation in any
18 manner. She -- she framed it in the sense this is
19 for all of our kids.

20 Q And did Dr. Cris Mayo provide any guidance on 04:04:37
21 how to make students more comfortable?

22 A She gave specifics, and I cannot recall
23 those. She gave us a lot of information.

24 Q Did staff receive resources?

25 A They did, provided by her and the department 04:04:58

1 at WVU, the diversity department.

2 Q Do you have a copy of those resources?

3 A I do in my office.

4 Q And did these trainings occur prior to 2019?

5 A We've had diversity trainings prior, not -- 04:05:21
6 not involving Cris Mayo. But that's been part of
7 the county for quite a while.

8 Q And did those trainings always include LGBTQ
9 plus IA?

10 A All -- 04:05:42

11 MS. DENIKER: Objection to the form.

12 THE WITNESS: Specifically, I don't know that
13 it said that, but we did provide diversity training.
14 That's all-encompassing. So I would say yes, it
15 addressed that. 04:06:06

16 We tried to identify -- everybody -- our
17 children aren't all the same. It's difficult to put
18 them in categories. Their needs are different, and
19 we meet those needs as they come to us.

20 BY MS. REINHARDT: 04:06:16

21 Q On the same page, it says (as read):

22 "Plan will be reviewed at least
23 yearly."

24 Do you see that?

25 A Yes. 04:06:25

1 Q What does it mean by "plan"?

2 A This plan, this written plan that's developed
3 by -- in this case, [REDACTED] was there. Her mother was
4 there. School staff was there. So we look at it
5 annually and sooner, if it needs to be. 04:06:44

6 Q Do you know if the plan was reviewed the
7 following year?

8 A Are you speaking about the plan I'm looking
9 at now?

10 What's the date on this one? 04:07:00

11 It will be on the second -- wait. I'm moving
12 it.

13 She -- this was from fourth grade -- when she
14 was going into fourth grade.

15 They could have reviewed it and not made 04:07:18
16 changes to it. I don't know that.

17 Q Thank you.

18 A I don't know that.

19 Q And on the last page, page 5, where it says

20 "BPJ 001 (sic) at the bottom, it says (as read): 04:07:34

21 "Will schedule at end of school year
22 for next school year."

23 And I reading that correctly?

24 A Yes.

25 Q Was that stating the plan would be reviewed 04:07:41

1 for the fifth-grade year?

2 A Tarra Shields -- in conversation with
3 Tarra Shields, they put this plan into place, her
4 going into fourth grade. And, now, this is from
5 Tarra Shields. There were -- they -- she had a -- 04:08:05
6 I'm talking from Tarra, that she had a good
7 fourth-grade year. They were going -- she was going
8 into the fifth grade, and they felt there was really
9 no need to change anything.

10 At any time, a parent can request that the 04:08:20
11 plan be reviewed. So I would take that if there's
12 not another plan dated, that they felt that, you
13 know, she was having a good two years.

14 Q And who are you referring to when you say
15 "they"? 04:08:35

16 A I -- I would say Tarra Shields, this team
17 that was with her at Norwood. And you've also got
18 to understand the parent is involved in this.
19 And -- and [REDACTED].

20 Q Did the county board implement any policies 04:08:46
21 related to transgender students after implementing
22 [REDACTED]'s gender support plan?

23 A No.

24 Q Now I'm going to ask you to go back to what
25 was previously marked as WV-19. 04:09:05

1 A Okay.

2 Q Did you see -- have you seen this document
3 before?

4 A In preparing for this deposition.

5 Q In looking at this first page, we've already 04:09:27
6 been over a few of these meeting participants, but
7 I'm hoping you can tell me who Amber Davis is.

8 A Amber Davis is the counselor at Norwood.

9 Q And who is David Mazza?

10 A The principal at Bridgeport Middle School. 04:09:46

11 Q And who is Lauren Muro, if I'm pronouncing
12 her name right?

13 A Laura -- Lauren is the counselor at
14 Bridgeport Middle.

15 Q Thank you. And on the same first page, it 04:09:59
16 says (as read):

17 "How public or private will
18 information about this student's
19 gender be?"

20 And there's an X next to "Teachers and/or 04:10:16
21 other school staff will know."

22 And then it says "Specify the adult staff
23 members," and it states "All teachers."

24 Am I reading that correctly?

25 A Yes. 04:10:29

1 Q Who did -- were all teachers, in fact,
2 informed about [REDACTED]'s gender?

3 A Mr. Mazza informed her teachers, yes.

4 Q Are you aware of what the teachers were
5 informed? 04:10:50

6 A No, I do not know exactly what they were
7 told.

8 Q Thank you. And now I'd like to turn to
9 page 4, which is listed as BPJ 005. And at the top,
10 it indicates that B.P.J. would be participating in 04:11:11
11 cross-country and track.

12 Do you see that?

13 A I do.

14 Q And underneath, it says (as read):

15 "Coaches would need to be aware of 04:11:22
16 [REDACTED]'s transition. If teammates
17 have questions, they could approach
18 the coaches or administration."

19 Do you see that?

20 A Yes. 04:11:31

21 Q Were the coaches informed of B.P.J.'s gender?

22 MS. DENIKER: Objection to the form.

23 THE WITNESS: I don't know. I really --
24 that, I don't know.

25 ///

1 BY MS. REINHARDT:

2 Q Do you know if the teachers were informed
3 about B.P.J.'s transition?

4 MS. DENIKER: Objection to the form.

5 And are you asking about coaches -- 04:12:00

6 MS. REINHARDT: Yes.

7 MS. DENIKER: -- or teachers?

8 MS. REINHARDT: I'm asking about coaches, as
9 it states on that second question on page BPJ 005.

10 MS. DENIKER: Thank you. Same objection. 04:12:13

11 THE WITNESS: I'm not aware of that.

12 BY MS. REINHARDT:

13 Q And near the bottom, it says (as read):

14 "What training(s) will the school
15 engage in to build capacity for 04:12:29

16 working with gender-expansive
17 students? How will the school work
18 to create more gender inclusive
19 conditions for all students?"

20 Did I read that correctly? 04:12:36

21 A Yes.

22 Q It states further (as read):

23 "BMS will receive training on
24 tolerance and culture diversity and
25 LGBTQ as arranged by Mr. Mazza 04:12:51

1 during upcoming school year."

2 Is that -- am I reading that correctly?

3 A Yes.

4 Q What is BMS?

5 A Bridgeport Middle School. 04:13:01

6 Q So who would that training be for?

7 A His staff, his teachers.

8 Q Are you aware if that training occurred?

9 A It did. I don't know the date. I spoke with
10 him, and he did do that training. 04:13:22

11 Q Did you attend that training?

12 A I did not.

13 Q Are -- are sports team coaches in attendance
14 for those trainings?

15 A When it talks about being -- you have to 04:13:36

16 understand, our sports coaches are not always
17 employees in the buildings where they are coaching.

18 So they could have been in training maybe in the
19 building where they were at. It would not have been

20 specific to any -- it would have just been general 04:13:54
21 diversity training.

22 Our coaches come from all over. We have -- a
23 coach might live on one side of the county and work
24 in one side of the county but coach at another high
25 school. So they would not always be there during 04:14:11

1 that school day when that training would be taking
2 place.

3 MS. REINHARDT: Thank you. I'm now going to
4 put tab 14 into the "Marked Exhibits" folder. I
5 believe we are at Exhibit 28. Oh, sorry, let me 04:14:26
6 see. 29. It will be marked as Exhibit 29. I'll
7 let you know once the page is refreshed.

8 And it should be in the folder now.

9 (Exhibit 29 was marked for identification
10 by the court reporter and is attached hereto.) 04:14:58

11 BY MS. REINHARDT:

12 Q Do you see it?

13 A I do.

14 Q And Amber Davis attended the gender support
15 plan meeting at Bridgeport Middle School; correct? 04:15:15

16 A Yes.

17 Q Are you aware if Davis and B.P.J. interacted
18 often?

19 MS. DENIKER: Objection to the form.

20 THE WITNESS: I don't know how often. She's 04:15:36
21 a school counselor there. I know that that
22 counselor goes into every classroom at least once a
23 week for 40 minutes, so I know they interact in that
24 general sense, and then as individual counseling is
25 required. 04:15:52

1 BY MS. REINHARDT:

2 Q Did Davis ever report any problems regarding
3 B.P.J. to the county board?

4 A No.

5 Q Are you aware of any problems Davis may have 04:16:06
6 reported to Bridgeport Middle School?

7 MS. DENIKER: Objection to the form.

8 THE WITNESS: No.

9 BY MS. REINHARDT:

10 Q Have you seen this exhibit before? 04:16:26

11 A When I was preparing for the deposition.

12 Q Let's review the top portion of this
13 document, which appears to not be dated.

14 Do you know if these are Amber Davis's
15 personal opinions of B.P.J.? 04:16:39

16 MS. DENIKER: Objection to the form.

17 THE WITNESS: I spoke with Amber about these
18 notes.

19 BY MS. REINHARDT:

20 Q Did Amber indicate whether these were her 04:16:53
21 personal opinions?

22 A They were not her personal opinions.

23 Q Did Amber state to you whose opinions they
24 were?

25 A She could not recall. She had had a 04:17:08

1 conversation with someone she could not recall. I
2 asked her that specifically. She said she was an --
3 you have to understand, she was a brand-new
4 counselor in that school, had only just been there,
5 and she was trying to learn names of people. And 04:17:24
6 she said, I just do not recall.

7 Q Let's look at the notes that appear to be
8 dated 3/22.

9 Did Davis state whether these were her
10 personal opinions? 04:17:43

11 A They are not her personal opinions.

12 Q Whose opinions are they?

13 A These were --

14 MS. DENIKER: Objection to form.

15 THE WITNESS: It was just a note that she 04:17:53
16 made. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

23 BY MS. REINHARDT:

24 Q And now let's look at the note that appears
25 to be dated 3/23. 04:18:26

1 You should be able to refresh.

2 I apologize. This was previously marked as
3 WV-18.

4 A I have that.

5 Q Have you seen this form before? 04:20:26

6 A I have.

7 Q And when did you see it?

8 A It was developed in -- with our protocol.

9 Q Which protocol are you referring to?

10 A When we did the gender support plan, this was 04:20:39
11 part of that process.

12 Q How long has the county board been using the
13 gender support -- I apologize -- the preferred name
14 request form?

15 A I believe when we started using the protocol. 04:20:54

16 Q To your knowledge, when would students fill
17 this form out?

18 A If a -- if a child in -- in any school
19 chooses to have a different preferred name, they
20 would -- most of the time, kids go to the teacher. 04:21:25

21 They go to their teacher. If that's not a safe
22 place for them to go, they would hopefully go to the
23 counselor, and they are provided this form, and then
24 the process begins.

25 Q How are students made aware of the preferred 04:21:41

1 name request form?

2 A That's done within the schools.

3 Q Do you know how the schools introduce
4 students to the preferred name request form?

5 A It would be available through the school 04:22:02
6 counselors. And, fortunately, in Harrison County,
7 we do have a counselor in every building.

8 Q Do you know if any students other than [REDACTED]
9 have used the preferred name request form?

10 A We -- we have others. 04:22:21

11 Q Did you discuss this form with anyone at
12 Bridgeport Middle School?

13 A No.

14 Q Have you, Superintendent Stutler, spoken with
15 B.P.J. about her name? 04:22:42

16 A No.

17 (Exhibit 30 was marked for identification
18 by the court reporter and is attached hereto.)

19 BY MS. REINHARDT:

20 Q Thank you. I'm now going to move tab 16 into 04:22:52
21 the "Marked Exhibits" folder. And now I will
22 correct that this will be Exhibit 30?

23 Feel free to refresh.

24 A Okay.

25 Q If you could please review this e-mail, and, 04:23:32

1 once it's been reviewed, if you could please let me
2 know if you've seen it before.

3 A Yes.

4 Q Who is Barbara Tucker?

5 A Barbara Tucker is a region 7 athletic health 04:24:01
6 initiative coordinator. She works under grant
7 funding and provides services to seven counties.

8 Q And at the bottom of the first page, it says
9 (as read):

10 "After reviewing your in-house 04:24:19
11 training options for our staff, I
12 think that Mr. Mazza would like to
13 do your half day (preferably 2 hours
14 if possible) session on strategies
15 and resources for diversity and 04:24:30
16 inclusion (sic) classrooms with you
17 and Selina Vickers on the morning of
18 October 29th."

19 Do you see that?

20 A Yes. 04:24:43

21 Q Do you know why Laura (sic) Merrill and
22 Barbara Tucker would be e-mailing?

23 A Lauren Merrill was the counselor at
24 Bridgeport Middle, and they were looking for
25 additional training and resources for their staff. 04:24:58

1 This would not be unusual --

2 Q Do you know --

3 A -- for any topic.

4 Q Do you know if this training occurred?

5 A I do not. I could not tell you for sure. 04:25:09

6 MS. REINHARDT: I'm going to now put in tab
7 17 into the exhibit folder. It will be marked as
8 Exhibit 31.

9 (Exhibit 31 was marked for identification
10 by the court reporter and is attached hereto.) 04:25:27

11 BY MS. REINHARDT:

12 Q It should be in the folder now.

13 A I see that.

14 Q At the top, it says (as read):

15 "I have linked a few resources that 04:26:01

16 could be helpful for our session

17 tomorrow."

18 Do you see that?

19 A Yes.

20 Q I'm going to ask you to now turn to the page 04:26:09

21 with HCBOE 01178 Bates-Stamped on the bottom.

22 A I have that up.

23 Q If you could just take a look at these
24 materials.

25 A Okay. 04:26:54

1 Q Do you recognize these materials?

2 A Not these specifically. She provides us with
3 a lot of different resources, but not -- I can't say
4 that I've looked at these specifically.

5 "Welcoming Schools," I have. 04:27:16

6 Q In what context does Barbara Tucker provide
7 resources?

8 A Like I said, she is -- works with -- with
9 seven counties. She provides resources on all types
10 of adolescent health, any kind of health 04:27:39
11 initiatives. She does smoking cessation, not -- not
12 just this. I mean, diversity training. And she
13 provides that to seven counties. And we
14 occasionally reach out to her for resources.

15 Q And when you say "we," who are you referring 04:27:58
16 to?

17 A The County, our county administrators, if
18 they find something that they need specifically for
19 their building. It's not unusual for them to look
20 for resources for their staff, and she is one 04:28:10
21 resource.

22 Q Are you aware if Barbara Tucker provides
23 resources to students?

24 A I'm sure she has student handouts, but I -- I
25 don't have them specifically. 04:28:30

1 MS. REINHARDT: Okay. No problem.

2 If you could go into the "Marked Exhibits"
3 folder, I'm going to introduce you to a document
4 that's been marked as Exhibit 31 -- no -- 32.

5 If you could please review this document. 04:29:09

6 (Exhibit 32 was marked for identification
7 by the court reporter and is attached hereto.)

8 THE WITNESS: I have that.

9 BY MS. REINHARDT:

10 Q Have you seen this e-mail before? 04:29:18

11 A I have.

12 Q And are you familiar with this e-mail because
13 you are cc'd on it?

14 A Yes.

15 Q And it says (as read): 04:29:37

16 "Please see attached forms for the
17 2020-2021 school year."

18 Do you see that?

19 A Yes.

20 Q Did Sarah Starkey provide new forms for every 04:29:50
21 school year?

22 A She generally -- that's like an August thing.
23 She will update forms and send them out.

24 Q Wonderful. And if you turn to the first
25 attachment, which is marked HCBOE 01132 at the 04:30:11

1 bottom, it says "Teacher/Staff Protocol for
2 Transgender and Gender Non-conforming Students."

3 Do you see that?

4 A Yes.

5 Q Was this form approved by the county board? 04:30:27

6 A No. This was a -- just a protocol developed
7 from our office to support our administrators and
8 our teachers.

9 Q So the county board has documents that are
10 not officially approved; is that correct? 04:30:50

11 MS. DENIKER: Object to the form.

12 THE WITNESS: The county board generates a
13 lot of documents that do not go to a board meeting
14 for action.

15 BY MS. REINHARDT: 04:31:09

16 Q So when you referred to "our office," who
17 were you referring to?

18 A That would be myself and my department heads.

19 Q Before the teacher/staff protocol for
20 transgender and gender non-conforming students is 04:31:22
21 provided, does the county board review it?

22 A That would have -- that would fall under the
23 purview of day-to-day operations for my building,
24 and they would allow me to make that decision.

25 Q And on the page marked HCBOE 01133, it lists 04:31:43

1 Sarah Starkey, Cris Mayo, Barbara Tucker,
2 Trans Lifeline.

3 Does Cris Mayo work for the county board?

4 A No.

5 Q Who created this document? 04:32:11

6 A Sarah Starkey.

7 Q Why was the document created?

8 A It was part of our gender support plan and
9 the processes we would use when we had a child that
10 wanted to identify as transgender. 04:32:29

11 Q Thank you.

12 MS. REINHARDT: Before I move on to the next
13 topic, I just want to see if anybody needs a break.

14 THE WITNESS: I'm good.

15 THE VIDEOGRAPHER: This is -- 04:32:46

16 MS. REINHARDT: I believe our --

17 THE VIDEOGRAPHER: Sorry, this --

18 MS. REINHARDT: -- co-counsel --

19 THE VIDEOGRAPHER: This is the videographer.

20 I would like to switch the tape, the volume, so -- 04:32:51
21 we've been going about an hour and 40, so if we
22 could do five minutes, that would be great.

23 MS. REINHARDT: No problem. Let's actually
24 just take a ten-minute break so folks can get some
25 water. 04:33:02

1 If we can go off the record for a ten-minute
2 break.

3 THE VIDEOGRAPHER: Sure. We're going off the
4 record. The time is 1:39 p.m., and this is the end
5 of Media Unit No. 2 (sic). 04:33:10

6 (Recess.)

7 THE VIDEOGRAPHER: All right. We are back on
8 the record at 4:46 p.m., and this is the beginning
9 of Media Unit No. 4.

10 Go ahead. 04:46:38

11 BY MS. REINHARDT:

12 Q I just wanted to circle back and get a little
13 bit of clarity on WVEIS. As you can understand, I'm
14 still trying to wrap my head around it.

15 Earlier, it seemed like you stated that there 04:46:47
16 might be a rule that requires a person to check
17 WVEIS in order to see what sports team a student
18 should be on; is that correct?

19 MS. DENIKER: Object to the form.

20 THE WITNESS: I don't -- I ask for guidance 04:47:13
21 from our state department. I don't know that that's
22 an official rule, so I probably misspoke.

23 BY MS. REINHARDT:

24 Q When did you ask for guidance?

25 A I said that earlier in testimony, when we 04:47:24

1 were asking when can we change a permanent record in
2 WVEIS, and we reached out to our state department.

3 Q And can you remind me what the state
4 department's answer was, if you recall?

5 A That we -- that we could not make an official 04:47:39
6 name change or change in WVEIS unless we had
7 something from a court or we had a -- a new birth
8 certificate.

9 Q And when did you speak to the State
10 Department of Education? 04:47:57

11 A It would have been when I was a personnel
12 director, reaching out on behalf of the
13 superintendent at that time. It would have been a
14 few years ago.

15 Q And why do you think WVEIS's gender controls 04:48:07
16 which sports students can play on?

17 MS. DENIKER: Object to the form.

18 THE WITNESS: My -- my understanding is, is
19 that there -- there's an automatic pull from WVEIS
20 into a roster, and I am not as familiar with it as 04:48:26
21 another witness may be on that, as far as rostering
22 for sports in SSAC. And I have my understanding
23 that there's an automatic pull and all of that goes
24 over into that roster.

25 Q And does the roster, if you know, go to the 04:48:43

1 coaches?

2 MS. DENIKER: Object to the form.

3 THE WITNESS: I believe the ADs help roster
4 those students.

5 BY MS. REINHARDT: 04:48:58

6 Q And are you aware of any instance where the
7 roster has been reviewed in order to determine which
8 sports team a student is required to play on?

9 MS. DENIKER: Object to the form.

10 THE WITNESS: I -- I'm not aware, until this 04:49:13
11 deposition, of a case. It's the first time I've
12 seen, actually, rosters.

13 BY MS. REINHARDT:

14 Q Understood. Did the county board support
15 H.B. 3293 when it was being considered? 04:49:26

16 MS. DENIKER: Objection to the form.

17 THE WITNESS: I really could not comment on
18 that. I would have no way of knowing that.

19 MS. DENIKER: I'm going to -- can you reread
20 that -- can you repeat the question or have it read 04:49:46
21 back, please?

22 MS. REINHARDT: Yes.

23 If the court reporter could please read back
24 my question.

25 (Record read.) 04:50:10

1 THE WITNESS: I think I've said this. When
2 the county board gets a new law, we -- we have to
3 abide by that rule. It was not our rule. And the
4 county board is given those rules; we have to abide
5 by those, period. 04:50:27

6 BY MS. REINHARDT:

7 Q I'm wondering if the county board supported
8 H.B. 3293 when it was being considered by the
9 legislation.

10 MS. DENIKER: Same objection to the form. 04:50:43

11 THE WITNESS: I'm not going to -- I don't
12 know how to really answer that other than we support
13 all of our students in the sense that we need to
14 make them comfortable and aware and -- and support
15 them in their surroundings. 04:50:58

16 BY MS. REINHARDT:

17 Q So you are not aware of any rule prior to
18 H.B. 3293 in West -- where a school in West Virginia
19 had to follow the gender in WVEIS in order for a
20 student to participate on a sports team? 04:51:14

21 MR. TRYON: Objection.

22 MS. GREEN: Object to the form.

23 THE WITNESS: I'm not aware of any other
24 school in West Virginia.

25 ///

1 BY MS. REINHARDT:

2 Q Is there a school in West Virginia that you
3 know had to review WVEIS in order to determine which
4 sports team a student would play on?

5 MS. DENIKER: Objection to form. 04:51:39

6 THE WITNESS: I -- I believe you're asking
7 if -- and I'm -- tell me if I'm wrong -- if all
8 schools follow the same rules when they're
9 rostering. I'm -- I'm unaware of anything that
10 would be different. We're -- we're given guidelines 04:51:55
11 when we roster students.

12 BY MS. REINHARDT:

13 Q And --

14 A And I would believe that ADs and
15 administrators would be following those rules. 04:52:05

16 Q And so in accordance with those rules,
17 rosters are reviewed before students are designated
18 to a specific sports team?

19 MS. GREEN: Object to the form.

20 THE WITNESS: I -- I just -- I -- I think I 04:52:19
21 just want to say, I -- the only thing I know about
22 rostering is that there's a bulk of information
23 that's pulled over to that roster from that student,
24 for student information. I am not an expert on
25 rostering and sports by no means. 04:52:32

1 MS. DENIKER: I'll object to the form
2 belatedly because I didn't get it in in time and
3 also state that to the extent that this relates to a
4 topic to be covered by another witness, that it's
5 more appropriate to be asked of that witness. 04:52:51

6 MS. REINHARDT: Understood. I'll save that
7 line of questioning for another witness. Thank you.

8 MS. DENIKER: Thank you.

9 BY MS. REINHARDT:

10 Q Are you familiar with Title IX? 04:53:02

11 A I am.

12 Q Does the county board have a Title IX policy?

13 A It's included in our -- we have a -- a policy
14 that's a safe and supportive schools policy, and
15 it's all included in there. 04:53:22

16 Q And without disclosing any identities of any
17 students, has the county board received any Title IX
18 complaints from a transgender student?

19 MS. DENIKER: I'm going to object to the
20 extent that I believe that this is beyond the scope 04:53:43
21 of the topics set forth for the 30(b)(6) deposition.

22 If you know, I'm going to allow you to answer
23 this question, but I may object to any further
24 questioning on those.

25 MS. REINHARDT: Understood. 04:53:58

1 THE WITNESS: Yes.

2 BY MS. REINHARDT:

3 Q Does -- did any of those complaints relate to
4 student sports?

5 MS. DENIKER: Same objection. I'll -- 04:54:20
6 (Simultaneous speaking.)

7 MS. GREEN: Object to the form.

8 THE WITNESS: No.

9 BY MS. REINHARDT:

10 Q Has the county board ever been investigated 04:54:29
11 by the Department of Education for Title IX
12 violations?

13 MS. DENIKER: Objection to the form. And I
14 do believe that you are now well beyond the scope of
15 the topic. So if you can show me where this would 04:54:37
16 fall under a topic, I will reconsider my objection.

17 MS. REINHARDT: Yes, I believe it falls under
18 two topics. One second.

19 So I'm asking in connection, for background
20 information, as we discussed under topic 1, 04:55:04
21 Sarah Starkey was discussed, and I'm trying to get
22 more background information on the Title IX office,
23 their role and her role and what would be involved
24 of Sarah Starkey and her roles.

25 I'm also asking as it relates to topic 7, 04:55:23

1 "participation of transgender students in
2 school-sponsored sports in Harrison County."

3 MS. DENIKER: Well, I believe that that
4 question is beyond the scope of both of those
5 topics; and, therefore, I object to the line of 04:55:35
6 questioning about other Title IX complaints that may
7 have been received.

8 MS. REINHARDT: I'm going to --

9 MS. DENIKER: For this witness to answer a
10 question related to Title IX complaints about -- 04:55:48
11 from transgender students involving school sports,
12 the witness has answered that there are not any.

13 I do not believe that further questioning on
14 other Title IX complaints is appropriate or within
15 the topics presented. 04:56:01

16 MS. REINHARDT: That is my final question, if
17 the witness could please answer.

18 MS. DENIKER: Is the question just that has
19 the County ever --

20 Please read the back the question. I need to 04:56:17
21 hear what it is again.

22 MS. REINHARDT: If the court reporter
23 wouldn't mind, please.

24 THE REPORTER: Yes. Give me one second.

25 (Record read.) 04:56:55

1 MS. DENIKER: And I'm going to ask for --
2 this is Susan Deniker again.

3 What is the scope of timing on your question,
4 Ms. Reinhardt?

5 MS. REINHARDT: It will be from January 1st, 04:57:03
6 2019, to present.

7 THE WITNESS: No.

8 BY MS. REINHARDT:

9 Q Thank you. And just as one last final
10 follow-up question, has the county board implemented 04:57:12
11 any Title IX policies pertaining to transgender
12 students' participation in sports?

13 A No.

14 MS. REINHARDT: Thank you very much,
15 Superintendent Stutler. I believe that opposing 04:57:26
16 counsel may have a few questions for you.

17 THE WITNESS: Thank you.

18

19 EXAMINATION

20 BY MS. GREEN: 04:57:34

21 Q Hello, Superintendent Stutler. This is
22 Roberta Green with WVSSAC --

23 MS. GREEN: Kelly, did -- were you guys
24 hopping on to go first? Okay. I'll just leap to
25 the front of the line, then. 04:58:02

1 BY MS. GREEN:

2 Q -- and I'm here on behalf of WVSSAC, and I
3 recollect that you had testified to some issues
4 relative to their eligibility rules, their processes
5 and any processes they have in place relative to 04:58:15
6 3293.

7 Do you recollect that testimony?

8 A Yes.

9 Q And as you sit here, do you actually defer to
10 WVSSAC as probably more informed and knowledgeable 04:58:31
11 as to their processes?

12 A Repeat that question.

13 Q Would you defer to WVSSAC as being more
14 knowledgeable about WVSSAC policies --

15 MS. REINHARDT: Objection. 04:58:48

16 MS. DENIKER: Objection to the form.

17 BY MS. GREEN:

18 Q -- than you would be?

19 A Yes.

20 Q Okay. I -- I was like uh-oh. Okay. 04:58:56

21 In terms of eligibility rules and the scope
22 of those rules, if there are some -- or even one
23 state rule embedded in WVSSAC's policies -- it's a
24 state rule, not an SSAC or other policy -- is that
25 information that you know as you sit here today? 04:59:17

1 MS. REINHARDT: Objection to form.

2 MR. TRYON: Roberta, I'm going to object
3 because I didn't understand it, to be honest.

4 THE WITNESS: Yeah.

5 BY MS. GREEN: 04:59:38

6 Q All right. Well, you know, would you
7 defer -- Superintendent, would you defer to WVSSAC
8 as being potentially more knowledgeable about their
9 rules, how their rules work and --

10 MS. REINHARDT: Same objection. 04:59:48

11 BY MS. GREEN:

12 Q -- the preparations are pursuant to 3293, if
13 any?

14 MS. REINHARDT: Same objection.

15 MS. DENIKER: Objection to the form. 05:00:00

16 THE WITNESS: If you're saying they're more
17 knowledgeable, yes.

18 BY MS. GREEN:

19 Q Well --

20 A If you're -- 05:00:04

21 Q -- I don't know if I am, but hopefully --

22 A Yes.

23 Q -- WVSSAC is.

24 A Well, and they're in the room, yes.

25 Q There -- 05:00:08

1 A Yes.

2 Q All right. And -- and in -- in preparing for
3 your testimony today, you did not speak to Bernie
4 Dolan relative to WVSSAC's policies or its
5 preparations, did you? 05:00:31

6 MS. REINHARDT: Objection to form.

7 THE WITNESS: I did not.

8 MS. GREEN: Okay. I don't think I have any
9 other questions. Thank you very much,
10 Superintendent. I appreciate it. 05:00:44

11 THE WITNESS: Thank you.

12

13

14

15 EXAMINATION

16 BY MS. MORGAN:

17 Q Hi, Superintendent Stutler. My name is
18 Kelly Morgan, and I represent the West Virginia
19 Board of Education and superintendent Burch.

20 Can you hear me okay? 05:00:50

21 A I can.

22 Q I just want to ask you a couple of clarifying
23 questions about some testimony earlier about, as I
24 understand it, someone called the West Virginia
25 Board of Education for some guidance as to a -- a 05:01:11

Page 153

1 request to change a student's name.

2 Did I understand that correctly?

3 A Yes. And I can't tell you -- it was a few
4 years ago. We reached out on what we could do in
5 WVEIS when it came to name changes. 05:01:30

6 Q You said "we." Was it -- did you make the
7 phone call?

8 A It was actually -- I was in the room with
9 the -- with Dr. Hage. She was the assistant
10 superintendent at the time. And the superintendent 05:01:41
11 at that time had requested that we find that
12 information, so we reached out to the Department of
13 Ed.

14 Q Do you remember who it was you spoke to?

15 A I do not. I -- I do not. 05:01:55

16 Q And then you were asked whether that was
17 based on some sort of policy.

18 Are you aware of any specific policy by those
19 State Department of Education or Board of Education
20 as to when a student can change their name? 05:02:09

21 A We --

22 (Simultaneous speaking.)

23 A We were not -- we were not aware of any
24 policy. We needed guidance, so we -- we reached
25 out. 05:02:21

1 Q Okay. So then would you also defer to the
2 West Virginia Department of Education and/or the
3 West Virginia Board of Education as to their
4 specific policies that would be applicable?

5 MS. REINHARDT: Objection. 05:02:35

6 THE WITNESS: Yes.

7 MS. MORGAN: Very good. Thank you. I don't
8 have any other questions.

9 THE WITNESS: Thank you.

10 05:02:45

11

12 EXAMINATION

13 BY MR. TRYON:

14 Q Hello, Superintendent. It's been a --

15 A Hi. 05:02:53

16 Q -- a long day. I'm David Tryon. I represent
17 the State of West Virginia, and I'm an attorney with
18 the attorney -- in the attorney's general office.

19 So I have a few questions, and hopefully I
20 won't be duplicative of what has already been 05:03:05

21 discussed, but I would like to follow up on the
22 gender support plan, which I believe is Exhibit 17.

23 So if you could pull that up, that would be helpful.

24 I'm going to try and do the same here.

25 A I see that. 05:03:39

Page 155

1 Q Okay. So as I understand it, Sarah Starkey
2 and Cris Mayo were the primary drafters or preparers
3 of this document; is that right?

4 MS. REINHARDT: Objection to form.

5 THE WITNESS: Well, with help from the 05:03:52
6 adolescent coordinator, Barbara Tucker.

7 BY MR. TRYON:

8 Q Was this form created from scratch, or do you
9 know if it was taken from a form that someone else
10 had already come up with and just adopted by the 05:04:26
11 Harrison County Board of Education?

12 A I believe that Barbara Tucker and
13 Sarah Starkey were working -- I believe Barbara had
14 a form, and then it was created for Harrison County
15 schools and -- and what we felt we needed, and then 05:04:45
16 it was sent to Cris Mayo for review and changes were
17 made. And it went through that process several
18 times before we had the final document.

19 Q So this just wasn't a form taken from
20 someplace else, it may have started that way, but it 05:05:02
21 was customized; is that --

22 A I would not know the original -- yeah, I do
23 not know the original origins. I'm sure they looked
24 at something, and I believe that it was Barbara
25 Tucker that had some background, and that's where it 05:05:14

1 originated or the -- the beginnings of it.

2 Q And who made the final approval of this form?

3 A This form was actually brought back to the --

4 kind of the heads of the departments, and at the

5 time, it was Dr. Manchin, and we reviewed that 05:05:32

6 collectively together with Sarah before it was

7 rolled out to the principals and the schools.

8 Q So this was before you were the

9 superintendent?

10 A The initial gender support plan, yes. 05:05:46

11 Q Just to be clear, as I understand it, the

12 Board of Education never approved this; is that

13 right?

14 A No. It is just an internal, like, protocol.

15 It's guidelines for our schools. 05:06:03

16 Q And it applies to all schools within

17 Harrison County?

18 A Yes, we use this document in all of our

19 schools.

20 Q Was there a formal approval process? 05:06:14

21 A No.

22 Q Is -- at that time, was the Board of

23 Education made aware of this form?

24 MS. DENIKER: Objection to the form.

25 Are you speaking as to the elected board, 05:06:36

1 Mr. Tryon?

2 BY MR. TRYON:

3 Q Yeah, let me go back to that. Tell me -- I
4 guess I missed that. Maybe when I was cut off on
5 the phone call -- what's the difference between the 05:06:48
6 elected board and the nonelected board?

7 A Well, I think we made the distinction that
8 when we were talking about the elected board, it
9 would be, like, my five people, my -- my actual
10 board members, and then the board in general would 05:06:59
11 just be myself and my office.

12 Q Ah.

13 A So you're --

14 Q Yes.

15 A -- speaking of five elected board members. 05:07:10

16 Q Yes. Did the five elected board members ever
17 become aware of this form?

18 A It was never brought to a meeting for
19 official action, no.

20 Q Do you know if they are aware of it as of 05:07:26
21 today?

22 A I really could not say.

23 Q Fair enough. Do you know if this form has
24 been adopted with any other -- by any other counties
25 or by the state school board? 05:07:47

1 A I am not aware of that. I do know that
2 Sarah Starkey has had another county reach out for
3 examples. We tend to do that in education.

4 Q Have you looked through this form, and do you
5 feel like you understand it? 05:08:26

6 A I do.

7 Q Okay. When it -- in the very first part,
8 where it talks about the purpose of this document,
9 it says (as read):

10 "...is to create shared 05:08:38
11 understandings about the ways in
12 which the student's authentic gender
13 will be accounted for..."

14 What's your understanding of what that means,
15 specifically to student's authentic gender? 05:08:47

16 A Just an understanding of what the -- the
17 child's desire and the parents' desire is. It's
18 really a document to, I believe, collectively get
19 people all on the same page with where a child is
20 at, regardless of where they're at in the process 05:09:08
21 or -- I -- I -- I believe it is just a focus. It's
22 just a focus, the building and to provide support
23 for the child.

24 Q Did any lawyers take a look at this form?

25 MS. DENIKER: I'm going to object to the 05:09:30

1 extent it calls for any attorney-client
2 communications.

3 I'm instructing you to not testify about the
4 substance of any communications you had with counsel
5 about this form. 05:09:40

6 THE WITNESS: I am not aware of that.

7 BY MR. TRYON:

8 Q If you go to page 4.

9 A Okay.

10 Q And the first part of that is "Extra 05:10:13
11 Curricular Activities," and specifically it's asking
12 about, among other things, sports.

13 Do you see that?

14 A Yes.

15 Q So you -- or whoever prepared this, at the 05:10:24
16 time, understood that sports would be an issue that
17 would be impacted by biological males who wanted to
18 participate in -- in -- on girls' teams; right?

19 MS. REINHARDT: Objection.

20 MS. DENIKER: Objection to the form. 05:10:44

21 THE WITNESS: I -- I feel that this is just a
22 reflection of where the student is and what their
23 interests are. If you look, it's asking them lots
24 of other questions as well, just finding out what
25 they are interested in so that they could feel like 05:11:01

1 they are part of a school.

2 BY MR. TRYON:

3 Q And part of it was to find out about
4 children's interest in sports and what sports they
5 would participate in; right?

05:11:16

6 MS. REINHARDT: Objection to form.

7 MS. DENIKER: Objection to form.

8 THE WITNESS: Yes, I think that's all part of
9 knowing the child.

10 BY MR. TRYON:

05:11:32

11 Q And once you know the child, then you would
12 need to address issues that are -- that arise;
13 right?

14 MS. REINHARDT: Objection to form.

15 THE WITNESS: We -- we would do that with any
16 child.

05:11:42

17 BY MR. TRYON:

18 Q Correct.

19 A At least I would hope we would do that.

20 Q When you learned that B.P.J. was going to
21 participate in -- well, strike that.

05:11:58

22 We've talked a little bit about who sets
23 policies for sports, and as I understand it, the
24 County -- the County's policies for sports follow
25 what the state policies are, the state board's

05:13:19

1 policies; is that right?

2 MS. DENIKER: Objection to the form.

3 BY MR. TRYON:

4 Q Yeah, I -- I didn't really say that right.

5 Let me just ask you an open-ended question. 05:13:29

6 What policies -- where -- who sets the
7 policies for sports for the County?

8 A I testified earlier, we just have two,
9 really, policies that are written or acted and board
10 acted on, and it deals with extracurriculars. 05:13:43

11 As far as the sports programs in our middle
12 and high schools, which that's really what we're
13 talking about, competitive sports, there is
14 oversight by the West Virginia SSAC, which are
15 board -- the members are our principals, so there 05:13:58
16 are a set of guidelines that they follow for the
17 sports programs in those buildings.

18 Q You were asked about -- if there are benefits
19 to sports, and I might -- I'd like to follow up on
20 that just a little bit, but if you believe that Mr. 05:14:19
21 Mazza would be better suited to answer these
22 questions, just tell me, as long as your counsel is
23 okay with that.

24 A I'm okay talking about the general --

25 MS. DENIKER: Let him ask a -- let him ask a 05:14:36

1 question.

2 BY MR. TRYON:

3 Q Yeah, let me ask you a question first.

4 THE WITNESS: I thought he was asking if I

5 was okay with the question. 05:14:40

6 That was you?

7 BY MR. TRYON:

8 Q Would you agree -- sorry.

9 Would you agree that the most important thing
10 for kids in your school system is their safety -- 05:14:47

11 MS. REINHARDT: Objection --

12 BY MR. TRYON:

13 Q -- as far --

14 MS. REINHARDT: -- to the form.

15 BY MR. TRYON: 05:14:54

16 Q -- as far as sports is concerned?

17 MS. REINHARDT: Objection to form.

18 MS. DENIKER: Susan Deniker. I also object
19 to form.

20 THE WITNESS: Safety in all areas is 05:15:03

21 important in our school system, and it is at the top
22 of the list.

23 BY MR. TRYON:

24 Q Yeah, and I'm asking in particular with
25 respect to athletics. Is safety the most important 05:15:10

1 thing for consideration for kids in sports?

2 A Safety is important in sports.

3 Q Are you of any rules -- aware of any rules
4 that are set up for safety to prevent injuries in
5 sports? 05:15:27

6 MS. REINHARDT: Objection to form.

7 THE WITNESS: There's a lot of rules,
8 probably rules that I don't know since I'm not
9 involved in that on a daily basis, but a lot of
10 training for our coaches, proper equipment for the 05:15:42
11 children or the students and the athletes, from --
12 really everything, having an athletic trainer at the
13 games and available for the students, if there is an
14 injury, that would properly handle that.

15 BY MR. TRYON: 05:16:01

16 Q Do you know if that's one of the reasons
17 that -- that sports are separated by sex?

18 MS. REINHARDT: Objection.

19 MS. DENIKER: Objection to the form.

20 THE WITNESS: Going back to the house bill 05:16:13
21 that was passed, that is stated in there, that it is
22 a safety concern.

23 BY MR. TRYON:

24 Q Aside from the house bill, would you agree
25 that, from your perspective, that we separate sports 05:16:21

1 in schools by sex in order -- for -- for safety
2 purposes, especially with respect to contact sports?

3 MS. REINHARDT: Objection to form.

4 And I would also remind Mr. Tryon that
5 Superintendent Stutler is a 30(b)(6) witness. 05:16:42

6 MR. TRYON: Thank you for the reminder.

7 BY MR. TRYON:

8 Q Can you answer the question, please?

9 MS. DENIKER: I'm also going to put an
10 objection on the record as to form. 05:16:52

11 And to the extent that you can answer as a
12 representative of the Harrison County Board of
13 Education, you may do so.

14 THE WITNESS: I would agree that there are --
15 that there could be physical differences that could 05:17:03
16 produce a safety risk in a contact sport.

17 BY MR. TRYON:

18 Q Let me look at one other exhibit I may want
19 to ask you a question about. Yeah, let me ask
20 you on Exhibit 19. Let me know when you have that. 05:18:37

21 A Okay. I see that.

22 Q At the top of page 4, on that one, can you
23 turn there?

24 A Okay. I am there.

25 Q Sure. The -- so the very first thing says 05:18:57

1 (as read):

2 "In what extra-curricular programs
3 or activities" -- excuse me -- "will
4 the student be -- student be
5 participating (sports, theater, 05:19:04
6 clubs, etc)?"

7 A Yes.

8 Q And then it's filled in "cross country and
9 track." And this was filled in on May 18, 2021.

10 At that time, was there any concern about 05:19:19
11 whether B.P.J. would be permitted to participate on
12 the girls' cross -- cross-country team or the boys'
13 cross-country team?

14 MS. REINHARDT: Objection to form.

15 MS. DENIKER: Objection to the form. 05:19:36

16 THE WITNESS: I was not aware of any concern.

17 BY MR. TRYON:

18 Q Do you know if anybody -- okay. Fine.

19 MR. TRYON: That's all -- that's all the
20 questions I have. Thank you. 05:19:47

21

22 EXAMINATION

23 BY MR. FRAMPTON:

24 Q And, Superintendent Stutler, this is
25 Hal Frampton for the intervenor. I've got just a 05:20:00

Page 166

1 few questions for you. I know it's been a -- a long
2 afternoon so far.

3 A Thank you.

4 Q If you would -- no worries.

5 If you would, please, pull up Exhibit 28, and 05:20:11
6 when you've got it up, go ahead and scroll down to
7 page 4, the listings for Bridgeport Middle School.

8 A I have that.

9 Q Thank you, Superintendent. And I just want
10 to make sure -- I know you testified a little bit 05:20:33
11 about this earlier, but I -- I wasn't totally clear
12 on what you were saying.

13 So it is your understanding that there is a
14 separate boys' cross-country team and girls'
15 cross-country team at Bridgeport Middle School; 05:20:46
16 correct?

17 A Yes.

18 Q And so the winners of their meets, there
19 would be a boys' winner and a girls' winner; is that
20 correct? 05:20:58

21 A Yes.

22 Q Okay. And they're further separated into
23 varsity and junior varsity; is that right?

24 A Correct.

25 Q And who decides whether a student is 05:21:07

1 competing at the varsity level or junior varsity
2 level?

3 A I believe that would be the coach.

4 Q Okay. The -- the coach at the individual
5 middle school? 05:21:25

6 A Yes.

7 Q Do you know how that decision is made?

8 A No. I would assume it would be by their
9 time.

10 Q A competitive decision? 05:21:38

11 A Yeah, their -- yes.

12 Q Are there limits as to how many people can be
13 designated varsity or junior varsity?

14 A I would not know that.

15 Q Who -- who would make the decision as to 05:21:52
16 whether there are limits on that?

17 A That would be the AD at that school and the
18 coach. And I would say that -- how many would be
19 out for the team. There's a lot of factors in that.

20 Q Okay. Would those same people decide the -- 05:22:11
21 the number of students who can be on the team,
22 period?

23 A I believe so, with the administrator, the
24 school administrator. It would become a staffing --
25 just staffing and what they can do. 05:22:36

1 Q Right. And are there in fact limits on the
2 number of students who can be on a given athletic
3 team?

4 MS. REINHARDT: Objection to form.

5 THE WITNESS: I do not know that. That is 05:22:46
6 not my wheelhouse.

7 BY MR. FRAMPTON:

8 Q And -- and who would know that?

9 A The AD at the school, the coach and the
10 school administrator. 05:23:01

11 MR. FRAMPTON: All right. Give me one second
12 while I mark an exhibit.

13 (Exhibit 33 was marked for identification
14 by the court reporter and is attached hereto.)

15 BY MR. FRAMPTON: 05:23:12

16 Q All right. Superintendent, what I've marked
17 as Exhibit 33 ought to be available to you now.
18 Could you check?

19 A I have that.

20 Q Have you seen this e-mail before? 05:23:49

21 A During prep for this deposition.

22 Q Yes, ma'am. Can you tell me who
23 Danyelle Schoonmaker is?

24 A She is the cross-country coach at
25 Bridgeport Middle School. 05:24:07

1 Q Is she the head coach?

2 A Yes.

3 Q And who is Meghan Flesher?

4 A She is a volunteer assistant.

5 Q For the cross-country team? 05:24:22

6 A Yes.

7 Q And did you say earlier Natalie McBrayer is
8 also a volunteer assistant?

9 A Natalie McBrayer is an assistant coach that
10 is -- yes, she is also a volunteer assistant coach, 05:24:41
11 sorry.

12 Q Does she have any other role with the -- with
13 the Board of Education, the county board?

14 A Natalie does not.

15 Q Okay. She's not a teacher as well? 05:24:55

16 A No, she's not.

17 Q And of these, the three people on these
18 messages, is Natalie the only one that you spoke to
19 in preparation for this deposition?

20 A Yes. 05:25:10

21 Q Do you agree this e-mail says "Attached is
22 the excel spreadsheet with our athletes' times and
23 attendance (could be off a bit-I haven't updated
24 from our sheet yet)"? Did I read that correctly?

25 A Yes. 05:25:32

1 MR. FRAMPTON: All right. And hang on. I'm
2 going to try to mark separately, unfortunately,
3 because they're different file types, the
4 spreadsheet that was attached to this. Give me one
5 second. 05:25:46

6 All right. What I've marked as Exhibit 34
7 ought to be available to you now.

8 (Exhibit 34 was marked for identification
9 by the court reporter and is attached hereto.)

10 THE WITNESS: I have that. 05:26:21

11 BY MR. FRAMPTON:

12 Q Okay. Do you agree this is a spreadsheet
13 with three tabs at the bottom?

14 A Yes.

15 Q And was this also something you reviewed in 05:26:38
16 preparation for this deposition?

17 A Yes.

18 Q And tell me what you understand this document
19 to be.

20 A This was the Excel sheet on -- it had the 05:26:48
21 attendance on the -- I think the first two
22 practices. It had the -- the student names and
23 their grade levels.

24 Q Got it. And --

25 A And then their lap times, yeah. 05:27:02

1 Q Thank you. The -- on the Athlete Info tab,
2 are -- are all of the -- obviously, everyone is
3 blacked out except for B.P.J., which I -- I
4 certainly understand.

5 My question is, are all of the blacked-out 05:27:16
6 folks Bridgeport Middle School students?

7 A Yes, they would be.

8 Q Okay. And these are all students who are
9 interested in running cross-country in the fall of
10 2021? 05:27:32

11 A Yes.

12 Q And there are 41 students on this list; is
13 that right?

14 A Yes.

15 Q What do you understand the purpose of this 05:27:52
16 document being, tracking their attendance and lap
17 times?

18 MS. REINHARDT: Objection to form.

19 THE WITNESS: I believe that that would be
20 for the coach's information. 05:28:12

21 (Exhibit 35 was marked for identification
22 by the court reporter and is attached hereto.)

23 BY MR. FRAMPTON:

24 Q Thank you. All right. Hang on. I'll mark
25 another one. 05:28:22

1 All right. You should have available now
2 what I've marked as Exhibit 35.

3 A I have that.

4 Q And is this also a document you reviewed in
5 your preparation? 05:29:15

6 A Yes.

7 Q And tell me what you understand this document
8 to be.

9 A These were the students that were -- that
10 participated, I believe, in a week -- that early 05:29:25
11 summer conditioning week with the coaches.

12 Q In -- in preparation for running
13 cross-country in the fall?

14 A For the season, yes.

15 Q If you could go to that second page, do you 05:29:42
16 agree that it's got 18 people listed under the
17 cross-country girls' team?

18 A Yes, I see that.

19 Q And then 18 listed under the boys' team?

20 A Yes. 05:30:08

21 Q And 18 plus 18 is 36, would you agree?

22 A Yes, uh-huh.

23 Q How did we get from 41 people on that last
24 spreadsheet to 36 on this spreadsheet?

25 A It could be that -- 05:30:21

1 MS. DENIKER: Object to the form.

2 THE WITNESS: Was that a question?

3 MS. DENIKER: He's asking that question, and
4 I'm objecting to the --

5 THE WITNESS: Okay. 05:30:42

6 MS. DENIKER: -- form of the question.

7 THE WITNESS: It could be that less students
8 came out. It could be. I don't know. I don't
9 know.

10 BY MR. FRAMPTON: 05:30:59

11 Q Okay. You're not -- it sounds like you're
12 not sure how those, essentially, fiveish people
13 were -- were on one spreadsheet and not on the next
14 one; is that right?

15 A I would not -- yeah, I would not know that. 05:31:13

16 MR. FRAMPTON: All right. Give me one second
17 to get my next one.

18 (Exhibit 36 was marked for identification
19 by the court reporter and is attached hereto.)

20 BY MR. FRAMPTON: 05:31:54

21 Q All right. You should now have available to
22 you what I have marked as Exhibit 36.

23 A I have that.

24 Q Okay. And was this also a document you
25 reviewed in your preparation? 05:32:14

1 A Yes.

2 Q And it is an e-mail from Natalie McBrayer to
3 Danyelle Schoonmaker and Meghan Flesher dated
4 August 9th, 2021; is that correct?

5 A Yes. 05:32:39

6 Q Do you see in that first sentence the -- a
7 reference to lap counts?

8 A I do.

9 Q What's your understanding of what lap counts
10 are? 05:32:48

11 A How many -- I'm assuming it's how many laps
12 they went.

13 Q Okay. So the next sentence says (as read):

14 "I highlighted the ones Meghan and I
15 talked about taking for at least 1 05:33:04
16 loop to see how they do."

17 Did I read that correctly?

18 A Yes.

19 Q Can you tell me what that means, "taking for
20 at least 1 loop to see how they do"? 05:33:15

21 A My thoughts are they're going to run them one
22 lap and check their time.

23 Q And then it says (as read):

24 "We might want to drop some after
25 the first loop." 05:33:32

1 Did I read that correctly?

2 A I see that.

3 Q What does it mean -- what do they mean by
4 "drop some"? Do you know what that means?

5 MS. DENIKER: Objection to the form. 05:33:44

6 And I would just like to have an objection as
7 to form on all of these, about what it means.

8 But you can answer, to the extent that you
9 can.

10 THE WITNESS: I'm guessing -- I -- I don't 05:33:55
11 want to guess. I'm not allowed to guess.

12 It's -- it's hard to know what the coach was
13 thinking. They're trying to use times to accurately
14 judge who would make the varsity team compared to
15 the junior varsity. 05:34:12

16 BY MR. FRAMPTON:

17 Q Okay. So there's some -- your understanding
18 is that "drop some" would have some competitive
19 meaning; correct?

20 MS. DENIKER: Objection to the form. 05:34:24

21 THE WITNESS: Based on times.

22 BY MR. FRAMPTON:

23 Q And then if you look at that next page in
24 this, you would agree that we've got B.P.J. listed
25 with a -- the number 5 beside the name; is that 05:34:46

1 right?

2 A Yes.

3 Q But no yellow highlight; is that correct?

4 A Correct.

5 Q Any understanding of why B.P.J. did not 05:35:03
6 receive a yellow highlight?

7 MS. DENIKER: Objection to the form.

8 MS. REINHARDT: I'll join that objection.

9 THE WITNESS: I do not know.

10 BY MR. FRAMPTON: 05:35:20

11 Q You would agree that, at least the way that
12 this spreadsheet is presented, B.P.J. is the first
13 person not to receive a yellow highlight; is that
14 correct?

15 MS. REINHARDT: Objection. 05:35:29

16 THE WITNESS: Looking at the form, as it is,
17 she does not have a yellow highlight.

18 BY MR. FRAMPTON:

19 Q And in terms of the order in which the
20 students are presented, B.P.J. is the first person 05:35:44
21 presented without a yellow highlight; is that right?

22 MS. REINHARDT: Objection to form and also
23 outside the scope of the deposition.

24 THE WITNESS: Would you repeat that question?

25 (Exhibit 37 was marked for identification 05:36:01

1 by the court reporter and is attached hereto.)

2 BY MR. FRAMPTON:

3 Q I'll just strike it.

4 Let's see.

5 All right. What I've marked as Exhibit 37 05:36:40
6 should now be available to you.

7 A I have that.

8 Q All right. Was this also a document that you
9 reviewed in preparation for your deposition?

10 A Yes. 05:37:06

11 Q Go to the Meet Info tab.

12 A Okay.

13 Q What's your understanding of this -- what
14 this tab is presenting?

15 MS. DENIKER: Objection to the form. 05:37:32

16 THE WITNESS: This is a schedule of the
17 upcoming meets and where they'll be held.

18 BY MR. FRAMPTON:

19 Q These are the meets that the cross-country
20 teams at Bridgeport Middle School were going to 05:37:43
21 participate in in the fall of 2021?

22 MS. REINHARDT: Objection to form and also
23 outside the scope of the deposition.

24 MS. DENIKER: Objection to the form.

25 THE WITNESS: Yes, I believe that's the 05:37:56

1 schedule of the dates and where Bridgeport Middle
2 would be participating in events.

3 MR. FRAMPTON: Hold on for a second. I've
4 just got two or three more. I'll be very quick.

5 (Exhibit 38 was marked for identification 05:38:26
6 by the court reporter and is attached hereto.)

7 BY MR. FRAMPTON:

8 Q All right. What I've marked as Exhibit 38
9 should now be available to you.

10 A I have that. 05:38:58

11 Q All right. Was this also a document that you
12 reviewed in preparation for your deposition?

13 A Yes.

14 Q What do you understand it to be?

15 MS. DENIKER: Objection to form. 05:39:12

16 THE WITNESS: It's looking at the
17 participants of the team and whether they meet
18 eligibility requirements.

19 BY MR. FRAMPTON:

20 Q Who prepares this document? 05:39:22

21 A The AD at the school.

22 Q And is this a listing of everyone who is
23 going to be on the team for that year?

24 MS. REINHARDT: Objection. And outside the
25 scope of the deposition. 05:39:44

1 MS. DENIKER: Objection to form of the
2 question.

3 THE WITNESS: I really don't know that.

4 And when I said with the AD, I'm sure the
5 coach had something to do with this as well. 05:39:55

6 (Exhibit 39 was marked for identification
7 by the court reporter and is attached hereto.)

8 BY MR. FRAMPTON:

9 Q All right. What I've marked as Exhibit 39
10 should be available to you. 05:40:24

11 A I have that.

12 Q All right. Is this also a document that you
13 reviewed in preparation for your deposition today?

14 A Yes.

15 Q Is it a listing of how the Bridgeport Middle 05:40:51
16 school's cross-country players did at the
17 Doddridge Invitational?

18 MS. REINHARDT: Objection.

19 And I also want to note that this line of
20 questioning pertains to a topic that's been removed 05:41:11
21 from the Deposition Notice.

22 MR. FRAMPTON: It pertains to topic 14, which
23 has not been removed. It is a document produced by
24 the deponent, and this particular witness has
25 already testified that she reviewed it in 05:41:25

1 preparation.

2 MS. REINHARDT: It's -- I'm going to hold my
3 objection that it's still outside the scope of the
4 deposition.

5 MR. FRAMPTON: Your objection is noted. 05:41:38

6 If the witness would please answer the
7 question.

8 MS. DENIKER: Susan Deniker. Object to the
9 form.

10 THE WITNESS: Would you please repeat the 05:41:46
11 question?

12 MR. FRAMPTON: Absolutely.

13 Madame Court Reporter, could you please
14 repeat my question?

15 MS. DENIKER: Mr. Frampton, if you're 05:41:54

16 agreeable, I will not restate my objection if you'll
17 agree to continue to note my objection.

18 MR. FRAMPTON: Absolutely. That's -- that's
19 totally fine with me.

20 (Record read.) 05:42:03

21 MS. REINHARDT: Same objections.

22 THE WITNESS: Yes.

23 BY MR. FRAMPTON:

24 Q Okay. Looking at page 2 of the document,

25 would all of the blacked-out students on this page 05:42:25

Page 181

1 be Bridgeport Middle School students?

2 A Yes.

3 Q Okay. So this document is not telling us how
4 the Bridgeport Middle School students did as against
5 the -- the participants from other schools in that 05:42:41
6 meet; is that correct?

7 MS. REINHARDT: Objection to form.

8 MS. DENIKER: Objection to the form.

9 THE WITNESS: Yes.

10 BY MR. FRAMPTON: 05:42:54

11 Q Okay. And you would agree that B.P.J. had a
12 time that was faster than three of the girls listed
13 on the spreadsheet; is that right?

14 MS. REINHARDT: Objection to form.

15 MS. DENIKER: Objection to form. 05:43:09

16 THE WITNESS: There were three names listed
17 below her.

18 BY MR. FRAMPTON:

19 Q Okay. The two names at the bottom that, of
20 course, I can't see, the N/As, would those have been 05:43:24
21 people who were permitted to participate in the meet
22 and just didn't?

23 MS. REINHARDT: Objection to form.

24 MS. DENIKER: Objection to form.

25 THE WITNESS: I would not know that. 05:43:35

1 (Exhibit 40 was marked for identification
2 by the court reporter and is attached hereto.)

3 BY MR. FRAMPTON:

4 Q All right. What I have listed as -- marked
5 as Exhibit 40 should be -- should be available to 05:44:22
6 you now.

7 And this is my last exhibit, so you're almost
8 done with me.

9 A I have it.

10 Q All right. Is this document also something 05:45:03
11 that you reviewed in preparation for your
12 deposition?

13 A Yes.

14 Q Okay. The first page, is this a listing of
15 how the Bridgeport Middle School cross-country 05:45:16
16 athletes did in the Ritchie County meet on Saturday,
17 October 1st?

18 MS. REINHARDT: Objection to form.

19 And I'll put a standing objection that these
20 questions are outside of the scope. 05:45:29

21 MR. FRAMPTON: Yes, happy to grant you a
22 standing objection.

23 THE WITNESS: Yes.

24 BY MR. FRAMPTON:

25 Q And so as with the last one we looked at, all 05:45:35

1 of the students on this page would be

2 Bridgeport Middle School students; right?

3 A Yes.

4 Q And you would agree that B.P.J. has a time

5 that is faster than three of the girls listed on 05:45:49

6 this spreadsheet; correct?

7 MS. REINHARDT: Objection to form.

8 THE WITNESS: Yes, there are three names

9 below hers.

10 BY MR. FRAMPTON: 05:46:02

11 Q Do you have any idea what the yellow

12 highlighting means?

13 A I do not.

14 Q It was worth a try.

15 A I do not. 05:46:18

16 Q The next two pages, are these just a -- a --

17 sort of compilation of how the Bridgeport Middle

18 School cross-country athletes did across a number of

19 meets in the fall 2021 season?

20 MS. REINHARDT: Objection to form. 05:46:38

21 MS. DENIKER: This is Susan Deniker.

22 Objection to form.

23 THE WITNESS: It looks like it is a

24 compilation of meets and times.

25 BY MR. FRAMPTON: 05:46:58

1 Q Look at the third page.

2 A Okay.

3 Q You would agree that there are no names
4 listed next to these various times; right?

5 A Yes. 05:47:25

6 Q Okay. Is this just a -- a sort of horizontal
7 continuation of the previous page?

8 MS. REINHARDT: Objection to form.

9 MS. DENIKER: Objection to form.

10 THE WITNESS: I do not know. 05:47:41

11 BY MR. FRAMPTON:

12 Q And then the last page of the exhibit, would
13 you agree this is a compilation of how the various
14 Bridgeport Middle School cross-country athletes did
15 in two time trial competitions? 05:47:59

16 MS. REINHARDT: Objection to form.

17 MS. DENIKER: This is Susan Deniker.
18 Objection to form.

19 THE WITNESS: Yes, it says "Time
20 Trial-Bridgeport City Park" and the time trial for 05:48:17
21 the Bridgeport city park course on two different
22 dates.

23 Q And you would agree, with respect to the
24 October 7, 2021, date, it's got B.P.J. listed in
25 24th place; is that right? 05:48:33

1 MS. REINHARDT: Objection to form.

2 MS. DENIKER: Objection to form.

3 THE WITNESS: She is by the number 24.

4 BY MR. FRAMPTON:

5 Q Okay. And the heading for that column is 05:48:46

6 TT Place; correct?

7 A Yes.

8 Q And it's got B.P.J. in 30th place in the

9 August 24th time trial; is that right?

10 MS. REINHARDT: Objection to form. 05:49:08

11 MS. DENIKER: Objection to form.

12 THE WITNESS: Yes, she is by number 30.

13 BY MR. FRAMPTON:

14 Q And the heading for that column is "Place"?

15 A The heading for that column is "Place," yes. 05:49:21

16 MR. FRAMPTON: All right. Those were my
17 questions for you, Superintendent Stutler. Thank
18 you so much.

19 MS. REINHARDT: Superintendent Stutler, I
20 apologize, I have a few redirect questions, but I'll 05:49:37
21 be very brief.

22 If you could please turn to Exhibit 28.

23 MS. DENIKER: Ms. Reinhardt, while we do

24 that, this is Susan Deniker, I will have a couple of

25 questions for this witness. It's fine with me if 05:49:59

1 you want to proceed, but I did want to let you know
2 that.

3 MS. REINHARDT: Thank you.

4

5 FURTHER EXAMINATION 05:50:05

6 BY MS. REINHARDT:

7 Q Please let me know when you're at Exhibit 28.

8 A Okay.

9 Q If you could please turn to page 4, under
10 Bridgeport Middle School. 05:50:20

11 Do you, Superintendent Stutler, know if
12 football is a contact sport?

13 A Yes.

14 Q And on this sheet here, it says football is
15 coed; is that correct? 05:50:51

16 A Yes.

17 Q And do you understand that to mean that girls
18 can play on the football team?

19 A Yes.

20 Q And would you also say that wrestling is a
21 contact sport? 05:51:03

22 A Yes.

23 Q And is it also listed here as coed?

24 A Yes.

25 Q And does that mean that girls are able to 05:51:18

1 participate?

2 A Yes, in wrestling.

3 MS. REINHARDT: Thank you. And I am going to
4 put what will be marked as Exhibit 41 into the
5 "Marked Exhibit" folder. I'll let you know once 05:51:28
6 it's -- once you can refresh.

7 MR. REISBORD: Counsel, what's -- what's the
8 exhibit number?

9 MS. REINHARDT: It will be Exhibit 41.

10 And you should be able to refresh now. 05:51:47

11 (Exhibit 41 was marked for identification
12 by the court reporter and is attached hereto.)

13 BY MS. REINHARDT:

14 Q Have you seen this form?

15 A I have. 05:52:00

16 Q Could you please read paragraph 6.

17 A (As read):

18 "No other Bridgeport Middle School
19 student was displaced by B.P.J.'s
20 participation on the girls' 05:52:13
21 cross-country team."

22 MS. REINHARDT: Thank you. I have no further
23 questions.

24 MS. DENIKER: This is Susan Deniker.

25 Superintendent Stutler, I have a few questions for 05:52:25

1 you.

2

3

EXAMINATION

4

BY MS. DENIKER:

5

Q You testified earlier today about policies 05:52:29

6

that are passed by the Harrison County Board of

7

Education, which is made up of elected board

8

members.

9

Do you recall that testimony?

10

A I do. 05:52:44

11

Q And it's my recollection of your testimony

12

that you testified that some of the policies passed

13

by the Harrison County Board of Education are to

14

implement state board policies but on a local board

15

level, with local county board processes in place; 05:52:58

16

is that correct?

17

A Yes.

18

Q Does the Harrison County Board of Education

19

ever pass other policies that are not -- that do not

20

originate from state board policy? 05:53:10

21

A Yes.

22

Q And does the county board adopt and pass as a

23

policy every West Virginia State Board of Education

24

policy?

25

A No. 05:53:25

1 Q Does it only pass policies for the County
2 where there's some type of local process or
3 implementation that is necessary for Harrison County
4 schools?

5 MS. REINHARDT: Objection to form. 05:53:36

6 THE WITNESS: That would be correct.

7 BY MS. DENIKER:

8 Q I'm sorry, I didn't hear your answer.

9 A That would be correct.

10 Q You were also asked some questions today 05:53:40
11 about rostering for school sports for Harrison
12 County schools; is that correct?

13 A Yes.

14 Q Have you ever held the position of being a
15 middle school or high school administrator? 05:53:54

16 A No.

17 Q Have you ever been an athletic director in
18 any -- in any school, in any county, in West
19 Virginia?

20 A No. 05:54:04

21 Q Have you ever personally been responsible for
22 either directly or overseeing the rostering that
23 goes on at either middle schools or high schools in
24 Harrison County?

25 A No. 05:54:14

1 Q Do you know how that process is done?

2 A Not from beginning to end. I know parts.

3 Q Is it fair to say that you will defer

4 testimony on behalf of the Harrison County Board of

5 Education about rostering for school sports in 05:54:29

6 Harrison County to the other designee for today's

7 30(b)(6) deposition?

8 A Yes.

9 Q You were also asked questions today about

10 House Bill 3293. 05:54:44

11 Superintendent Stutler, are you familiar with

12 that house bill that was passed by the West Virginia

13 legislature?

14 A Yes.

15 Q And you would have reviewed that bill; is 05:54:55

16 that correct?

17 A Yes.

18 Q You were asked some questions about whether

19 the Harrison County Board of Education supported

20 that bill, and I want to ask you more specific 05:55:03

21 questions about that.

22 Did the Harrison County Board of Education as

23 an entity do anything officially to advocate or

24 support that bill?

25 MS. REINHARDT: Objection to form. 05:55:15

1 THE WITNESS: No.

2 BY MS. DENIKER:

3 Q Did any employee or agent of Harrison County,
4 in their official capacities, take any action to
5 advocate for the passage of that bill? 05:55:25

6 MS. REINHARDT: Objection.

7 THE WITNESS: No.

8 BY MS. DENIKER:

9 Q Did any employee or agent of the
10 Harrison County Board of Education in any way 05:55:34
11 contribute to the passage of that bill by providing
12 testimony or information to support passage of
13 House Bill 3293?

14 MS. REINHARDT: Objection to form.

15 THE WITNESS: No. 05:55:48

16 BY MS. DENIKER:

17 Q Did the Harrison County Board of Education,
18 through the elected board, pass any policy
19 proclamation or other statement that related to
20 House Bill 3293 in any way? 05:56:00

21 A No.

22 Q Has the Harrison County Board of Education
23 taken any action to implement the provisions of
24 House Bill 3293 as you sit here today?

25 A No. 05:56:13

1 MS. DENIKER: Give me one minute and let me
2 just see if I have any other questions.

3 Superintendent Stutler, I have no further
4 questions. Thank you.

5 THE WITNESS: Thank you. 05:56:36

6 MR. FRAMPTON: I have some additional
7 questions based on plaintiff's redirect.

8

9 FURTHER EXAMINATION

10 BY MR. FRAMPTON: 05:56:42

11 Q All right. Superintendent Stutler, do you --
12 do you still have Exhibit 41 up?

13 MS. DENIKER: We are pulling it up for the
14 witness.

15 MR. FRAMPTON: Thank you. 05:56:59

16 THE WITNESS: I have it.

17 BY MR. FRAMPTON:

18 Q All right. And scroll down to paragraph 6
19 which plaintiff's counsel had you read into the
20 record. 05:57:11

21 A Okay.

22 Q What does this statement mean by "displaced"?

23 MS. DENIKER: Objection to the form.

24 MS. REINHARDT: Join the objection.

25 THE WITNESS: That someone did not get to 05:57:31

1 participate because of B.P.J.

2 BY MR. FRAMPTON:

3 Q Participate as in join the team?

4 A Yes, as part of the cross-country team.

5 Q Does "participate" have any -- any other 05:57:45
6 meaning other than just join the team?

7 MS. REINHARDT: Objection to form.

8 MS. DENIKER: This is Susan Deniker. I also
9 object to the form of the question.

10 THE WITNESS: Participation. If you're on 05:58:01
11 the team, you're participating.

12 BY MR. FRAMPTON:

13 Q Okay. You would agree B.P.J. did beat some
14 girls in cross-country meets; correct?

15 MS. REINHARDT: Objection to form. 05:58:11

16 MS. DENIKER: I also object to the form. And
17 I believe that that is also beyond the scope of the
18 notice.

19 MR. FRAMPTON: Well, so is the stipulation.

20 And -- and it -- and it actually does relate 05:58:26
21 to the documents we looked at earlier that are part
22 of the -- the -- the board's document production.

23 THE WITNESS: Looking at the documents that
24 were -- that I reviewed yesterday for -- in prep for
25 this, there were students below her on the time 05:58:39

1 trials.

2 BY MR. FRAMPTON:

3 Q And students below her at cross-country
4 meets; correct?

5 A Yes. 05:58:49

6 MS. REINHARDT: Objection.

7 BY MR. FRAMPTON:

8 Q And -- and not just students, but girls below
9 her at the cross-country meets; correct?

10 MS. REINHARDT: Objection to form. 05:58:59

11 THE WITNESS: Yes.

12 MS. REINHARDT: And also outside the scope.

13 MR. FRAMPTON: Just so we are clear, the
14 court reporter got it, you answered that question
15 "yes"; correct? 05:59:08

16 THE WITNESS: Yes.

17 MS. DENIKER: And I would also like to place
18 a belated objection to form on the record.

19 BY MR. FRAMPTON:

20 Q Do you know whether B.P.J.'s participation 05:59:14
21 prevented any girls at -- on the cross-country team
22 from going to any meets?

23 MS. REINHARDT: Outside the scope of the
24 redirect and objection to form.

25 MS. DENIKER: Objection to form. 05:59:32

1 THE WITNESS: I am not aware of any student
2 that was displaced due to her participating on the
3 team.

4 BY MR. FRAMPTON:

5 Q And again, by "displaced," you simply mean 05:59:43
6 allowed to participate on the team; correct?

7 A Yes, yes.

8 MR. FRAMPTON: Okay. That's all I've got.

9 MS. MORGAN: This is Kelly Morgan. So are we
10 concluded with Superintendent Stutler and moving 06:00:11
11 straight on to Mr. Mazza?

12 MS. REINHARDT: We can continue with Mr.
13 Mazza at this time, yes.

14 MS. MORGAN: Do we have any anticipation as
15 to how much longer this is going to go? We started 06:00:26
16 here at noon for us, and it's 6 o'clock. Some of us
17 have, you know, family obligations here.

18 Are we talking two, three, four more hours?

19 MS. REINHARDT: I --

20 THE VIDEOGRAPHER: Off the record? 06:00:38

21 MS. REINHARDT: I don't believe that -- oh,
22 yes, can we please go off the record.

23 THE VIDEOGRAPHER: Yeah. Okay. Thanks.

24 I -- we're going off the record. The time is
25 6:00 p.m., and this is the end of Media Unit No. 4. 06:00:44

1 (Recess.)

2 THE VIDEOGRAPHER: All right. We are back on
3 the record at 6:19 p.m., and this is the beginning
4 of Media Unit No. 5.

5 Can we please swear in the witness. 06:19:02

6 (Witness sworn.)

7 THE VIDEOGRAPHER: And I'll just mention,
8 this is the beginning of David Mazza's testimony.

9 Go ahead. Thank you.

10

11 DAVE MAZZA,

12 having been administered an oath, was examined and
13 testified as follows:

14 EXAMINATION

15 BY MS. REINHARDT:

16 Q Hi, Mr. Mazza. How are you doing today?

17 A Good. How are you doing?

18 Q I'm doing well.

19 Is it okay if I call you "Principal Mazza"

20 for the point of this deposition? 06:19:39

21 A Yes, you can call me "Principal Mazza," yes.

22 Q Great. And have you ever been deposed
23 before?

24 A I have not.

25 Q Have you ever testified in a court of law 06:19:46

Page 197

1 before?

2 A I have.

3 Q What is your current title?

4 A I am principal at Bridgeport Middle School,

5 Harrison County schools.

06:20:02

6 Q And how long have you been the principal?

7 A I'm in my fifth year.

8 Q Wonderful. And what did you do before that?

9 A I was the assistant at Bridgeport Middle for

10 eight years. Prior to that, I was a teacher for

06:20:11

11 20 years. I'm in my 33rd year in education.

12 Q That's wonderful. And I'm sorry, I want to

13 make sure that I didn't mishear you. Did you say

14 you have or have not testified in court before?

15 A I have testified in court before.

06:20:29

16 Q Thank you for clarifying.

17 And what was the nature of that case?

18 A It's when I was -- I had just turned 18, and

19 I witnessed a fight. One of the participants in the

20 fight used brass knuckles. I'm going way back to

06:20:45

21 the '70s here, so -- and I just had to be a witness

22 of what I did see and how the fight went down.

23 Q I appreciate that. So you have never

24 testified in court as it relates to your current

25 role; is that correct?

06:21:01

1 A That is true.

2 Q Thank you. So going back, you have been in
3 this field for quite some time.

4 Did you study education in college?

5 A I did. I went to Fairmont State College from 06:21:13
6 1985 to 1989. I went on to West Virginia University
7 and received my Master's degree in special
8 education. Then I went to Salem International
9 University and -- and got my administration
10 certificate. 06:21:31

11 Q You're extremely credentialed. I appreciate
12 you walking me through that.

13 And is there a reason you're aware of today
14 that you won't be able to answer my questions
15 truthfully and accurately? 06:21:47

16 A Can you repeat that? I'm sorry.

17 Q Is there a reason that you're aware of that
18 would prevent you from answering my questions
19 truthfully and accurately today?

20 A No. 06:21:59

21 Q Thank you. And I would like to set a couple
22 of ground rules so there aren't any surprises for
23 you today.

24 A Okay.

25 Q If I ask you a question, please answer it 06:22:07

1 unless your attorney states otherwise. Is that
2 understood?

3 A That is understood.

4 Q And so that the court reporter can get
5 everything we're saying, please use only verbal 06:22:20
6 responses. Unfortunately, we cannot transcribe
7 nodding or hand gestures. Is that understood?

8 A That is understood.

9 Q And if I ask a question that you don't
10 understand, please let me know. If you answer my 06:22:36
11 question, I'll assume that you understand what I'm
12 asking. Is that okay?

13 A Yes. Thank you for that.

14 Q No problem. And my last just housekeeping
15 rule is if you'd like to take a break at any point, 06:22:48
16 please let us know. I'll need to finish my line of
17 questioning, but we'd be happy to accommodate any
18 breaks.

19 A Thank you very much.

20 Q Did you review any documents in preparation 06:22:59
21 of today's deposition?

22 A Yes, I did.

23 Q And without disclosing any communications you
24 may have had with your attorney, can you please let
25 me know which documents you reviewed. 06:23:13

1 A We reviewed what the litigation is about
2 today.

3 Q And were there any other documents in
4 connection to this litigation you reviewed?

5 A Just what was over in the litigation. I 06:23:26
6 mean, we looked at several different things. We did
7 a review of the gender support plan that was -- that
8 had taken place last May, just the basic documents
9 that go on with this litigation.

10 Q And if you know, were all of the documents 06:23:44
11 provided by counsel?

12 A Yes.

13 Q And did you bring any documents with you
14 today?

15 A I did not. 06:24:01

16 Q Great. And did you provide your counsel with
17 any documentation?

18 A I did.

19 Q And what was it?

20 MS. DENIKER: This is Susan Deniker. I would 06:24:12
21 like to clarify something here. Are you asking in
22 preparation for the deposition, or do you mean with
23 regard to this litigation, generally, in terms of
24 discovery?

25 MS. REINHARDT: Thank you for that clarifying 06:24:26

1 question. I mean in preparation for today.

2 THE WITNESS: No.

3 BY MS. REINHARDT:

4 Q Thank you. And did you speak with anyone in
5 preparation for today's deposition? 06:24:38

6 A Just counsel.

7 Q Did you --

8 MS. DENIKER: Let me -- Ms. Reinhardt, excuse
9 me, this is Susan Deniker again.

10 Mr. Mazza, to the extent that you had 06:24:49
11 conversations with other Harrison County Board of
12 Education employees --

13 THE WITNESS: Right.

14 MS. DENIKER: -- to prepare for your
15 deposition, you may disclose the names of those 06:24:59
16 persons that you spoke with.

17 THE WITNESS: Okay. Other than counsel here,
18 we did -- of course, Dora Stutler, superintendent;
19 Amber Davis; Tarra Shields, principal of Norwood
20 Elementary -- Amber Davis was -- is the counselor -- 06:25:17
21 and fifth-grade teacher -- I can't remember her
22 name, I'm sorry. I can cannot remember the
23 fifth-grade teacher's name, I'm sorry. I apologize.

24 BY MS. REINHARDT:

25 Q By any chance, was it a fourth-grade teacher 06:25:30

1 by the first name of Jasmine?

2 A Yes, it was a fourth-grade teacher. I
3 apologize for that. I thought it was the
4 fifth-grade teacher.

5 Q No problem at all. 06:25:41

6 And do you understand that B.P.J. filed a
7 lawsuit against the County Board of Education?

8 A Yes.

9 Q And do you understand that that is why you're
10 here testifying today? 06:25:56

11 A Correct, yes.

12 MS. REINHARDT: Wonderful. And I just want
13 to review, briefly, with you Exhibit 24. It should
14 be in the "Marked Exhibit" folder.

15 (Exhibit 24 was marked for identification 06:26:09
16 by the court reporter and is attached hereto.)

17 BY MS. REINHARDT:

18 Q Please let me know once you've reviewed it.

19 A I have reviewed it.

20 Q Have you seen this document before? 06:26:47

21 A I have.

22 Q And I'll ask you to turn to what's numbered
23 page 8. Did you review topics 10 and 11 for today's
24 deposition?

25 A I did. 06:26:59

1 Q And did you review any documentation related
2 to topics 10 and 11 in preparation for today's
3 deposition?

4 A I did.

5 Q And were those the same documents that you've 06:27:15
6 already -- you've already disclosed?

7 A I believe so, yes.

8 Q Wonderful. And looking at this exhibit, can
9 you please review topics 1 through 15 and let me
10 know if you've already viewed these -- reviewed 06:27:35
11 these topics with counsel.

12 MS. DENIKER: I'm going to object to -- that
13 question calls for attorney-client privileged
14 communications. You can ask him if he -- if he's
15 reviewed the Notice of Deposition, but I'm going to 06:28:00
16 instruct him not to answer as to whether or not he
17 reviewed topics with counsel.

18 MS. REINHARDT: Understood.

19 BY MS. REINHARDT:

20 Q Did you review these topics in preparation 06:28:07
21 for today's deposition?

22 A I've looked them over.

23 Q Thank you. And for purposes of the record,
24 we have previously spoken with
25 Superintendent Stutler and asked her a number of 06:28:22

1 questions related to these topics. Today, we'll
2 only be asking you about topics 10 and 11. Is that
3 understood?

4 A That is understood.

5 Q And I'm just briefly going to go over two 06:28:34
6 terms with you. So the first one is the word
7 "transgender." When I use the word "transgender,"
8 I'm referring to someone whose gender identity does
9 not match the sex they were assigned at birth.

10 So, for example, if someone was assigned male 06:28:51
11 at birth, but they identify as female, that person
12 would be a transgender girl or woman.

13 Do you understand how I am referring to that
14 term?

15 MR. TRYON: Objection. 06:29:04

16 THE WITNESS: I do.

17 BY MS. REINHARDT:

18 Q Thank you. And, likewise, I'll be asking the
19 term "cisgender." When I use the term "cisgender,"
20 I am referring to someone whose gender identity 06:29:14
21 matches the sex they were assigned at birth.

22 So as an example, if someone was assigned
23 male at birth and they identify as male, that person
24 would be a cisgender boy or man.

25 Do you understand how I'm referring to that 06:29:28

1 term?

2 MR. TRYON: Objection.

3 THE WITNESS: I do -- I do understand.

4 MR. TRYON: Elizabeth, can I just have a

5 standing objection to terminology? 06:29:38

6 MS. REINHARDT: Yes, I will see that standing
7 objection. Thank you.

8 MR. TRYON: Thank you.

9 BY MS. REINHARDT:

10 Q And when I say the word "you," unless I 06:29:43

11 specifically say "Principal Mazza as an individual"

12 or something similar, I'm asking for you to answer

13 my question as a representative of the County Board

14 of Education. Is that understood?

15 A That is understood. 06:30:00

16 Q And when I -- if it's okay with you, I'd like

17 to use the term "county board" rather than "County

18 Board of Education." Is that okay?

19 A That is okay.

20 Q Wonderful. And also, when I'm referring to 06:30:14

21 the county board, I am talking about the entire

22 entity of the county board, not just its elected

23 members. Is that understood?

24 A That is understood.

25 Q Thank you. So I am going to -- I am going to 06:30:27

1 put tab 5 into the "Marked Exhibit" folder. I
2 believe --

3 MS. REINHARDT: And please correct me if I'm
4 wrong, Mrs. Court Reporter. I believe we're at
5 Exhibit 41 -- 42. Apologies. 06:30:50

6 I'll let you know once you can refresh.

7 You may refresh. And please let me know once
8 you have that document open.

9 (Exhibit 42 was marked for identification
10 by the court reporter and is attached hereto.) 06:31:13

11 BY MS. REINHARDT:

12 Q Do you have that document open?

13 A Yes.

14 Q Great. Are you familiar with WVSSAC, or the
15 West Virginia Secondary School Activities 06:31:58
16 Commission?

17 A I am familiar with the WVSSAC, correct.

18 Q And are you okay with me using the acronym
19 WVSSAC in reference to the West Virginia School --
20 Secondary School Activities Commission? 06:32:16

21 A Yes.

22 Q Wonderful. And if you look at the front page
23 here, it says "Regional Principals' Meeting."

24 Are you familiar with the regional
25 principals' meeting? 06:32:24

Page 207

1 A I am.

2 Q Can you please tell me what that is?

3 MS. DENIKER: Object to the form.

4 THE WITNESS: Yes. We attend -- member

5 school principals attend a regional principals' 06:32:41

6 meeting every fall before school starts. This

7 year -- it typically takes place the first week in

8 August. We meet at East Fairmont High School in

9 Marion County. That's where the region is set up

10 for Harrison, and surrounding counties. We meet 06:33:01

11 from noon to 3:00. And they go over information of

12 previous proposals that pass at the board of

13 controls meeting in April.

14 BY MS. REINHARDT:

15 Q Thank you. It sounds like you are used to 06:33:20

16 sitting in long meetings, so I appreciate you being

17 here today.

18 Did -- were you in attendance for the 2021 to

19 2022 regional principals' meeting?

20 A I was not. 06:33:32

21 Q Have you seen this PowerPoint before?

22 A I have.

23 Q And when did you first see this PowerPoint?

24 A I believe from my athletic director.

25 Q And when did your athletic director show you 06:33:49

1 this document?

2 A I would say shortly after. He is part of the
3 SSAC. He's actually a director. And he gets this
4 information sent to him via e-mail, I believe.

5 Q And what is the name of this individual? 06:34:09

6 A Mr. Arthur Petitto.

7 Q Thank you. And do you know why WVSSAC holds
8 the principals' meeting?

9 MS. GREEN: Object to the form.

10 MS. DENIKER: Objection to the form as well. 06:34:40

11 You can answer.

12 THE WITNESS: In the spring, we have controls
13 where there are proposals that are passed by the
14 member schools. Once these proposals pass, they go
15 to the State Board of Education who then approve 06:34:49
16 them. And this regional principals' meeting is an
17 update, typically, of what passed and what has
18 changed with anything athletic in the state of West
19 Virginia.

20 BY MS. REINHARDT: 06:35:03

21 Q Thank you. And other than your conversation
22 with Mr. Petitto -- is that correct? -- have you
23 seen --

24 A That is correct.

25 Q Wonderful. 06:35:12

1 -- have you seen this PowerPoint?

2 A Have I seen it, is that -- was that your
3 question?

4 Q Yes. Other than with Mr. Petitto -- or from
5 Mr. Petitto. 06:35:23

6 A I have not. I have not.

7 Q And you should feel free to review this
8 document in its entirety, but I'll only be asking
9 you questions as it relates to what is
10 Bates-numbered WVSSAC 000346. So you should feel 06:35:35
11 free to go to that page, if it's convenient for you,
12 or you may look through the entire PowerPoint.

13 Please let me know once you're at
14 WVSSAC 00346. It's slide 60.

15 A We are there. 06:36:29

16 Q Great. And did you -- do you know what this
17 slide is in reference to?

18 MS. GREEN: Object to the form.

19 MS. DENIKER: You can answer, if you know.

20 THE WITNESS: I believe it's for the current 06:36:47
21 law -- the bill and law that was passed in the state
22 of West Virginia that went into effect in July.

23 BY MS. REINHARDT:

24 Q And is what you're referring to H.B. 3293?

25 A Correct. 06:37:02

1 Q Thank you. And did you discuss this slide in
2 particular with Mr. Petitto?

3 A I did not.

4 Q Have you reviewed this slide before today?

5 A I have not. 06:37:18

6 Q So on the slide, it says -- the heading is
7 "Transgender," and the first bullet point is
8 "Current law being challenged in court." The second
9 bullet says "WVSSAC's current position in that
10 gender is identified in WVEIS for athletic 06:37:33
11 participation purposes."

12 Did I read that correctly?

13 A You did.

14 Q So for WVEIS, is it okay if I refer to that
15 as "WVEIS"? 06:37:53

16 A Yes, you can.

17 Q And do you know what WVEIS is?

18 A Yes, I do.

19 Q What is it?

20 A It's our identification system for every 06:38:01
21 student that is in the state of West Virginia. That
22 number stays with them. They're assigned a number.
23 Each county is different, as far as assigning the
24 number. But if the student transfers to a different
25 county, that same number stays with them. 06:38:18

1 Q Thank you. And do you have access to WVEIS
2 as the principal of Bridgeport Middle School?

3 A Yes, I do.

4 Q Does the athletic director have access to
5 WVEIS? 06:38:34

6 A No, he doesn't.

7 Q Does anyone at Bridgeport Middle School have
8 the ability to change information in WVEIS?

9 A The -- the people that can change information
10 are myself, my assistant and my counselor. 06:38:52

11 Q And do --

12 A Also, both of my secretaries.

13 Q And does anyone you've just listed need
14 permission to change information in WVEIS?

15 A No. 06:39:06

16 Q Thank you.

17 A Can I add something to that?

18 Q Of course.

19 A WVEIS, the way it's set up, only certain
20 things that are part of WVEIS, like, for example, 06:39:25
21 discipline, my secretaries do not access to that,
22 nor my counselor. Just the assistant principal and
23 myself. There's -- there's just certain items, like
24 health, if a student has a health issue, I would
25 have to put that in. There are -- there are certain 06:39:44

1 items that only go to certain people.

2 The secretaries have, usually, residency
3 information, scheduling, the schedules, things like
4 that, but some of the stuff that is put in the
5 WVEIS, it's mostly my counselor, myself and my 06:40:03
6 assistant.

7 Q In WVEIS, are students' names listed and
8 other -- so I'm asking, are student names listed,
9 including their ID number?

10 A That is correct. 06:40:16

11 Q And are students' genders listed in WVEIS?

12 A Yes, they are.

13 Q And if a student were to participate in a
14 school athletic program, would the athletic director
15 need to check WVEIS to know which team the student 06:40:39
16 needed to be on?

17 A No.

18 Q How is it -- how are students designated
19 between teams?

20 A They are given an information sheet that is 06:40:48
21 filled out by them or the -- the student or the
22 parent. That information goes back to the athletic
23 director who then puts it in a portal that would be
24 seen by the WVSSAC.

25 Q Does that portal have a name? 06:41:03

1 follow any other policies related to gender
2 separation in sports?

3 MS. GREEN: Object to the form.

4 MS. DENIKER: I also object to the form.

5 THE WITNESS: Bridgeport Middle follows the 06:42:53
6 guidelines set by the WVSSAC.

7 BY MS. REINHARDT:

8 Q And what are those guidelines as it relates
9 to gender separation in sports?

10 MS. GREEN: Object to the form. 06:43:06

11 MS. DENIKER: Object to the form.

12 THE WITNESS: Those guidelines come in the
13 form of rostering, where -- for example, my athletic
14 director receives from the track coach, who is the
15 boys track coach, he would roster them on the WVEIS 06:43:23
16 system as a B, goes into the B portal. And if my
17 athletic director receives the information from the
18 girls' coach, it would go on the G side, which is --
19 would be the girl.

20 BY MS. REINHARDT: 06:43:44

21 Q So the athletic director implements a
22 student's gender into WVEIS; is that correct?

23 MS. DENIKER: Objection to the form and also
24 asked and answered.

25 MS. GREEN: I'll object to the form as well. 06:43:56

1 Thank you.

2 MS. DENIKER: Do you need to have -- if
3 you'll give me a standing objection on that. Maybe
4 we should have the court reporter read back the
5 question so that the witness could hear it, if 06:44:09
6 that's okay, Ms. Reinhardt.

7 MS. REINHARDT: That would be great. I'll
8 give you a standing objection.

9 If the court reporter could please read my
10 question back. 06:44:18

11 (Record read.)

12 MS. DENIKER: If you need to hear it again,
13 you can ask for it to be repeated.

14 THE WITNESS: Repeat that again, please, I'm
15 sorry. 06:44:46

16 MS. REINHARDT: If the court reporter could
17 please read that again.

18 And I believe it should be "input." I
19 apologize if I wasn't clear.

20 (Record read.) 06:45:08

21 THE WITNESS: The athletic director puts the
22 information on the boy roster or the girl roster.

23 BY MS. REINHARDT:

24 Q And where -- okay. I think I understand.

25 And are B and G the only options for the -- 06:45:33

Page 216

1 putting a student's gender on the roster?

2 A I believe so.

3 Q And does Bridgeport Middle School have any
4 coed sports?

5 A We do. 06:45:48

6 Q And for those rosters, for the rosters for
7 coed sports, do they still list B or G?

8 A I believe so.

9 Q Thank you. And are you familiar with the
10 roster that's used for football? 06:46:13

11 A I am.

12 Q Can you please describe to me what that
13 roster would include?

14 MS. GREEN: Object to the form.

15 THE WITNESS: It's -- the roster would 06:46:31
16 include a student's name, the place of birth. I
17 believe, residence.

18 BY MS. REINHARDT:

19 Q And does it say they're a B or a G as well?

20 A I'm honestly not sure. 06:46:57

21 Q Understood. And -- but it's your
22 understanding that generally these rosters contain a
23 B or a G?

24 MS. GREEN: I'm going to object to the form.

25 THE WITNESS: That is correct. 06:47:12

1 BY MS. REINHARDT:

2 Q And if a -- if a student is gender
3 nonconforming, does the school have a policy on what
4 would be put as their gender for school sports?

5 A Can you repeat that again, please? 06:47:27

6 Q If a student is gender nonconforming -- and
7 what I mean by that is they neither identify as just
8 a boy or a girl -- does the school have a policy for
9 how they're listed on a sports team's roster?

10 A We do not. 06:47:43

11 Q Does the school have a policy related to what
12 transgender students are listed as for the purposes
13 of sports teams' rosters?

14 A We do not.

15 Q I'm just going to make sure I have -- I've 06:47:59
16 asked all my questions on this topic. One second.

17 Other than school policies, does WVSSAC have
18 any policies that you would follow related to
19 students' genders listed on school sports?

20 MS. GREEN: Object to the form. 06:48:33

21 MS. DENIKER: Object to the form.

22 THE WITNESS: I have never seen any
23 information like that from the SSAC.

24 BY MS. REINHARDT:

25 Q Thank you. And I want to ask if you've ever 06:48:42

1 discussed gender separation in school sports with
2 Heather Jackson.

3 MS. DENIKER: I'm going to ask you identify
4 where -- which topic that falls under.

5 MS. REINHARDT: I'm referring to topic 11 06:49:03
6 where it says policies, documents, communications of
7 the Harrison County board and the county board
8 superintendent concerning the separation of boys and
9 girls in school-sponsored sports.

10 MS. DENIKER: Thank you. 06:49:19

11 Do you need to have the question repeated
12 Mr. Mazza?

13 THE WITNESS: Just the name again.

14 BY MS. REINHARDT:

15 Q Are you familiar with B.P.J.'s mother? 06:49:28

16 A Oh, I'm -- yes, absolutely.

17 Q No problem. It's been a long day, I'm sure.

18 Have you --

19 A It has. And -- and I'm thinking "Pepper" --
20 I'm sorry -- I'm thinking "P.J." instead of just 06:49:37
21 "Jackson."

22 Q Makes sense. Have you had any conversation
23 with B.P.J.'s mother related to the separation of
24 boys and girls in school-sponsored sports?

25 A The only conversation was at the gender 06:49:53

1 support meeting back in May of '21.

2 Q And what was the conversation about?

3 A As we were going through the gender support
4 plan, and we were finishing up, she was -- Heather
5 was asking specific questions about band. I said 06:50:15
6 that would not be a problem. You know, we do offer
7 related art classes other than our five core
8 classes, which is reading, English, science, math,
9 social studies. So we were pretty much asking [REDACTED]
10 what other related art classes she would be 06:50:33
11 interested in other than band. She -- [REDACTED] said,
12 art. And we do offer STEAM, etcetera.

13 And then Heather asked me, [REDACTED] wants to
14 participate in cross-country. I said, No problem.
15 And then Heather asked me, [REDACTED] wants to run with 06:50:48
16 the girls. And I -- I know -- I've known Heather --
17 I've had both of her -- I had her oldest son go
18 through, and she has another son that is an
19 eighth-grader in our building. And I looked at
20 Heather, and I said, You did hear about the bill 06:51:07
21 that was signed into law, that's going into effect
22 in July.

23 And she said, We know all about that.

24 And that was the only discussion we had with
25 this law that went into effect in the state of 06:51:17

1 West Virginia.

2 Q And if you know, did Mrs. Jackson take that
3 to mean that [REDACTED] would have to participate on the
4 boys' sports team?

5 MS. DENIKER: Objection to the form of the 06:51:30
6 question, calls for speculation.

7 THE WITNESS: I honestly don't know.

8 BY MS. REINHARDT:

9 Q And what was the purpose in raising H.B. 3293
10 with Mrs. Jackson? 06:51:48

11 A Her question was pretty forward, and I just
12 wondered if she knew that that bill was going to
13 turn into a law in July.

14 Q Understood. I'm just checking my notes. One
15 moment. 06:52:13

16 And just for background information, do
17 you -- have you ever coached any sports?

18 A I have.

19 Q Which sports have you coached?

20 A I've coached football and track. 06:52:26

21 Q And were those in Harrison County?

22 A Football was in Monongalia County, 1989, and
23 track was in Harrison County, 1991, Lincoln High
24 School. Football was the -- what was then
25 Westover Junior High, which is now Westwood Middle. 06:52:51

Page 221

1 Q Thank you. And do you see a benefit in
2 participating in school sports?

3 A Absolutely.

4 Q And what are those benefits as you know them
5 as Principal Mazza? 06:53:01

6 MR. TRYON: Objection.

7 THE WITNESS: I --

8 MS. DENIKER: Objection to the form.

9 THE WITNESS: My benefits of having two
10 children of my own, I believe it develops 06:53:11

11 discipline, teamwork. There's nothing better than

12 teamwork. I truly believe once you do graduate

13 college and go into the workforce, you will always

14 be working as a team with someone. Trust. I see a

15 lot of trust with sports. And it's just great 06:53:31

16 conditioning just to be part of something, just to

17 be part of a team.

18 BY MS. REINHARDT:

19 Q I understand that. I played basketball and
20 volleyball, so I can appreciate those. 06:53:42

21 Do you think B.P.J. gained any benefits from
22 participating on a sports team?

23 MS. DENIKER: Objection to the form.

24 MR. TRYON: Objection.

25 THE WITNESS: I believe so. I believe so. 06:54:03

1 MS. REINHARDT: Could we please go off the
2 record for one moment?

3 THE VIDEOGRAPHER: Sorry. Oop, I was on
4 mute.

5 Yep. We're going off the record. The time 06:54:23
6 is 6:54 p.m.

7 (Recess.)

8 THE VIDEOGRAPHER: All right. We are back on
9 the record. It's 7:00 p.m.

10 Go ahead. 07:00:30

11 MS. REINHARDT: Principal Mazza, we have no
12 further questions for you, unless there will be
13 questions on redirect.

14

15 07:00:36

16 EXAMINATION

17 BY MS. GREEN:

18 Q Principal Mazza, my name is Roberta Green,
19 and I'm an attorney here on behalf of WVSSAC. I
20 appreciate your patience today. I know it's been a 07:00:47
21 long day.

22 In terms of your knowledge of WVSSAC's rules
23 and policies, their rationale with the slideshow,
24 would you defer to WVSSAC as to the interpretation
25 of all of that? 07:01:08

1 MS. REINHARDT: Objection.

2 MS. DENIKER: Objection to form.

3 THE WITNESS: Can you repeat that question,
4 please?

5 MS. GREEN: Sure. 07:01:17

6 MS. DENIKER: And, Ms. Green, if you'll just
7 give me a standing objection, I won't repeat my
8 objection to form.

9 MS. GREEN: Thank you. Absolutely.

10 BY MS. GREEN: 07:01:24

11 Q Mr. Mazza, in terms of WVSSAC's policies,
12 you've commented on a couple this evening, I
13 wondered if -- I'm asking you on behalf of WVSSAC --
14 would you defer to WVSSAC to speak to its own
15 policies? 07:01:40

16 MS. REINHARDT: Same objection.

17 THE WITNESS: Yes, I would.

18 BY MS. GREEN:

19 Q Okay. And in terms of WVSSAC's thinking in
20 assembling the principals' slideshow or whoever 07:01:49
21 assembled the slideshow, would you defer to WVSSAC
22 to explain the slides in that slideshow?

23 MS. REINHARDT: Object to form.

24 MS. DENIKER: This is Susan Deniker. I also
25 object to the form. 07:02:05

1 THE WITNESS: Yes, I would.

2 BY MS. GREEN:

3 Q And in terms of the rules and regulations
4 that WVSSAC has in place, would you defer to WVSSAC
5 to take a position on their rules and how they're 07:02:18
6 interpreted and applied?

7 MS. REINHARDT: Objection to form.

8 MS. DENIKER: Same objection.

9 THE WITNESS: Yes, I would.

10 MS. GREEN: Thank you. No further questions, 07:02:33
11 Principal Mazza. Thank you very much.

12 THE WITNESS: Thank you.

13 MR. TRYON: Kelly, do you have any questions?

14 MS. MORGAN: This is Kelly Morgan. I don't
15 have any questions. Thank you. 07:02:51

16

17

18

19

EXAMINATION

20 BY MR. TRYON: 07:02:53

21 Q Mr. Mazza, I do have a few questions. My
22 name is David Tryon, and I'm an attorney
23 representing the State of West Virginia, and I'm
24 with the attorney general's office.

25 I would like to -- let me start off with 07:03:08

1 Exhibit 28. Let me know when you see it, when you
2 have that.

3 A Yes.

4 Q Have you seen this document before?

5 A I've seen so many documents, sir, I'm not 07:04:00
6 sure.

7 Q Right. Well, take a look at page 4. I want
8 to ask you some questions about information on
9 page 4.

10 A I am on page 4. 07:04:13

11 Q Under "Bridgeport Middle School," do you see
12 those various teams listed?

13 A I do.

14 Q And as far as the -- the -- the list of
15 teams, just the list itself, does that seem to be 07:04:29
16 accurate?

17 A Let me look through that real quick, sir.
18 It does look correct.

19 Q On the football team, to your knowledge, are
20 there any biological girls on the football team? 07:04:53

21 MS. REINHARDT: Objection to terminology.

22 BY MR. TRYON:

23 Q Go ahead, you may answer.

24 A We do not have any biological girls on our
25 football team. 07:05:10

1 Q So it's my understanding that football is
2 generally considered to be a boy's sport, and so I'm
3 interested to see that that is characterized as a
4 coed sport.

5 Can you explain why it's characterized as a 07:05:21
6 coed sport?

7 MS. REINHARDT: Objection to form and also
8 outside the scope of the deposition.

9 BY MR. TRYON:

10 Q You may answer. 07:05:31

11 A Sir, I'm assuming because girls can play
12 football.

13 Q Okay. And -- and why can girls play
14 football?

15 MS. GREEN: I'll object to the form. 07:05:42

16 MS. REINHARDT: Same objection.

17 THE WITNESS: I believe there's not an equal
18 sport for females in the fall.

19 BY MR. TRYON:

20 Q And so is there some reason that you then 07:05:55
21 have to characterize this as coed?

22 A I believe if we had a female on the team, it
23 would be coed.

24 Q And if it -- it does not have a female on the
25 team, is it still considered coed? 07:06:12

1 MS. REINHARDT: Objection to form.

2 MS. DENIKER: Objection to form.

3 THE WITNESS: I believe --

4 MS. GREEN: And I'll object to form.

5 THE WITNESS: I believe that if it leaves the 07:06:26

6 door open, that a female can go out for

7 Bridgeport Middle School football.

8 BY MR. TRYON:

9 Q Is it the same rationale for wrestling?

10 MS. REINHARDT: Objection to form. 07:06:38

11 THE WITNESS: Yes, sir, it is the same

12 rationale.

13 BY MR. TRYON:

14 Q Are there any safety concerns involved for

15 girls joining the football team? 07:06:47

16 MS. GREEN: Object to the form.

17 MS. REINHARDT: Same objection.

18 MS. DENIKER: This is Susan Deniker.

19 Objection to the form.

20 THE WITNESS: We would all -- the female 07:06:55

21 students would be suited up just as equally as the

22 male student, helmet, shoulder pads, etcetera.

23 BY MR. TRYON:

24 Q So -- strike that.

25 Is there a reason that girls' soccer and 07:07:23

1 boys' soccer are separated by sex?

2 MS. REINHARDT: Objection.

3 MS. DENIKER: Objection to the form.

4 MS. GREEN: I'll object to the form.

5 THE WITNESS: We have -- we have enough 07:07:37

6 students to support both boys and girls' soccer.

7 BY MR. TRYON:

8 Q Well, why not just have them both be coed?

9 MS. REINHARDT: Objection --

10 MS. DENIKER: Objection to the form. 07:07:51

11 MS. REINHARDT: -- to the form.

12 Oh, I apologize, also objection to the form.

13 MS. GREEN: And I'll join.

14 THE WITNESS: Once again -- once again, sir,
15 we have a number of students that can do both, and 07:07:57

16 our understanding is if we just did coed, it would
17 be playing just boys' teams.

18 BY MR. TRYON:

19 Q Why is that?

20 MS. DENIKER: Objection to the form. 07:08:09

21 MS. REINHARDT: Same objection.

22 THE WITNESS: My -- my belief is at -- at
23 middle school or high school, if you support a coed
24 team, that coed team must play a boys' team.

25 BY MR. TRYON: 07:08:25

1 Q Okay. What's the problem with doing that?

2 MS. REINHARDT: Object to --

3 MS. GREEN: Object to the form.

4 MS. REINHARDT: I'll join that objection.

5 THE WITNESS: We have the -- we have the 07:08:33

6 numbers for both a boys and a girls' soccer team.

7 BY MR. TRYON:

8 Q Well, why not just let the girls play against
9 the boys, then?

10 MS. REINHARDT: Objection to the form. 07:08:42

11 MS. DENIKER: This is Susan Deniker.

12 Objection to the form.

13 THE WITNESS: Because we have a girls' team
14 and we have a boys' team, sir.

15 MR. TRYON: And I'll just stipulate to a 07:08:54

16 standing objection on this.

17 BY MR. TRYON:

18 Q But I still don't understand why you separate
19 the boys from the girls.

20 MS. REINHARDT: Same objection. 07:09:02

21 BY MR. TRYON:

22 Q Can you please explain that? You haven't
23 really explained that, I don't think.

24 A The SSAC allows us to have a girls' team and
25 a boys' team, if we can support both numbers for 07:09:11

1 each.

2 Q Does it require it?

3 MS. GREEN: Object to the form.

4 MS. REINHARDT: I'll join that objection.

5 MS. DENIKER: And this is Susan Deniker. 07:09:25

6 Mr. Tryon, if you'll give me a standing objection to
7 this line of questioning, I will not continue to
8 object to form.

9 MR. TRYON: Right. And that's what I just
10 said a minute ago, that I would give all three of 07:09:34
11 you --

12 MS. DENIKER: Yes.

13 MR. TRYON: -- a standing objection on that.

14 MS. GREEN: Okay.

15 THE WITNESS: I'm not sure, sir, about that 07:09:42
16 question, if it requires that.

17 BY MR. TRYON:

18 Q When you mix boys and girls on soccer teams,
19 is that creating a safety issue, as far as you're
20 concerned? 07:09:59

21 MS. REINHARDT: Objection to form.

22 BY MR. TRYON:

23 Q As far as you're concerned as the
24 representative of the -- of the -- of the board?

25 A I believe in every sport there are safety 07:10:08

1 issues. I think in this particular case, since it
2 is allowed, I -- I don't think the safety factor is
3 an issue.

4 Q Wait, I'm sorry, since what is allowed?

5 A To have a coed team. 07:10:29

6 Q Having a coed -- I was talking about -- about
7 soccer.

8 A Yeah, if you said you mixed the -- didn't you
9 say if you mix the boys and the girls together, does
10 it create a safety issue? That was your question, 07:10:40
11 sir?

12 Q Yes. So if in soccer, if you mixed all the
13 boys and girls together, does that create any safety
14 issues for the girls, competing against -- against
15 the boys? 07:10:51

16 MS. REINHARDT: Objection to form.

17 THE WITNESS: I believe there's always safety
18 issues with any sport, sir.

19 BY MR. TRYON:

20 Q Are biological boys allowed on girls' teams, 07:11:32
21 other than B.P.J.?

22 MS. REINHARDT: Objection to form and also
23 objection to terminology.

24 THE WITNESS: Can you repeat the question,
25 sir? 07:11:44

1 BY MR. TRYON:

2 Q Other than B.P.J., are any biological boys
3 allowed on the girls' teams?

4 MS. REINHARDT: Same objections.

5 MS. DENIKER: This is Susan Deniker. 07:11:56
6 Objection to the form.

7 THE WITNESS: The particular [REDACTED] situation,
8 because we are in an injunction, [REDACTED] was allowed
9 to run on the girls' cross-country team.

10 BY MR. TRYON: 07:12:15

11 Q Understood. Other than B.P.J., are any
12 biological boys allowed on girls' team?

13 MS. REINHARDT: Same objection.

14 THE WITNESS: We have -- we have never come
15 to that situation, sir, up until this year. 07:12:24

16 BY MR. TRYON:

17 Q Is fairness an important value in sports?

18 MS. REINHARDT: Objection.

19 MS. DENIKER: Objection to form.

20 THE WITNESS: I have two children that played 07:13:17
21 sports, and I always just believe that, you know,
22 fairness is part of it. You know, you just go out
23 and do your best.

24 BY MR. TRYON:

25 Q I understand that on a personal level. I was 07:13:28

1 asking, I guess, more on behalf of the board, does
2 the board consider fairness to be important in
3 sports?

4 MS. REINHARDT: Objection to form.

5 MS. DENIKER: I'm going to raise an objection 07:13:42
6 to form here and also state that to the extent that
7 you're seeking an opinion, that the -- the entity
8 here cannot have an opinion about something that's
9 not reflected in some official policy or other
10 determination by the board. 07:14:00

11 BY MR. TRYON:

12 Q Well --

13 A I will say this --

14 Q -- can you answer --

15 A The -- 07:14:16

16 Q Can you answer the question?

17 A I -- I would just say that, like you said,
18 like I just believe as representing the board, that
19 that question just cannot be answered.

20 Q Okay. So the -- the board has no position on 07:14:26
21 fairness?

22 MS. DENIKER: Objection to the form of the
23 question.

24 To the extent that you can answer about
25 fairness and sports, you can answer that. 07:14:37

1 THE WITNESS: I believe -- I believe any
2 board would want fairness in sports, any Board of
3 Education that has athletic programs would want
4 fairness.

5 MS. REINHARDT: And I wasn't able to 07:14:51
6 interject with an objection. I'm going to say also
7 outside the scope of the deposition.

8 MR. TRYON: I don't have any other questions.
9 Thank you.

10 Hal -- 07:15:33

11 MS. REINHARDT: Does anyone else --

12 MR. TRYON: -- are you there?

13 MS. REINHARDT: -- have any --

14 MR. FRAMPTON: Yeah, I don't have any
15 questions. 07:15:39

16 MS. DENIKER: This is Susan Deniker.
17 Mr. Mazza, I do have a couple of questions for you
18 to clarify your earlier testimony.

19

20

21

22 EXAMINATION

23 BY MS. DENIKER:

24 Q You talked earlier about the athletic

25 director putting information onto a roster for a 07:15:53

Page 235

1 sports team.

2 Do you recall that testimony?

3 A I do.

4 Q Does the athletic director input any
5 information into WVEIS relating to a student's 07:16:04
6 athletic participation?

7 A It does not. It goes into the WVSSAC portal
8 to put that information in for eligibility.

9 Q And I think you also testified about whether
10 the athletic -- about the information the athletic 07:16:20
11 director uses as a source of information to input
12 information into the WVSSAC portal.

13 Does the athletic director pull information
14 from WVEIS to put into that WVSSAC portal?

15 A It does not. It uses an informational sheet. 07:16:41
16 I want to say I believe it's an WVSSAC sheet that's
17 standard to all the schools. The information is
18 filled out on that sheet. He uploads it into the
19 portal. And if -- for example, if that child is a
20 sixth-grader, that information will stay in there 07:16:59
21 and each year it -- it transfers over.

22 MS. DENIKER: Okay. Thank you, Mr. Mazza. I
23 do not have any further questions.

24 MS. REINHARDT: Mr. Mazza, we don't have any
25 redirect questions. 07:17:10

1 We would ask that this deposition stay open.
2 We previously discussed offline that we're waiting
3 for documents from another custodian. We don't
4 anticipate having to reopen the deposition, but we'd
5 like to hold that position. 07:17:24

6 MS. DENIKER: Thank you, Ms. Reinhardt.

7 On behalf of the Harrison County Board of
8 Education and Superintendent Stutler, I am not
9 agreeable to leaving the deposition open based upon
10 the information that is -- is remaining out there, 07:17:36
11 and so I'm placing an objection to that request on
12 the record.

13 THE VIDEOGRAPHER: Should we go off the
14 record for the day? Are we done?

15 MS. REINHARDT: We're finished. Thank you. 07:17:59

16 THE VIDEOGRAPHER: Okay. All right. We are
17 off the record at 7:18 p.m. This ends today's
18 testimony given by Ms. Stutler and Mr. Mazza.

19 The total number of media was used was five
20 and will be retained by Veritext Legal Solutions. 07:18:12

21 (TIME NOTED: 7:18 P.M.)
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, DORA STUTLER, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this _____ day of _____,
20____, at _____, _____.
(City) (State)

DORA STUTLER
VOLUME I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, DAVE MAZZA, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this ____ day of _____,
20____, at _____, _____.
(City) (State)

DAVE MAZZA
VOLUME I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: March 22, 2022



ALEXIS KAGAY

CSR NO. 13795

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1,

2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

BMS XC-Boys		Ritchie County Saturday, October 1		
First Name	Last Name	Distance	Actual Time	Pace Per Mile
		1.9	11:00.7	05:47.7
		1.9	12:53.6	06:47.2
		1.9	13:18.6	07:00.3
		1.9	13:23.9	07:03.1
		1.9	13:25.0	07:03.7
		1.9	14:05.5	07:25.0
		1.9	14:20.3	07:32.8
		1.9	14:25.3	07:35.4
		1.9	14:34.8	07:40.4
		1.9	14:53.4	07:50.2
		1.9	15:21.5	08:05.0
		1.9	16:40.2	08:46.4
		1.9	17:27.6	09:11.4
		1.9	19:22.6	10:11.9
		N/A	N/A	N/A
		N/A	N/A	N/A
		N/A	N/A	N/A

BMS XC-Girls		Ritchie County Saturday, October 1		
First Name	Last Name	Distance	Actual Time	Pace Per Mile
		1.9	13:16.7	06:59.3
		1.9	13:19.4	07:00.7
		1.9	14:46.6	07:46.6
		1.9	15:00.6	07:54.0
		1.9	15:02.0	07:54.7
		1.9	15:31.2	08:10.1
		1.9	15:40.2	08:14.8
		1.9	16:03.7	08:27.2
		1.9	17:17.2	09:05.9
		1.9	17:30.1	09:12.7
		1.9	18:11.7	09:34.6
		1.9	19:02.6	10:01.4
		1.9	19:12.5	10:06.6
		1.9	21:13.7	11:10.4
		1.9	24:06.1	12:41.1
		N/A	N/A	N/A
		N/A	N/A	N/A
		N/A	N/A	N/A

Varsity Sheets

CONFIDENTIAL

HCBOE 01265

XC Time Trial-Bridgeport City Park Course	Taylor County Invitational Wednesday, September 8				Doddridge Invitational Thursday, September 16				Braxton Invitational Saturday, September 25				Mountain Holler Invitational-University HS Thursday, September 2				XC Time Trial-Bridgeport City Park Course Tuesday, August 24, 2021			
	Distance	Actual Time	Pace Per Mile	Place	Distance	Actual Time	Pace Per Mile	Place	Distance	Actual Time	Pace Per Mile	Place	Distance	Actual Time	Pace Per Mile	Place	Distance	Actual Time	Pace Per Mile	Place
05:47.7	2	13:03.5	06:31.8	05:48.0	1.9	11:26.0	06:01.1	06:01.1	2	12:10.1	06:05.0	06:05.0	1	10:28.9	06:06.4	1	10:28.9	06:06.4	1	06:46.4
N/A	2	14:18.5	07:09.2	N/A	1.9	13:00.0	06:50.5	06:50.5	2	13:36.1	06:48.1	06:48.1	4	11:24.8	06:48.1	4	11:24.8	06:48.1	4	07:22.2
07:40.4	2	14:40.6	07:20.3	07:02.0	1.9	13:00.0	06:50.5	06:50.5	2	13:36.1	06:48.1	06:48.1	4	11:24.8	06:48.1	4	11:24.8	06:48.1	4	07:22.2
06:47.2	2	14:44.8	07:22.4	07:11.2	1.9	13:33.0	07:07.9	07:07.9	2	14:20.7	07:10.3	07:10.3	3	12:13.5	07:10.3	3	12:13.5	07:10.3	3	07:53.3
07:03.7	2	15:11.3	07:35.6	N/A	1.9	13:49.0	07:16.3	07:16.3	2	14:41.8	07:20.9	07:20.9	11	12:07.5	07:20.9	11	12:07.5	07:20.9	11	07:53.3
07:50.2	2	16:21.4	08:10.7	07:41.2	1.9	13:52.0	07:17.9	07:17.9	2	15:07.6	07:33.8	07:33.8	8	12:07.3	07:33.8	8	12:07.3	07:33.8	8	07:49.9
07:32.8	2	16:13.9	08:07.0	08:20.3	1.9	14:32.0	07:38.9	07:38.9	2	16:17.5	08:08.8	08:08.8	9	12:12.6	08:08.8	9	12:12.6	08:08.8	9	07:53.3
07:25.0	2	16:26.4	08:13.2	N/A	1.9	16:05.0	08:27.9	08:27.9	2	18:13.1	09:06.6	09:06.6	12	12:33.4	09:06.6	12	12:33.4	09:06.6	12	08:06.6
07:35.4	2	16:37.1	08:18.6	N/A	1.9	14:34.0	07:40.0	07:40.0	2	16:52.3	08:26.1	08:26.1	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A
08:05.0	2	18:13.6	09:06.8	08:52.1	1.9	16:49.1	08:51.1	08:51.1	2	20:09.9	10:02.0	10:02.0	20	14:31.7	10:02.0	20	14:31.7	10:02.0	20	08:27.2
09:11.4	2	18:39.3	09:19.6	09:45.6	1.9	16:49.1	08:51.1	08:51.1	2	20:09.9	10:02.0	10:02.0	20	14:31.7	10:02.0	20	14:31.7	10:02.0	20	09:22.2
08:46.4	2	20:26.5	10:13.3	09:58.9	1.9	18:32.6	09:45.6	09:45.6	2	17:28.0	10:02.5	10:02.5	28	16:21.2	10:02.5	28	16:21.2	10:02.5	28	08:33.3
10:11.9	2	22:33.3	11:16.7	11:07.2	1.9	18:50.0	09:54.7	09:54.7	2	21:20.4	10:40.2	10:40.2	26	19:37.6	10:40.2	26	19:37.6	10:40.2	26	10:33.3
N/A	N/A	N/A	N/A	N/A	1.9	20:40.0	10:52.6	10:52.6	2	21:54.7	10:57.4	10:57.4	33	18:41.0	10:57.4	33	18:41.0	10:57.4	33	10:40.2
N/A	N/A	N/A	N/A	N/A	1.9	20:58.0	11:02.1	11:02.1	2	N/A	N/A	N/A	29	18:41.0	N/A	29	18:41.0	N/A	29	10:40.2
07:00.3	2	15:02.3	07:31.2	07:37.7	1.9	N/A	N/A	N/A	2	N/A	N/A	N/A	10	12:13.0	N/A	10	12:13.0	N/A	10	07:53.3
07:03.1	2	14:49.9	07:25.0	07:25.4	1.9	14:10.0	07:27.4	07:27.4	2	15:32.1	07:46.1	07:46.1	17	13:50.2	07:46.1	17	13:50.2	07:46.1	17	08:56.6
06:59.3	2	15:49.2	07:54.6	07:35.5	1.9	14:08.0	07:26.3	07:26.3	2	15:28.4	07:44.2	07:44.2	5	11:33.5	07:44.2	5	11:33.5	07:44.2	5	07:27.2
07:00.7	2	16:17.8	08:08.9	07:28.9	1.9	13:46.7	07:15.1	07:15.1	2	16:17.8	08:08.9	08:08.9	7	11:38.7	08:08.9	7	11:38.7	08:08.9	7	07:31.1
07:46.6	2	17:09.2	08:34.6	08:46.8	1.9	15:25.0	08:06.8	08:06.8	2	14:24.5	07:12.3	07:12.3	13	10:59.5	07:12.3	13	10:59.5	07:12.3	13	08:19.9
08:10.1	2	18:20.2	09:10.1	08:46.6	1.9	16:28.0	08:40.0	08:40.0	2	16:28.0	08:40.0	08:40.0	24	15:28.1	08:40.0	24	15:28.1	08:40.0	24	09:59.9
07:54.7	2	17:50.3	08:55.2	08:52.0	1.9	N/A	N/A	N/A	2	N/A	N/A	N/A	19	14:18.2	N/A	19	14:18.2	N/A	19	09:14.4
08:27.2	2	19:29.9	09:45.0	08:24.9	1.9	17:41.0	09:18.4	09:18.4	2	18:08.4	09:04.2	09:04.2	27	16:56.1	09:04.2	27	16:56.1	09:04.2	27	10:56.6
08:14.8	N/A	N/A	N/A	09:10.4	1.9	16:52.0	08:52.6	08:52.6	2	17:20.1	08:40.0	08:40.0	15	12:59.8	08:40.0	15	12:59.8	08:40.0	15	08:23.3
09:12.7	2	17:41.7	08:50.8	09:17.5	1.9	16:43.0	08:47.9	08:47.9	2	17:09.8	08:34.9	08:34.9	22	14:47.2	08:34.9	22	14:47.2	08:34.9	22	09:32.2
N/A	2	20:30.8	10:15.4	09:29.1	1.9	17:58.0	09:27.4	09:27.4	2	18:35.8	09:17.9	09:17.9	23	15:25.5	09:17.9	23	15:25.5	09:17.9	23	09:57.7
09:05.9	2	21:06.2	10:33.1	09:31.3	1.9	17:06.0	09:00.0	09:00.0	2	17:34.4	08:47.2	08:47.2	21	14:32.2	08:47.2	21	14:32.2	08:47.2	21	09:23.3
10:01.4	2	24:08.4	12:04.2	11:29.7	1.9	18:09.0	09:33.2	09:33.2	2	19:17.1	09:38.6	09:38.6	18	14:17.7	09:38.6	18	14:17.7	09:38.6	18	09:13.3
09:34.6	2	22:44.2	11:22.1	10:25.9	1.9	20:31.0	10:47.9	10:47.9	2	21:46.1	10:53.0	10:53.0	30	19:04.5	10:53.0	30	19:04.5	10:53.0	30	08:18.8
11:10.4	2	27:04.2	13:32.1	11:48.2	1.9	19:49.2	10:25.9	10:25.9	2	22:33.9	11:17.0	11:17.0	35	20:52.5	11:17.0	35	20:52.5	11:17.0	35	08:28.8
N/A	N/A	N/A	N/A	15:09.8	1.9	19:36.0	10:15.8	10:15.8	2	20:43.7	10:21.8	10:21.8	25	15:42.3	10:21.8	25	15:42.3	10:21.8	25	10:08.8
12:41.1	N/A	N/A	N/A	11:38.4	1.9	23:30.0	12:22.1	12:22.1	2	24:55.9	12:28.0	12:28.0	34	20:34.8	12:28.0	34	20:34.8	12:28.0	34	08:17.7
N/A	N/A	N/A	N/A	15:09.8	1.9	21:47.0	11:27.9	11:27.9	2	22:55.7	11:27.9	11:27.9	32	19:16.2	11:27.9	32	19:16.2	11:27.9	32	08:26.6
N/A	N/A	N/A	N/A	15:09.8	1.9	25:58.0	13:40.0	13:40.0	2	N/A	N/A	N/A	36	23:44.9	N/A	36	23:44.9	N/A	36	08:15.9
07:54.0	2	20:25.0	10:12.5	N/A	1.9	N/A	N/A	N/A	2	N/A	N/A	N/A	31	19:08.6	N/A	31	19:08.6	N/A	31	08:21.1
					1.9	N/A	N/A	N/A	2	N/A	N/A	N/A	14	12:56.1	N/A	14	12:56.1	N/A	14	08:21.1

2021 Team

CONFIDENTIAL

HCBOE 01267

		Time Trial Comparison				XC Time Trial-Bridgeport City Park Course Thursday, October 7, 2021				XC Time Trial-Bridgeport City Park Course Tuesday, August 24, 2021				Difference (BOLD is improved)	
Boy/Girl	Grade:	First Name	Last Name	TT Place	Course Length	TT Time	TT Pace/Mile	Place	Course Length	TT Time	TT Pace/Mile	Time	Pace/Mile	Time	Pace/Mile
Boy	7th Grade			0	N/A	N/A	N/A	10	1.55	12:13.0	0:07:53	N/A	N/A	N/A	N/A
Girl	8th Grade			0	N/A	N/A	N/A	31	1.55	19:08.6	0:12:21	N/A	N/A	N/A	N/A
Boy	8th Grade			0	N/A	N/A	N/A	20	1.55	14:31.7	0:09:22	N/A	N/A	N/A	N/A
Boy	7th Grade			0	N/A	N/A	N/A	8	1.55	12:07.3	0:07:49	N/A	N/A	N/A	N/A
Boy	8th Grade			0	N/A	N/A	N/A	4	1.55	11:24.8	0:07:22	N/A	N/A	N/A	N/A
Girl	7th Grade			0	N/A	N/A	N/A	19	1.55	14:18.2	0:09:14	N/A	N/A	N/A	N/A
Boy	7th Grade			0	N/A	N/A	N/A	29	1.55	18:41.0	0:12:03	N/A	N/A	N/A	N/A
Boy	8th Grade			1	1.55	09:34.6	0:06:11	1	1.55	10:28.9	0:06:46	00:54.3	0:00:35	00:54.3	0:00:35
Boy	7th Grade			2	1.55	10:52.2	0:07:01	17	1.55	13:50.2	0:08:56	02:58.0	0:01:55	02:58.0	0:01:55
Boy	7th Grade			3	1.55	10:54.9	0:07:03	11	1.55	12:13.5	0:07:53	01:18.5	0:00:51	01:18.5	0:00:51
Boy	6th Grade			4	1.55	10:58.8	0:07:05	5	1.55	11:33.5	0:07:27	00:34.7	0:00:22	00:34.7	0:00:22
Boy	6th Grade			5	1.55	11:24.7	0:07:22	3	1.55	11:23.5	0:07:21	00:01.2	0:00:01	00:01.2	0:00:01
Girl	8th Grade			6	1.55	11:25.3	0:07:22	7	1.55	11:38.7	0:07:31	00:13.4	0:00:09	00:13.4	0:00:09
Girl	6th Grade			7	1.55	11:25.8	0:07:22	13	1.55	12:53.0	0:08:19	01:27.2	0:00:56	01:27.2	0:00:56
Boy	8th Grade			8	1.55	11:42.4	0:07:33	9	1.55	12:12.6	0:07:53	00:30.2	0:00:19	00:30.2	0:00:19
Boy	6th Grade			9	1.55	11:47.7	0:07:37	12	1.55	12:33.4	0:08:06	00:45.7	0:00:29	00:45.7	0:00:29
Boy	8th Grade			10	1.55	12:04.6	0:07:47	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Boy	7th Grade			11	1.55	12:08.3	0:07:50	16	1.55	13:06.2	0:08:27	00:57.8	0:00:37	00:57.8	0:00:37
Girl	8th Grade			12	1.55	12:29.5	0:08:04	15	1.55	12:59.8	0:08:23	00:30.3	0:00:20	00:30.3	0:00:20
Girl	6th Grade			13	1.55	12:31.9	0:08:05	24	1.55	15:28.1	0:09:59	02:56.2	0:01:54	02:56.2	0:01:54
Girl	8th Grade			14	1.55	12:53.7	0:08:19	14	1.55	12:56.1	0:08:21	00:02.4	0:00:02	00:02.4	0:00:02
Boy	7th Grade			15	1.55	13:26.9	0:08:41	28	1.55	18:37.2	0:12:01	05:10.3	0:03:20	05:10.3	0:03:20
Girl	7th Grade			16	1.55	13:44.4	0:08:52	23	1.55	15:25.5	0:09:57	01:41.1	0:01:05	01:41.1	0:01:05
Girl	6th Grade			17	1.55	13:49.7	0:08:55	22	1.55	14:47.2	0:09:32	00:57.5	0:00:37	00:57.5	0:00:37
Boy	7th Grade			18	1.55	13:52.5	0:08:57	26	1.55	16:21.2	0:10:33	02:28.7	0:01:36	02:28.7	0:01:36
Girl	7th Grade			19	1.55	13:56.8	0:09:00	21	1.55	14:32.2	0:09:23	00:35.4	0:00:23	00:35.4	0:00:23
Girl	8th Grade			20	1.55	14:52.2	0:09:36	18	1.55	14:17.7	0:09:13	00:34.5	0:00:22	00:34.5	0:00:22
Girl	8th Grade			21	1.55	14:53.3	0:09:36	25	1.55	15:42.3	0:10:08	00:49.0	0:00:32	00:49.0	0:00:32
Girl	6th Grade			22	1.55	15:17.6	0:09:52	35	1.55	20:52.5	0:13:28	05:34.9	0:03:36	05:34.9	0:03:36
Girl	6th Grade			23	1.55	15:23.9	0:09:56	27	1.55	16:56.1	0:10:56	01:32.2	0:01:00	01:32.2	0:01:00
Girl	6th Grade			24	1.55	16:10.1	0:10:26	30	1.55	19:04.5	0:12:18	02:54.4	0:01:53	02:54.4	0:01:53
Girl	8th Grade			25	1.55	17:42.1	0:11:25	32	1.55	19:16.2	0:12:26	01:34.1	0:01:01	01:34.1	0:01:01
Girl	7th Grade			26	1.55	17:51.7	0:11:31	34	1.55	20:34.8	0:13:17	02:43.1	0:01:45	02:43.1	0:01:45
Boy	7th Grade			27	1.55	19:38.5	0:12:40	33	1.55	19:37.6	0:12:40	00:00.9	0:00:01	00:00.9	0:00:01
Girl	6th Grade			28	1.55	22:15.5	0:14:22	36	1.55	23:44.9	0:15:19	01:29.4	0:00:58	01:29.4	0:00:58

Time Trial Comp

EXHIBIT G

HB ORG

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Originating

House Bill 3293

BY DELEGATES HANNA, BRIDGES, CLARK, ELLINGTON,
HORST, JENNINGS, LONGANACRE, MAZZOCCHI, TULLY AND
PHILLIPS AND BURKHAMMER

[Originating in the Committee on Education; Reported
on March 16, 2021]

HB ORG

1 A BILL to amend and reenact §18-2-5c and §18-2-25 of the Code of West Virginia, 1931, as
2 amended, all relating to single-sex participation in interscholastic athletic events; providing
3 that the birth certificate required for admission to public school confirm the pupil's sex at
4 time of birth, or in the alternative, that the pupil's sex be identified by a signed physician's
5 statement; providing that the sex identified at the time of admission must be the pupil's
6 sex for the purposes of single-sex participation in interscholastic athletic events under the
7 control, supervision, and regulation of the West Virginia Secondary Schools Activities
8 Commission; providing that the commission must verify with each county board that each
9 student participating in single-sex interscholastic events is participating according to the
10 student's sex at the time of the student's birth; and clarifying that these requirements do
11 not apply to co-educational secondary school interscholastic athletic events.

Be it enacted by the Legislature of West Virginia:

**§18-2-5c. Birth certificate required upon admission to public school; required notice to
local law-enforcement agency of missing children; identifying pupil's sex for the
purpose of participating in single-sex interscholastic athletic events.**

1 (a) No pupil shall be admitted for the first time to any public school in this state unless the
2 person enrolling the pupil presents a copy of the pupil's original birth record certified by the state
3 registrar of vital statistics confirming the pupil's identity, age, sex at time of birth, and state file
4 number of the original birth record. If a certified copy of the pupil's birth record cannot be obtained,
5 the person so enrolling the pupil shall submit:

6 (1) ~~an~~ An affidavit explaining the inability to produce a certified copy of the birth record:
7 *Provided*, That if any person submitting such affidavit is in U.S. military service and is in transit
8 due to military orders, a three-week extension shall be granted to such person for providing the
9 birth records; and

10 (2) A signed physician's statement indicating the pupil's sex based solely on the pupil's
11 unaltered internal and external reproductive anatomy.

HB ORG

12 (b) Upon the failure of any person enrolling a pupil to furnish a certified copy of the pupil's
13 birth record in conformance with subsection (a) above, the principal of the school in which the
14 pupil is being enrolled or his or her designee shall immediately notify the local law-enforcement
15 agency. The notice to the local law-enforcement agency shall include copies of the submitted
16 proof of the pupil's identity, and age, and sex at time of birth and the affidavit explaining the
17 inability to produce a certified copy of the birth record.

18 (c) Within fourteen days after enrolling a transferred pupil, the principal of the school in
19 which the pupil has been enrolled or his or her designee shall request that the principal or his or
20 her designee of the school in which the pupil was previously enrolled transfer a certified copy of
21 the pupil's birth record.

22 (d) Principals and their designees shall be immune from any civil or criminal liability in
23 connection with any notice to a local law-enforcement agency of a pupil lacking a birth certificate
24 or failure to give such notice as required by this section.

25 (e) The sex identified in subsection (a) above shall be the pupil's sex for the purposes of
26 participating in single-sex secondary school interscholastic athletic events under the control,
27 supervision, and regulation of the West Virginia Secondary Schools Activities Commission
28 pursuant to §18-2-25 of this code.

**§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities
of secondary schools; delegation of authority to West Virginia Secondary School
Activities Commission; authority of commission; approval of rules by state board;
incorporation; funds; participation by private and parochial schools, ~~and~~ by home-
schooled students and by preparatory athletic programs; student participation in
single-sex secondary school interscholastic athletic events.**

29 (a) The county boards of education shall exercise the control, supervision, and regulation
30 of all interscholastic athletic events, and other extracurricular activities of the students in public

HB ORG

31 secondary schools, and of those schools of their respective counties. The county board of
32 education may delegate control, supervision, and regulation of interscholastic athletic events and
33 band activities to the West Virginia Secondary School Activities Commission.

34 (b) The West Virginia Secondary School Activities Commission is composed of the
35 principals, or their representatives, of those secondary schools whose county boards of education
36 have certified in writing to the State Superintendent of Schools that they have elected to delegate
37 the control, supervision, and regulation of their interscholastic athletic events and band activities
38 of the students in the public secondary schools in their respective counties to the commission.
39 The West Virginia Secondary School Activities Commission may exercise the control, supervision,
40 and regulation of interscholastic athletic events and band activities of secondary schools,
41 delegated to it pursuant to this section. The rules of the West Virginia Secondary School Activities
42 Commission shall contain a provision for a proper review procedure and review board and be
43 promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all
44 instances, be subject to the prior approval of the state board. The West Virginia Secondary School
45 Activities Commission, may, with the consent of the State Board of Education, incorporate under
46 the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock
47 corporation under the provisions of chapter 31 of this code. County boards of education may
48 expend moneys for and pay dues to the West Virginia Secondary School Activities Commission,
49 and all moneys paid to the commission, as well as moneys derived from any contest or other
50 event sponsored by the commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this
51 code, and the funds of the commission are subject to an annual audit by the State Tax
52 Commissioner.

53 (c) The West Virginia Secondary School Activities Commission shall promulgate
54 reasonable rules providing for the control, supervision, and regulation of the interscholastic
55 athletic events and other extracurricular activities of private and parochial secondary schools as

HB ORG

56 elect to delegate to the commission control, supervision, and regulation, upon the same terms
57 and conditions, subject to the same rules and requirements and upon the payment of the same
58 fees and charges as those provided for public secondary schools. Any such private or parochial
59 secondary school shall receive any monetary or other benefits in the same manner and in the
60 same proportion as any public secondary school.

61 (d) Notwithstanding any other provision of this section, or the commission's rules, the
62 commission shall consider eligible for participation in interscholastic athletic events and other
63 extracurricular activities of secondary schools a student who is receiving home instruction
64 pursuant to §18-8-1(c) of this code and who:

65 (1) Has demonstrated satisfactory evidence of academic progress for one year in
66 compliance with the provisions of that subsection: *Provided*, That the student's average test
67 results are within or above the fourth stanine in all subject areas;

68 (2) Is enrolled in at least one virtual instructional course per semester, consistent with the
69 applicable virtual instruction policy of the county board in which the home-schooled student lives
70 and the State Board;

71 (3) Has not reached the age of 19 by August 1 of the current school year;

72 (4) Is an amateur who receives no compensation but participates solely for the
73 educational, physical, mental and social benefits of the activity;

74 (5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School
75 Activities Commission and the county board in which the home-schooled student lives; and

76 (6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission
77 governing awards, all-star games, parental consents, physical examinations, and vaccinations
78 applicable to all high school athletes.

79 Eligibility is limited to participation in interscholastic athletic events and other
80 extracurricular activities at the public secondary school serving the attendance zone in which the
81 student lives: *Provided*, That home-schooled students who leave a member school during the

HB ORG

82 school year are subject to the same transfer protocols that apply to member-to-member transfers.

83 Reasonable fees may be charged to the student to cover the costs of participation in

84 interscholastic athletic events and other extracurricular activities.

85 (e) The West Virginia Secondary School Activities Commission shall recognize

86 preparatory athletic programs, whose participants attend a secondary school in West Virginia for

87 academic instruction, as nonparticipating members of the commission solely for the purpose of

88 competing on the national level: *Provided*, That the preparatory athletic program shall pay the

89 same fees as member schools. Such recognition does not entitle the preparatory athletic program

90 to compete against a member school during the regular season or in any commission state

91 championship events. The commission may promulgate an emergency rule pursuant to

92 subsection (b) of this section, if necessary, to carry out the intent of this subsection.

93 (f) Prior to a student's participation in single-sex secondary school interscholastic athletic

94 events, the West Virginia Secondary School Activities Commission must verify with each county

95 board that each student participating in single-sex interscholastic events is participating according

96 to the student's sex at the time of the student's birth pursuant to §18-2-5c.

97 This subsection does not prohibit students from participating in a co-educational

98 secondary school interscholastic athletic events. Students may participate in a co-educational

99 secondary school interscholastic athletic events without having to comply with the requirements

100 of this subsection.

NOTE: The purpose of this bill is to require that a secondary student athlete's participation in single-sex athletics be based upon the athlete's biological sex, as indicated on the athlete's original birth certificate issued at the time of birth.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.