

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEENASHVILLE DIVISION

L.E., *by his next friend and parents,*)
SHELLEY ESQUIVEL and)
MARIO ESQUIVEL,)
)
Plaintiffs,)
)
v.)
)
BILL LEE, in his official capacity as)
Governor of Tennessee, et al.)
)
Defendants.)

No. 3:21-CV-00835

KNOX COUNTY BOARD OF EDUCATION AND JON RYSEWYK’S STATEMENT OF
UNDISPUTED MATERIAL FACTS IN SUPPORT OF THE MOTION FOR SUMMARY
JUDGMENT

Defendants Knox County Board of Education (“KCBOE”) and Superintendent Jon Rysewyk (the “Superintendent”) (collectively “Defendants”), pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.01(b) submit this Statement of Undisputed Material Facts in Support of the Motion for Summary Judgment.

1. Public school systems within the state of Tennessee were established by the Constitution of the State of Tennessee. *See* Art. 11, § 19, Tenn. Const.

RESPONSE:

2. KCBOE is the elected body which manages and controls the Knox County, Tennessee school system. *See* Tenn. Code Ann. 49-2-203(a)(2) (“It is the duty of the local board of education to... [m]anage and control all public schools established... under its jurisdiction....”)

and Knox County Charter, Sec. 6.01.A: “The exclusive management and control of the school system of Knox County... is vested in the Knox County Board of Education....”

RESPONSE:

3. KCBOE’s purpose is to implement the state’s education system at the local level. [Hemmelgarn Deposition, p. 25, l. 4-13].

RESPONSE:

4. In order to comply Tennessee Code Annotated § 49-6-310, KCBOE amended its interscholastic sports policy, I-171, to adopt the language set forth in subsection (a) of the statute. [Hemmelgarn Deposition, p. 97, l. 1-6].

RESPONSE:

5. KCBOE’s purpose in amending the policy was to comply with state law. [*Id.*].

RESPONSE:

6. KCBOE had no role in drafting, advocating, or passing Tennessee Code Annotated § 49-6-310. [*Id.*, p. 86-87].

RESPONSE:

7. A copy of KCBOE policy 1-171 is attached to Defendants’ Motion for Summary Judgment as Exhibit B and was introduced as Exhibit 1 to Ms. Hemmelgarn’s deposition. [Motion for Summary Judgment, Ex. B].

RESPONSE:

8. Tennessee Code Annotated § 49-6-310 is mandatory on local education agencies like KCBOE. [Deposition of Penny Schwinn, p. 207, l. 2-13]

RESPONSE:

9. the State Department of Education will review the polices adopted by the local education agency for compliance with this statute and that the statute requires each local board of education to adopt and enforce a policy in compliance with the statute. [Deposition of Sara Morrison., p. 108-109].

RESPONSE:

10. Plaintiff L.E. is a high school student at Farragut High School, a school within the KCBOE school system. [Complaint, Doc. 1, ¶ 1].

RESPONSE:

11. Plaintiff alleges that he is a transgender boy¹ and desires to play golf on the Farragut High School boys' golf team. [*Id.*, ¶ 81].

RESPONSE:

12. L.E. alleges that Tennessee Code Annotated § 49-6-310 and KCBOE Policy 1-171 prevent him from playing on the golf team of his choice. [*Id.*, ¶ 83].

¹ As alleged in the Complaint, “transgender boy” means a person who was assigned the sex of female of birth, but identifies as a boy. [Complaint, ¶ 74-75]

RESPONSE:

13. L.E. has never tried out for any golf team at Farragut High School. [Deposition of L.E., p. 18-19].

RESPONSE:

14. L.E. has never personally discussed playing golf with the Farragut golf coach, athletic director, principal, or other KCBOE staff member. [*Id.*, p. 39-40].

RESPONSE:

Respectfully submitted this 7th day of October, 2022.

s/Jessica Jernigan-Johnson
DAVID M. SANDERS (BPR # 016885)
Senior Deputy Law Director
JESSICA JERNIGAN-JOHNSON (BPR #
032192)
Deputy Law Director
Suite 612, City-County Building
400 Main Street
Knoxville, TN 37902
(865) 215-2327

*Counsel for Defendants, Knox County
Board of Education, Knox County Schools
and Dr. Jon Rysewyk*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on the date recorded by the Court's electronic filing system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties who have filed an appearance in the case, by and through the following counsel:

Sasha Buchert (*pro hac vice*)
LAMBDA LEGAL DEFENSE AND EDUCATION
FUND INC.
1776 K Street NW, 8th Floor
Washington, DC 20006-5500
Tel: (202) 804-6245
sbuchert@lambdalegal.org

Leslie Cooper (*pro hac vice*)
L. Nowlin-Sohl (*pro hac vice*)
Taylor Brown (*pro hac vice*)
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad St.
New York, NY 10004
Tel: (212) 549-2584
lcooper@aclu.org
lnowlin-sohl@aclu.org
tbrown@aclu.org

Tara L. Borelli (*pro hac vice*)
Carl S. Charles (*pro hac vice*)
LAMBDA LEGAL DEFENSE AND EDUCATION
FUND INC.
1 West Court Square, Suite 105
Decatur, GA 30030-2556
Tel: (404) 897-1880
Fax: (404) 506-9320
tborelli@lambdalegal.org
ccharles@lambdalegal.org

Jennifer Milici
John W. O'Toole
Wilmer, Cutler & Pickering Hale and Dorr,
LLP
1875 Pennsylvania Avenue NW
Washington, DC 20006
(202) 663-6256
jennifer.milici@wilmerhale.com
john.o'toole@wilmerhale.com

Clark Lassiter Hildabrand
Stephanie A. Bergmeyer
Tennessee Attorney General's Office
P.O. Box 20207
Nashville, TN 37202-0207

Stella Yarbrough (No. 33637)
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF TENNESSEE
P.O. Box 120160
Nashville, TN 37212
Tel: (615) 320-7142
syarbrough@aclu-tn.org

Alan Schoenfeld (*pro hac vice*)
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street, 45th Floor
New York, NY 10007
Tel: (212) 937-7294
alan.schoenfeld@wilmerhale.com

Matthew D. Benedetto (*pro hac vice*)
Thomas F. Costello-Vega (*pro hac vice*)
WILMER CUTLER PICKERING
HALE AND DORR LLP
350 South Grand Avenue, Suite 2400
Los Angeles, CA 90071
Tel: (213) 443-5300
matthew.benedetto@wilmerhale.com
thomas.costello@wilmerhale.com

Emily L. Stark (*pro hac vice*)
Samuel M. Strongin (*pro hac vice*)
Britany Riley-Swanbeck (*pro hac vice*)
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Ave. NW
Washington, DC 20006
Tel: (202) 663-6000
emily.stark@wilmerhale.com
samuel.strongin@wilmerhale.com
britany.riley-swanbeck@wilmerhale.com

(615) 741-6828

clark.hildabrand@ag.tn.gov

stephanie.bergmeyer@ag.tn.gov

s/Jessica Jernigan-Johnson

JESSICA JERNIGAN-JOHNSON