IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

L.E., by next friends and parents, SHELLEY ESQUIVEL and MARIO ESQUIVEL,	)	
Plaintiff,	)	**No. 3:21-cv-00835**
v.	)	**Chief Judge Crenshaw**
BILL LEE, in his official capacity as Governor of Tennessee; et al.,	)	**Magistrate Judge Newbern**
KNOX COUNTY BOARD OF EDUCATION a/k/a KNOX COUNTY SCHOOL DISTRICT; et al.,	)	
Defendants.	)	

DECLARATION OF STEPHANIE BERGMEYER

Pursuant to 28 U.S.C. § 1746, I, Stephanie Bergmeyer, hereby declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 and have direct knowledge of the mattes stated herein.

2. The State Defendants[1] rely on the attached exhibits in support of their contemporaneously filed Motion for Summary Judgment.

3. Exhibit 1A is a true and correct copy of the Tennessee Secondary Schools Athletic Association ("TSSAA") sports, https://tssaa.org/sports, and 1B is a true and correct copy of the

[1] The State Defendants are Governor Lee, Commissioner Schwinn, Executive Director Morrison, members of the Tennessee State Board of Education, in their official capacities, and the Tennessee State Board of Education.

2022-2023 TSSAA Handbook made Exhibit 3 to the Deposition of Donald Dodgen, dated July 28, 2022.

4. Exhibit 2 is a true and correct copy of the Local Rules and Terms of the Competition for 2022 TSSAA Competition for golf, https://cms-files.tssaa.org/documents/tssaa/2022-23/golf/2022GolfConditions.pdf.

5. Exhibit 3 is a true and correct copy of the 2021-22 TSSAA Handbook Wrestling Regulations (Oct. 26, 2021), https://cms-files.tssaa.org/documents/tssaa/2021-22/sports-regulations/2021-22WrestlingRegulations.pdf.

6. Exhibit 4 is a true and correct copy of the 2021-2022 TSSAA Handbook, Girls' Wrestling Regulations (October 26, 2021), https://cms-files.tssaa.org/documents/tssaa/2021-22/sports-regulations/2021-22GirlsWrestlingRegulations.pdf.

7. Exhibit 5 is a true and correct copy of excerpts of the transcript and exhibits 3 and 7 of the Deposition of Farragut High School Golf Coach Jonathan Franklin Higgins, dated July 25, 2022.

8. Exhibit 6 is a true and correct copy of excerpts of the transcript of the Deposition of Mario Esquivel, dated August 2, 2022.

9. Exhibit 7 is a true and correct copy of excerpts of the transcript and exhibit 1 of the Deposition of Shelley Esquivel, dated August 1, 2022.

10. Exhibit 8 is a true and correct copy of excerpts of the transcript of the Deposition of L.E., dated August 1, 2022.

11. Exhibit 9 is a true and correct copy of excerpts of the transcript and exhibit 1 of the Fed. R. Civ. P. 30(b)(6) Deposition of Executive Director Sarah Morrison, Ph.D., dated August 22, 2022.

12. Exhibit 10 is a true and correct copy of excerpts of the transcript of the Deposition of Jessica Hemmelgarn, dated July 29, 2022.

13. Exhibit 11 is a true and correct copy of excerpts of the transcript of the Deposition of Dr. John Christopher Bartlett, dated July 25, 2022.

14. Exhibit 12 is a true and correct copy of the transcript of the Deposition of Melissa Cyperski, Ph.D., dated August 10, 2022.

15. I have personal knowledge of the facts in this declaration and if call upon to testify, could competently do so.

Dated this the 7th day of October, 2022.

s/Stephanie Bergmeyer
Stephanie Bergmeyer, BPR # 027096
Senior Assistant Attorney General
Office of Tennessee Attorney General and Reporter
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Attorney for Governor Lee, Commissioner Schwinn, Dr. Morrison, and the individual members of the Tennessee State Board of Education, in their official capacities, and the Tennessee State Board of Education

Exhibit 1A

Sports

Fall Sports
Boys' Cross Country
Girls' Cross Country
Football
Boys' Golf
Girls' Golf
Girls' Soccer
Girls' Volleyball
Winter Sports
Boys' Basketball
Girls' Basketball
Bowling
Girls' Bowling
Wrestling
Girls' Wrestling
Spring Sports
Baseball
Girls' Softball
Soccer
Boys' Tennis
Girls' Tennis
Boys' Track and Field
Girls' Track and Field
Unified Track and Field
Activities
Cheerleading
Dance

Exhibit 1B

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

L.E., by his next friends And parents	*
Plaintiff	*
V.	*
BILL LEE, in his official Capacity as Governor of Tennessee; PENNY SCHWINN, In her official capacity as The Tennessee Education Commissioner; TENNESSEE STATE BOARD OF EDUCATION; SARA HEYBURN MORRISON in Her official capacity as The executive Director of The Tennessee State Board Of Education; NICK DARNELL MIKE EDWARDS ROBERT EBY GORDON FERGUSON, ELISSA, KIM LILLIAN HARTGROVE, NATE MORROW, LARRY JENSEN DARRELL COBBINS, and EMILY HOUSE, the individual Members of the Tennessee State Board of Education, In their official Capacities; KNOX COUNTY BOARD OF EDUCATION a/k/a KNOX COUNTY SCHOOLS a/k/a KNOX COUNTY SCHOOL DISTRICT; ROBERT M. “BOB” THOMAS, in his Official Capacity as Director of Knox County Schools	*
Defendants	*

DEPOSITION OF DONALD DODGEN

APPEARING REMOTELY FROM

KNOXVILLE, TENNESSEE

July 28, 2022

10:30 a.m.

REPORTED BY:

Dawn L. Halcisak, CLR

APPEARING REMOTELY FROM CRISFIELD, MARYLAND

R E M O T E A P P E A R A N C E S

ON BEHALF OF PLAINTIFF KNOX COUNTY BOARD OF EDUCATION AND BOB THOMAS:

JESSICA JERNIGAN-JOHNSON, ESQUIRE
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SASHA BUCHERT, ESQUIRE
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sbuchert@lambdalegal.org

R E M O T E A P P E A R A N C E S (Cont'd.)

ON BEHALF OF L.E., by his next friends and parents SHELLEY ESQUIVEL and MARIO ESQUIVEL & ACLU OF TENNESSEE:

STELLA YARBROUGH, ESQUIRE (No. 33637)
P.O. Box 120160
Nashville, Tennessee 37212
(615) 320-7142
syarborough@aclu-tn.org

ALSO PRESENT:

FOR KNOX COUNTY LAW DIRECTOR'S OFFICE:
Bob Thomas, Director of Knox County Schools
Coach Donald Dodgen

ATTORNEY GENERAL'S OFFICE:
Anne Levit
Mr. Swaine

Executive Director Morrison
State Board Members
Veda Newman, Law Clerk

R E M O T E A P P E A R A N C E S (Cont'd.)

Lucas Cameron-Vaugh, ACLU

VERITEXT:

Jerry CUrran, Concierge Tech

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MS. BERGMEYER	118

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(Exhibits attached to transcript.)

R E M O T E P R O C E E D I N G S

IT IS HEREBY STIPULATED AND AGREED that the reading and signing of this deposition are waived.

THE REPORTER: Good morning, everyone.

The attorneys participating in this deposition acknowledge that I am not physically present in the deposition rooms and that I will be reporting this deposition remotely. They further acknowledge that, in lieu of an oath administered in person, the witness will verbally declare his or her testimony in this matter is under penalty of perjury. The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting.

Please indicate your agreement by stating your name, whom you represent, your firm, and your agreement to the remote stipulations on the record, beginning with counsel noticing the deposition.

MS. YARBROUGH: Good morning. This is

Stella Yarbough. I represent the ACLU of Tennessee and I -- I work at ACLU of Tennessee, and I represent L.E. in this case, and I assent to the protocols.

MS. JOHNSON: Good morning. My name is Jessica Jernigan-Johnson. I'm with the Knox County Law Director's office. And we represent Knox County Board of Education and Bob Thomas in his official capacity. And I'm here with Coach Dodgen, and I agree to the remote stipulations.

MS. BERGMEYER: Good morning. Stephanie Bergmeyer here from the Attorney General's office. I'm here with Ann Levit, Mr. Swaine, Executive Director Morrison, and the -- state board members in their official capacity and the -- State Board of Education, and I consent, as well.

THE REPORTER: Okay. Great. Okay.

And with that, Counsel, please put a stipulation on the record that the person before the video monitor is, in fact, the person on the deposition notice.

MS. JOHNSON: I so stipulate this is Coach Donald Dodgen. He was noticed for this deposition.

THE REPORTER: Okay. Great. Thank you.

And for the witness, will you kindly raise your right hand for me today.

DONALD DODGEN,

Do you swear that the testimony you are about to give today will be true and accurate, to the best of your ability, under the pains and penalties of perjury, under the State of Maryland, where the reporter is located and under the pains and penalties of perjury under the State of Tennessee, where the witness is located?

THE WITNESS: I do.

THE REPORTER: Please state your name, sir, and spell your name for the record.

THE WITNESS: Donald Dodgen, D-o-n-a-l-d, D-o-d-g-e-n.

THE REPORTER: Okay. Great.

And with that, Counsel, I am going off the video monitor, but I am here.

MS. YARBROUGH: Thank you.

DIRECT EXAMINATION BY COUNSEL FOR ACLU

BY MS. YARBROUGH:

Q. Thank you. And good morning.

As I said before, my name is Stella Yarbough. I'm the legal director of the ACLU of Tennessee, which means I'm joining you from Nashville.

With me this morning are Veda Newman, our law clerk, she is a law student at UT Knoxville. And Lucas Cameron-Vaughn, our new attorney at the ACLU of Tennessee. And Britany Riley-Swanbeck also joining us from the law firm WilmerHale. And we all represent the Plaintiff L.E. in this case.

May I call you Mr. Dodgen? Is that how you say it?

A. That's fine. Yes.

Q. Okay. So as we've all gone over, this deposition is occurring remotely. And so,

TSSAA CONSTITUTION CHANGES APPROVED FOR THE 2022-23 SCHOOL YEAR

1. **Article IV, Section 6 (Legislative Council Meetings)**

   This change states the Legislative Council shall meet in December and April of each school year.

TSSAA BYLAWS CHANGES APPROVED FOR THE 2022-23 SCHOOL YEAR

1. **Article I, Section 9 (Coaches)**

   This change outlines the specific fine for schools that fail to submit non-faculty and classified employees on the Portal prior to coaching each year.

2. **Article II, Section 25(B) (Home School Rule)**

   This change removes the August 15th deadline that homeschool students must notify the member school administration of their intent to try out for a school team. It now states that they must notify the Principal of the member school of their intent to tryout before the first official practice date for that sport.

3. **Article II, Section 27 (Virtual School Rule)**

   The Legislative Council adopted rules allowing member virtual school students who reside in the geographic area of the LEA of the member virtual school to participate at their zoned public school provided they meet all other eligibility requirements and the virtual school decides not to have its own athletic program.

4. **Article IV, Section 8 (Sports Calendar)**

   This change increased the number of matches in Tennis teams are allowed to participate in during the regular season from sixteen (16) to twenty-two (22).

Exhibit
0003
7/28/2022
Donald Dodgen

TENNESSEE SECONDARY SCHOOL ATHLETIC ASSOCIATION

CONSTITUTION

Article I
Name and Purpose

Section 1. The name of the corporation shall be the Tennessee Secondary School Athletic Association, and hereafter shall be referred to as TSSAA.

Section 2. The purposes of the corporation shall be as stated in the Charter of Incorporation and, in addition, to stimulate and regulate interscholastic athletic competition among the member schools in accordance with the standards established by those schools in the TSSAA Bylaws.

Section 3. The mission of the TSSAA is to serve its members by providing leadership and coordination for the administration of interscholastic athletics, which will enhance the educational experiences of students. The TSSAA will promote participation and sportsmanship to develop good citizens through interscholastic athletics, which provide equitable opportunities, positive recognition and learning experiences to students while maximizing the achievement of educational goals.

Article II
Athletic Districts

Section 1. For the purpose of administration only, the state shall be divided by counties into the following athletic districts:

First Athletic District: Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Sevier, Sullivan, Unicoi, Washington.

Second Athletic District: Anderson, Blount, Campbell, Knox, Loudon, McMinn, Monroe, Morgan, Roane, Scott, Union.

Third Athletic District: Bledsoe, Bradley, Grundy, Hamilton, Marion, Meigs, Polk, Rhea, Sequatchie.

Fourth Athletic District: Bedford, Cannon, Clay, Coffee, Cumberland, DeKalb, Fentress, Franklin, Jackson, Lincoln, Moore, Overton, Pickett, Putnam, Rutherford, Smith, Van Buren, Warren, White, Wilson.

Fifth Athletic District: Davidson, Macon, Montgomery, Robertson, Stewart, Sumner, Trousdale.

Sixth Athletic District: Cheatham, Dickson, Hickman, Houston, Humphreys, Giles, Lawrence, Lewis, Marshall, Maury, Perry, Wayne, Williamson.

Seventh Athletic District: Benton, Carroll, Chester, Decatur, Fayette, Hardeman, Hardin, Henderson, Henry, Madison, McNairy.

Eighth Athletic District: Crockett, Dyer, Gibson, Haywood, Lake, Lauderdale, Obion, Tipton, Weakley.

Ninth Athletic District: Shelby.

Athletic Districts 1, 2 and 3 shall comprise the Grand Division of East Tennessee; Athletic Districts 4, 5 and 6 shall comprise the Grand Division of Middle Tennessee, and Athletic Districts 7, 8 and 9 shall comprise the Grand Division of West Tennessee.

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Article III
Board of Control

Section 1. Administration: The administrative authority of the TSSAA shall be vested in a Board of Control composed of twelve members. This Board of Control shall be composed of four representatives from each of the three Grand Divisions of the State who shall be elected to serve for a period of three years. The terms of office shall be staggered such that the terms of four members of the Board of Control, one from two Grand Divisions and two from one Grand Division of the State, shall expire each year. The election shall take place in an annual meeting of the schools in each Grand Division.

Section 2. Election: In each Grand Division, there shall be a minimum of one Independent School representative. Only administrators of member Independent Schools in that Grand Division shall be eligible for election to the Independent School seat. Each member school of the Grand Division that is represented at the meeting by the Principal, or other administrator, shall be entitled to one vote for each Independent School seat to be filled at the meeting.

Administrators from all member schools shall be eligible for election to the other three seats. Nominations shall come from the schools within the Athletic District, and only the members of that Athletic District may vote for their representative on the Board of Control. Each member school of the Athletic District that is represented at the meeting by the Principal, or other administrator, shall be entitled to one vote for each seat to be filled at the meeting. In the event of a tie vote, all member schools in that Grand Division represented at the meeting shall continue to vote until the tie is broken.

The term of office for members of the Board of Control shall begin December 1 following their election.

All members of the Board of Control must be full-time employees (minimum of 100 school days) who are principals, assistant principals (who devote full-time duties to administration), heads of schools, school-level athletic directors (who have achieved a minimum CAA recognition through the NIAAA), district-level athletic directors (who have achieved a minimum CAA recognition through the NIAAA), or director of schools. District-level athletic directors, County and City superintendents of no more than one four-year high school or senior high school shall be eligible to serve. No individual can serve as a member of the Legislative Council and Board of Control at the same time.

Section 3. Officers: The officers of the Board of Control shall be a president and a vice president. These officers shall be elected annually by the members of the Board of Control and each shall perform the duties usually required of the office. The President and Vice-President of the Board of Control shall serve as President and Vice-President of the TSSAA. The President of the Board of Control shall also attend all meetings of the Legislative Council. The Executive Director shall act as Secretary of the Board of Control.

Section 4. Vacancies: Withdrawal from the teaching profession, suspension or lapse of membership of the school represented, or removal from the Athletic District represented shall immediately terminate membership on the Board of Control, and the vacancy shall be filled as provided below.

Vacancies on the Board of Control shall be filled by the members of the Board of Control representing the Grand Division wherein the vacancy occurs. Such members shall serve until the next annual meeting of the member schools of the Grand Division, at which time vacancies shall be filled by regular election.

Section 5. Power and Duties of Board of Control: The Board of Control shall:

(a) Have general control over all athletic contests in which member schools participate.

(b) Elect an Executive Director and delegate the authority to interpret and to enforce the Constitution and Bylaws of the TSSAA to the Executive Director.

(c) Provide office facilities and employees for properly conducting the business of the Association. (The Tennessee Secondary School Athletic Association is an Equal Opportunity Employer.)

(d) Determine and authorize all necessary expenditures of money in the conduct of the affairs of the Association.

(e) Determine methods of, and qualifications for, registration of officials; revoke registration of any official for just cause.

(f) Hear appeals from decisions of the Executive Director and render final decisions in those appeals.

(g) Have authority to rule on any cause not covered by the Constitution and Bylaws, until the Legislative Council adopts a rule covering the situation.

Section 6. Meetings: The Board of Control shall meet in August, November, January, March and June. Other meetings may be called by the President of the Board of Control. The various ex-officio representatives shall be permitted to attend meetings and may provide input on behalf of their constituents but shall have no vote and shall not be or remain present during any meetings held in executive session.

Section 7. Quorum: A majority of the members of the Board of Control shall constitute a quorum for the transaction of business.

Article IV
Legislative Council

Section 1. Administration: The legislative body of the TSSAA shall be a Legislative Council composed of twelve members. This Legislative Council shall be composed of four representatives from each of the three Grand Divisions of the State who shall be elected to serve for a period of three years. The terms of office shall be staggered such that the terms of four members of the Legislative Council, one from two Grand Divisions and two from one Grand Division of the State, shall expire each year. The election shall take place in an annual meeting of the schools in each Grand Division.

Section 2. Election: In each Grand Division, there shall be a minimum of one Independent School representative. Only administrators of member Independent Schools in that Grand Division shall be eligible for election to the Independent School seat. Each member school of the Grand Division that is represented at the meeting by the Principal, or other administrator, shall be entitled to one vote for each Independent School seat to be filled at the meeting.

Administrators from all member schools shall be eligible for election to the other three seats. Nominations shall come from the schools within the Athletic District, and only the members of that Athletic District may vote for their representative on the Legislative Council. Each member school of the Athletic District that is represented at the meeting by the Principal, or other administrator, shall be entitled to one vote for each seat to be filled at the meeting. In the event of a tie vote, all member schools in that Grand Division represented at the meeting shall continue to vote until the tie is broken.

The term of office for members of the Legislative Council shall begin December 1 following their election.

All members of the Legislative Council must be full-time employees (minimum of 100 school days) who are principals, assistant principals (who devote full-time duties to administration), heads of schools, school-level athletic directors (who have achieved a minimum CAA recognition through the NIAAA), district-level athletic directors (who have achieved a minimum CAA recognition through the NIAAA), or director of schools. District-level athletic directors, County and City superintendents of no more than one four-year high school or senior high school shall be eligible to serve. No individual can serve as a member of the Legislative Council and Board of Control at the same time.

Section 3. Officers: The officers of the Legislative Council shall be a president and a vice president. These officers shall be elected annually by the members of the Legislative Council and each shall perform the duties usually required of the office. The President of the Legislative Council shall also attend all meetings of the Board of Control. The Executive Director shall act as Secretary of the Legislative Council.

Section 4. Vacancies: Withdrawal from the teaching profession, suspension or lapse of membership of the school represented, or removal from the Athletic District represented shall immediately terminate membership on the Legislative Council, and the vacancy shall be filled as provided below.

Vacancies on the Legislative Council shall be filled by the members of the Legislative Council representing the Grand Division wherein the vacancy occurs. Such members shall serve until the next annual meeting of the member schools of the Grand Division, at which time vacancies shall be filled by regular election.

Section 5. Duties: The Legislative Council shall make necessary amendments to the Constitution and Bylaws and act upon suggestions submitted by 25 members of the Association.

Section 6. Meetings: The Legislative Council shall meet in December and in **April**. Other meetings may be called by the President of the Legislative Council. The various ex-officio representatives shall be permitted to

attend meetings and may provide input on behalf of their constituents but shall have no vote and shall not be or remain present during any meetings held in executive session. The Executive Director shall prepare an agenda for each meeting of the Legislative Council, which shall include:

(a) Proposals from the regional meetings.

(b) Proposals from any committee established by the Board of Control or Legislative Council.

(c) Proposals from the TSSAA staff.

(d) Any proposal submitted by the chief administrator of a member school to the Executive Director no later than four weeks prior to the Legislative Council meeting.

The Legislative Council shall not consider any item not on the agenda prepared by the Executive Director.

The agenda shall be published no later than seven (7) days in advance of a regularly scheduled meeting of the Legislative Council.

Section 7. Quorum: A majority of the members of the Legislative Council shall constitute a quorum for the transaction of business.

Article V
Executive Director

Section 1. The Executive Director shall be elected for a term of three years by the Board of Control.

Section 2. Under the direction of the Board of Control, the Executive Director shall receive, hold, expand and account for all funds of the Association.

Section 3. The Executive Director shall maintain the records and property of the Association.

Section 4. The Executive Director shall initiate investigations, conduct hearings, collect information, render decisions and fix penalties based on the information provided to the staff, and in accordance with the rules and regulations of the TSSAA. Such decisions shall be subject to review by the Board of Control on appeal by the principal of the member school involved.

Some examples of disciplinary action are, but not limited to, the following:

(1) Probation to an individual sport in an athletic program shall result in a fine of $500.00 annually.

(2) Probation to a total athletic program shall result in a fine of $1,000.00 annually.

(3) Restrictive probation to an individual sport in an athletic program shall result in removal from the tournament series and a fine of $1,000.00 annually.

(4) Restrictive probation to a total athletic program shall result in removal from the tournament series in all sports and a fine of $2,000.00 annually.

(5) Suspension of an individual sport from participation or the total athletic program from participation.

(6) No awards shall be given to a member school recognizing their finish in the regular season in any TSSAA sponsored sport if that school has been placed on restrictive probation for that sport.

Section 5. The Executive Director shall attend all meetings and serve as Secretary of the Board of Control and of the Legislative Council.

Section 6. The Executive Director shall be an ex-officio member of all committees of the Board of Control and of the Legislative Council.

Section 7. The Executive Director shall administer the rules and regulations governing the certification of officials as directed by the Board of Control.

Article VI
Hearings

Section 1. Any school charged with violating TSSAA regulations shall be notified of such charges by the Executive Director. If a hearing is desired by the school involved, the Executive Director must be notified immediately in writing. Provisions will then be made for such hearing, and the school so notified.

Section 2. Hearings shall be conducted by the Executive Director in the presence of two or more members of the Board of Control who represent the Grand Division of the state in which the school is located, and who shall act in an advisory capacity. After testimony has been heard, the Executive Director shall meet in executive session with the members of the Board of Control who are present at the hearing. After discussing with the Board members the evidence and possible penalties, the Executive Director shall decide what penalty, if any, is to be placed against the school.

Section 3. Regardless of whether a member school has sought a hearing under Section 2, the school may appeal any decision of the Executive Director to the Board of Control. If the decision of the Executive Director is sustained, the school making the appeal shall defray the expenses for the meeting of the Board of Control in case a special meeting of the Board is called to consider the appeal.

Section 4. No member of the Board of Control shall serve on the Board while a case involving the school which he/she represents is being heard.

Article VII
Amendments

Section 1. The Constitution may be amended by a majority of the membership of the Legislative Council. The action of the Legislative Council shall be final except that any amendment it makes may be appealed to the entire membership upon request of 25 members of the Association submitted to the Executive Director in writing. An appeal to the membership must be participated in by at least 51 percent of the total membership or the appeal will be void. A two-thirds majority of those voting will be necessary to reject a regulation adopted by the Legislative Council. Any item, not on the regional agenda, that is submitted by a member school to the Legislative Council must be in writing and submitted to the Executive Director no later than four weeks prior to the meeting of the Legislative Council at which the item is to be submitted. Any item to be placed on the agenda of the Legislative Council must be submitted by the chief administrator of a member school, a committee established by the Board of Control, Legislative Council or members of the TSSAA staff.

Section 2. The Legislative Council shall not act on any proposed rule changes affecting any sport sponsored by TSSAA unless the proposed change has been called to the attention of the membership by letter or by being printed in the TSSAA bulletin.

Article VIII
Regional Meeting

Section 1. Regional meetings shall be held in November and/or December of each year at Jackson, Nashville and Knoxville for the purpose of electing members to Board of Control and Legislative Council and of considering proposals to amend the Constitution and Bylaws or other legislative proposals. Proposals for consideration at regional meetings may be submitted by member schools, the Board of Control, or the Legislative Council. All such proposals must be submitted to the Executive Director in writing not later than October 15 of the year they are to be presented at the regional meetings. The Executive Director shall furnish all member schools with a list of all legislative proposals prior to the regional meetings, and the school or group responsible for each proposal shall be indicated. A committee composed of the President and Vice-President of the Legislative Council, the President of the Board of Control, and the Executive Director shall determine the order in which these proposals shall be considered at the regional meetings.

Each member school, provided it is represented by the principal, or by a faculty member designated by the principal, shall be entitled to one vote on all matters considered at the regional meeting held in its area, unless the Board of Control rules in advance of the regional meeting that certain items on the agenda shall not be voted on by the entire membership but that the vote shall be limited to schools concerned with a particular question. Non-voting faculty representatives of member schools have the privilege of speaking for or against any proposal considered.

The action of the member schools at the three regional meetings shall be used as a guide by the Legislative Council in adopting or rejecting legislative proposals.

The principal, assistant principal, or athletic director shall attend the regional meeting annually. Failure to attend shall result in a warning. If an administrator does not attend the following year, the fine shall be $100.00.

FAQ's concerning the Constitution can be found on Page 41.

DEFINITIONS

Affiliate Member – A school that has all the privileges and responsibilities of membership but does not participate in the tournament series in any sport.

Athletic Program – All aspects of the member school's program of interscholastic athletic competition in the sports listed in Article I, Section 5, of the TSSAA Bylaws.

Athletic Record – A student has an "athletic record" if the student has played in an interscholastic contest at the varsity, junior varsity, ninth grade, or any other level, on behalf a TSSAA member school or a school that is a member of a state athletic association holding membership in the National Federation.

Bona Fide Change of Residence – A move from one community to another that justifies a change of schools. Where a family continues to maintain a previous residence for the residential purposes of that family or any of its members, the move is not one that justifies a change of schools for purposes of the TSSAA Bylaws.

Coach – Anyone who instructs or supervises student-athletes in practices or contests.

Cooperative Program – Two member schools forming a single team in a sport in which at least one of the schools does not have a team and has not had a team for the previous two (2) years.

De Novo – Heard anew. Where a decision by the Executive Director is appealed "*de novo*" to the Board of Control, the Board of Control is not in any way bound, restricted, or limited by the findings or conclusions of the Executive Director and may render whatever decision it deems appropriate based on its own review of the facts and circumstances.

Enrolled – A student is considered "enrolled" at a school, for purposes of these Bylaws, when the student has (a) completed all paperwork required for attendance at the school; (b) paid all deposits and tuition due where applicable; and (c) either (i) attended classes for three days; (ii) engaged in three or more days of football, girls volleyball, cross country, golf, or girls soccer practice during the period on or after the TSSAA first official day of practice; or (iii) participated in an athletic contest in any Fall sport. A student may not be considered to be enrolled in more than one school at any time.

Guardian – An adult with whom the student has lived for twelve (12) or more consecutive months. For purposes of TSSAA Bylaws, official appointment by a court is not required to establish guardianship; however, no person may be considered a guardian for purposes of these Bylaws unless the student has lived with that person for twelve (12) or more consecutive months, regardless of whether that person has been appointed as a guardian by a court.

Junior Varsity – Any level of play below the varsity level, whether denominated as junior varsity, b-team, or otherwise. The membership of a junior varsity team shall be composed of varsity substitutes and any other non-varsity players identified on the school's eligibility list (TSSAA Portal Roster).

Last Participation Date – the date of the last interscholastic athletic contest in which the student participated.

Parent – The birth mother and biological father of a student; the person(s) to whom a proper jurisdiction grants adoption of the student; or a step-parent with whom the student regularly resides.

Practice – Any interaction between a coach and student-athlete(s) where instruction, teaching, coaching, etc., is occurring. Happenstance communications between coach and student-athlete(s), in circumstances where attendance by the student-athlete is neither expected nor required, are not considered to be practice. Such communications may not, however, be used to circumvent the requirement in open facilities that a coach act in a supervisory capacity only. In addition, try-outs are considered practice.

Principal – The chief on-site administrative official of the member school, whether known as "principal," "head of school," "executive principal," or by some other title.

Regular Attendance – A student is considered to be in "regular attendance" at a school when the student is enrolled at the school; is taking at, or under arrangements approved by the member school, a minimum of five (5) full courses or the equivalent for which credit toward high school graduation will be granted by the member school upon the student's completing and passing the courses; and is satisfying the requirements of the school or school system for class attendance applicable to students generally.

School Team – An entity comprised of one or more students in a school, under the control and conduct of the school, which represents the school in interscholastic athletic competition.

Special Olympics Athlete – A student participating in Unified Sports who has been identified by an agency or professional as having one or more of the following conditions: intellectual disability, cognitive delay as measured by a formal assessment, or significant learning or vocational problems due to cognitive delay that require or have required specially designed instruction.

Territory – For a public school, the "territory" of the school is the geographic boundaries and bus routes of the area served by that school as established by the local board of education. For a system-wide public school, charter school, or a home school student participating at a public school, the "territory" of the school is the geographic boundaries of the school system. For a non-public school or a home school student participating at a non-public school, the "territory" of the school is the area within a twenty (20) mile radius from the school.

Tournament Competition – The TSSAA-sponsored championship tournament series.

Transfer Student – A transfer student is any student changing schools for any reason other than having completed the highest, or terminal, grade at another school. A student who must change schools because he/she has completed the highest grade at his/her previous school is not considered a transfer student and is eligible to participate in athletics at any school he/she attends, without further approval, provided he/she satisfies the residence requirement above.

Unified Partner – A student participating in Unified Sports who has no intellectual disability or cognitive delay. Unified Partners are paired with Unified Athletes to participate on Unified Sports teams. Unified Partners are not eligible to participate on the school team for the sanctioned sport in which they are participating in the Unified competition.

Unified Sports – Special Olympics Unified Sports® is an inclusive sports program that combines an approximately equal number of Special Olympics athletes (individuals with intellectual disabilities) and partners (individuals without intellectual disabilities) on a team for training and competition.

TENNESSEE SECONDARY SCHOOL ATHLETIC ASSOCIATION

BYLAWS

There are three primary objectives that the member schools of the TSSAA attempt to achieve through their Bylaws: (1) maintaining athletics in its proper perspective as subordinate to the primary academic mission of the schools; (2) preventing the exploitation of students for athletic purposes; and (3) fostering fair competition, or a "level playing field," among the TSSAA member schools. While some particular Bylaws may serve additional purposes, all of the Bylaws should be read with these three overriding objectives in mind.

Article I
Membership and Athletic Program Administration

Membership - Sections 1, 2, and 3
Financial Statement - Section 4
Sponsored Sports - Section 5
Cooperative Programs - Section 6
Responsibility of the Principal - Sections 7 and 8
Coaches - Section 9
Rules Meetings for Coaches - Section 10
Contracts - Section 11

Membership

Section 1. Any secondary school in Tennessee which includes grade 9 and/or higher, which is approved by the State Department of Education, State Department of Education approved agencies (Schools must be in category 1, 2, or 3.), AdvanceEd, and/or Southern Association of Independent Schools, both non-public and public, desiring membership in TSSAA may make application to the Board of Control. Prior member schools that continue to serve students within the state of Tennessee may also make application to the Board of Control. Contracts for membership shall be approved or rejected annually by the Board of Control.

Member schools that withdraw from the TSSAA membership must be an affiliate member for one year upon application to renew membership.

Section 2. The annual dues for a senior high school in Division I Class 1A shall be $150.00, in Division I Class 2A $200.00, in Division I Class 3A $250.00, in Division I Class 4A $250.00 and for a junior high school shall be $100.00. The annual dues for a senior high school in Division II Class A shall be $150, in Division II Class AA $200. The Legislative Council may not increase membership dues unless the increase is approved by a vote of TSSAA member schools.

Membership contracts shall be submitted by August 1 for the subsequent school year. Membership dues shall be paid no later than September 1 and shall be for the school year (August 1 – July 31). There shall be a five dollar ($5.00) per business day late fee charged to any school that fails to remit its membership dues by September 1.

Section 3. For tournament competition there shall be two categories. Division I shall consist of all member public schools. Division II shall consist of all member independent schools.

Any school which includes grade 9 and/or higher may compete as a member school.

Please see FAQ's on Page 42-60.

Financial Statement

Section 4. The fiscal year of the Association shall be from July 1 to June 30. At the close of the fiscal year, the Executive Director shall publish a financial statement. All surplus funds shall be used as directed by the Board of Control.

Sponsored Sports

Section 5. TSSAA shall sponsor the following sports: baseball, girls' softball, basketball, bowling, cross country, football, golf, tennis, track and field, unified track and field, girls' volleyball, soccer, and wrestling.

Please see FAQ's on Page 42-60.

Cooperative Programs

Section 6. Only two member schools in the same Division may petition TSSAA annually for permission to have a cooperative program in any sport if one of the schools does not have that program and has not had that program for the last two years**.** The Executive Director of TSSAA may approve such cooperative programs subject to approval by the principals of the schools involved, the governing board of the schools involved, and the Board of Control.

Responsibility of the Principal

Section 7. The principal of each school, in all matters pertaining to the athletic relations of his/her school, is responsible to this Association. Administrators must realize that they have more responsibilities than the general public to understand the purpose of high school athletics and the principles behind the TSSAA rules, and they must maintain that level of understanding and purpose when dealing with the general public and students. The principal shall exercise control over all finances, the scheduling of contests, and all other matters involved in the management of the school's athletic program. Any school whose athletic program is managed by a non-school group shall not be eligible to hold membership in TSSAA.

The principal shall furnish to the Executive Director such information as may be desired concerning eligibility of contestants, participation and reports on officials. Failure to comply within a reasonable time shall subject the school to suspension, fine or other penalty. Any eligibility list shall remain on file in the principal's office for a period of not less than five years.

The principal, assistant principal, or athletic director shall attend the meeting for all administrators annually. Failure to attend shall result in a warning. If an administrator does not attend the following year, the fine shall be $50.00.

Section 8. All games shall be properly supervised to ensure sportsmanlike contests. The host school shall be responsible for providing sufficient security to ensure orderly conduct on the part of all spectators. Visiting teams shall be accompanied by the principal or someone designated by the principal. If the game is played on a neutral field and neither team is designated as the host team, the competing schools shall share the responsibility of providing sufficient security.

The host school is responsible for the safe passage of the game officials upon arrival and exiting the facility.

Public criticism of game officials by administrators or coaches may result in a fine of $500.00 assessed to the school.

Member schools are responsible for the conduct of their own fans and students at every athletic contest, regardless of where it may be held.

The coach and principal of each of the schools participating in an athletic contest shall file a report immediately with the state office if there is any unusual incident involving poor sportsmanship, during or following the game, on the part of players, coaches, school administrators, game officials or spectators.

Please see FAQ’s on Page 42-60.

Coaches

Section 9. All coaches must be registered with TSSAA annually and will fall under one of the following categories:

1. Full-time certified teacher (a minimum of 100 school days) of a board of education with a Tennessee teaching license or the equivalent.
2. Retired educator (five or more years' experience) with a valid Tennessee state teaching license or the equivalent.
3. Non-faculty coach – Anyone approved by the principal, superintendent, and/or local board of education in the normal course of employment procedures in accordance with applicable state law.
4. Classified Employee – Any individual employed by a member school or school system in a position that does not require a teaching license or the equivalent. A Classified Employee must be employed 30 hours or more per week in a non-coaching position and may not be an independent contractor or an employee of an independent contractor.

A. Coaching Requirements:

1. All coaches must be approved by the principal, superintendent, and/or local board of education prior to coaching.
2. **All coaches must be submitted online and assigned to the appropriate sport(s) in the school's portal account to the state office annually. This should be done prior to coaching.**
3. Non-faculty Coaches and Classified Employee Coaches must complete the NFHS "Fundamentals of Coaching" and "First Aid, Health, & Safety for Coaches" courses prior to assuming the position. Coaches who have successfully completed the ASEP Coaches Education Course prior to May 15, 2013, will not be required to take the NFHS courses. A school must pay an annual registration fee of $50.00 per Non-faculty Coach. There is no registration fee for a Classified Employee.
4. In addition to the requirements listed above, all coaches of Unified Sports must meet the requirements set forth by Special Olympics of Tennessee.

B. Use of a coach who does not meet all the requirements listed above shall result in a fine of $500.00. Use of a Non-faculty Coach or Classified Employee Coach who has met the requirements listed above but has not been submitted to the state office prior to the date of first contest allowed by the Sports Calendar shall result in a fine of $50.00. Use of a full-time certified teacher or retired educator who has not been submitted to the state office prior to the date of first contest allowed by the Sports Calendar shall result in a fine of $50.00.

C. All coaches are subject to the TSSAA rules and regulation and must conduct themselves in a manner becoming of a coach and representative of the school. All coaches are responsible to the principal of his/her school. Coaches must realize that they have more responsibilities than the general public to understand the purpose of high school athletics and the principles behind the TSSAA rules, and they must maintain that level of understanding and purpose when dealing with the general public and students. Coaches must be paid entirely from funds approved by either the board of education, governing board of the school, Director of Schools, or the Principal of the school.

Please see FAQ's on Page 42-60.

Rules Meetings for Coaches

Section 10. A member of the coaching staff in each sport and cheerleading or the Athletic Director shall attend a state rules meeting, if held, or complete the online rules meeting (if available), in the sport involved every year by a set deadline, or the school will be fined $50.00. The coach must complete a make-up online rules meeting if they missed the face-to-face meeting or did not complete the online meeting by the original deadline. If not, the head coach will not be eligible to coach in the post-season tournament series. The school is still fined if the coach takes the make-up meeting after the original deadline.

Contracts

Section 11. Contracts made and entered into by member schools may be cancelled by mutual agreement or by authority of the Board of Control. All contracts between two schools shall be signed by the principals contracting. In the event a dispute arises under a written contract between two member schools, and the contracting schools are unable to resolve that dispute, either school may request a resolution by the Executive Director. The Executive Director's determination may be appealed to the Board of Control, whose decision shall be final and binding. TSSAA shall not resolve any disputes under contracts that are not in writing.

Please see FAQ's on Page 42-60.

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Article II
Eligibility

Preamble
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Academic Rules - Sections 2, 3, and 4
High School Graduate - Section 5
Eight Semester Rule - Section 6
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Eighth Grade Participation - Section 8
Age Limit - Section 9
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Home School Rule – Section 25
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Preamble

The member high schools of the Tennessee Secondary School Athletic Association have adopted, through their elected representatives, an essential inter-related group of minimum eligibility requirements which establish the threshold for participation for all students within the interscholastic program and which work together to define and preserve the fundamental nature of the program.

At the junior varsity or B-Team level, the only eligibility rules that apply are those in Sections 1 (Enrollment), 2 through 4 (Academic Rules), 5 (High School Graduate), 6 (Eight-Semester Rule), 7 (Repeating Rule), 8 (Eighth Grade Participation), 9 (Age Limit), 10 (Physical Examination and Parental Consent), 13d (Under Disciplinary Action), 13e (Coaching Link), 25 (Home School Rule), and **27 (Virtual School Rule)**. At the varsity level, all eligibility rules apply.

Enrollment and Attendance

Section 1. To be eligible, students shall be regularly enrolled, in regular attendance, and carrying at least five full courses or the equivalent. A student is eligible to participate in football, volleyball, cross country, golf, and girls' soccer prior to the beginning of school if the student is enrolled at the school and meets all other eligibility requirements.

A student shall not participate in athletics during any semester unless he/she is duly enrolled on or before the 20th day of the semester. This rule shall not apply to transfer students who have met the attendance requirements in the school last attended.

Please see FAQ's on Page 42-60.

Academic Rules

Section 2. To be eligible to participate in athletic contests during any school year, the student must earn five credits the preceding school year if less than 24 credits are required for graduation or six credits the preceding school year if 24 or more credits are required for graduation. All credits must be earned by the first day of the beginning of the school year. Academic eligibility for a student is based on the requirements of the school the student was attending at the conclusion of the previous school year.

Students who are ineligible the first semester may gain eligibility the second semester by passing five subjects (1/2 credit) or three blocks (one credit per block) or the equivalent.

Students on trimesters who are ineligible at the beginning of the school year may gain eligibility by passing five subjects (1/2 credit) or three blocks (one credit per block) or the equivalent the first trimester. Those students will be eligible to participate in athletics when school resumes on or after January 1 of that school year.

If a student is forced to withdraw from school, or is prevented from enrolling in school, due to the student's illness, his/her accident, or his/her disability, the principal may request a ruling in regard to the student's eligibility, provided the student was eligible at the time the illness or accident forced the student to withdraw or prevented the student from enrolling in school. If ruled eligible, such a student shall be charged with a semester of attendance for athletic purposes for the semester of non-attendance or withdrawal.

A student who returns to a member school after attendance at a school of correction or alternative school may be eligible for athletic participation provided the school of correction or alternative school is accredited by the Tennessee State Department of Education and provided the student returns to the school attended before entering the school of correction or alternative school.

Section 3. For athletic purposes the scholastic record filed in the office of the principal or superintendent at the end of a semester shall be final. Credits earned in a summer school accredited by the State Department of Education shall be recognized for eligibility purposes provided the student was enrolled during the spring semester immediately preceding the summer session and attended at least 40 days of that spring semester.

Section 4. A student who drops out of school before the end of the semester shall be ineligible to participate in secondary school athletics until the student has been in school a semester and has passed in at least five full unit subjects or the equivalent. (To become eligible under this regulation, a student must attend school for at least 40 days of the semester, but in no case shall the eligibility become effective until the beginning of the succeeding semester.)

Please see FAQ's on Page 42-60.

High School Graduate

Section 5. No student shall be eligible to participate in athletics after he/she has graduated from a secondary school. (A student who takes an accelerated course shall not lose his/her eligibility even though that student earns enough units to graduate provided he/she does not participate in a graduating exercise or accept a high school diploma, and provided the student has not attended a secondary school for eight semesters after enrolling in the ninth grade.)

Eight-Semester Rule

Section 6. A student, once enrolled in the 9th grade, has eight (8) semesters of athletic eligibility. Attendance of 40 school days of any semester shall be regarded as a "semester" under this rule regardless of athletic participation. If a student participates in athletics during a period of attendance of any number of days less than 40, he/she shall be charged with a semester of attendance.

A student who registers for two or more ninth grade subjects after having completed one school year in the eighth grade shall be classified as a high school student for athletic purposes.

The seventh and eighth semesters of athletic eligibility shall be consecutive.

Please see FAQ's on Page 42-60.

Repeating Rule

Section 7. A student who repeats the sixth, seventh, or eighth grade and plays in an interscholastic contest (Varsity, JV, or any other level) while repeating shall be ineligible in all sports at all levels in the ninth grade.

Please see FAQ's on Page 42-60.

Eighth Grade Participation

Section 8. An eighth grade student is eligible to participate for a member school if he/she is enrolled at the school. Students below the eighth grade are not eligible to practice or participate for a member school. Any student repeating the eighth grade shall not be eligible for high school participation during the year that the student is repeating the eighth grade.

Participation as an eighth grader shall not reduce the number of semesters a student is allowed to participate after enrolling in the ninth grade.

Please see FAQ's on Page 42-60.

Age Limit

Section 9. No student shall be eligible to participate in any athletic contest during any school year if he/she becomes 19 years of age on or before August 1. The age rule may be waived for the Tennessee School for the Blind when this school is competing with other schools for the blind provided such schools are permitted by their state associations to waive the age rule in competing with other schools for the blind.

Please see FAQ's on Page 42-60.

Physical Examination and Parental Consent

Section 10. It is required that no student be permitted to participate in practice sessions or in athletic contests until there is on file with the principal a preparticipation medical evaluation form signed by a doctor of medicine, osteopathic physician, physician assistant, or certified nurse practitioner stating that the student has passed a physical examination, not prior to April 15, and that in their opinion the student is physically fit to participate in interscholastic athletics. In lieu of the form, the principal may accept a signed statement from the health care provider certifying that the student has passed a physical examination that encompasses all elements on the preparticipation medical evaluation form and attesting that in their opinion the student is physically fit to participate in interscholastic athletics.

No student shall be required to submit to a physical exam if his/her parent(s) or legal guardian shall file with the principal a signed, written statement (affirmed under the penalties of perjury) declining such physical examination on grounds of sincerely held beliefs or practices.

It is required that no student be permitted to participate in practice sessions or in athletic contests until there is on file a parental consent certificate signed by a parent or legal guardian stating that the student has the consent of his/her parent(s) or legal guardian to participate

Please see FAQ's on Page 42-60.

Students Changing Schools

Section 11. General Provisions.

Residence. A student changing schools for any reason, to be eligible, must live at home with his/her parent(s) or guardian(s), unless:

(a) the student is moving to a boarding school and has no athletic record the previous twelve months in any sport;

(b) the student is moving as a direct result of the dissolution of the student's home due to death;

(c) the student is moving as a direct result of the divorce of the student's parents; or

(d) the student is moving as a direct result of the separation of the student's parents, provided a complaint or petition for absolute divorce has been filed with a court having jurisdiction to grant the divorce.

"Transfer Student" Defined. A transfer student is any student changing schools for any reason other than having completed the highest, or terminal, grade at another school. A student who must change schools because he/she has completed the highest grade at his/her previous school is not considered a transfer student and is eligible to participate in athletics at any school he/she attends, without further approval, provided he/she satisfies the residence requirement above.

Executive Director Approval Required. A school may not allow a transfer student to participate in athletics until his/her eligibility has been verified and approved by the Executive Director. The school is responsible for the accuracy and completeness of the information supplied to the Executive Director for this purpose.

Participation While Ineligible. If a student who is ineligible, under these provisions regarding students changing schools, competes in a contest while ineligible, then the student upon becoming eligible under these provisions will nonetheless be ineligible to participate in twice the number of contests in which he/she participated as an ineligible student or will be ineligible for the remainder of the season, whichever is less.

Section 12. Eligible Transfer Students.

Except as otherwise provided in Section 13 below, the following transfer students are eligible:

a. The student has no athletic record in the previous twelve months in any sport sponsored by TSSAA;

b. There has been a bona fide change of residence by the student's entire family unit in which (1) the old residence is outside the territory of the new school, (2) the new residence is outside the territory of the old school, *and* (3) the new residence is inside the territory of the new school. If such a change of residence occurs between school years, the student must transfer at the beginning of the school year to be eligible. If the change of residence occurs during the school year, the student may transfer without loss of eligibility (1) at the time his/her parents change residence; (2) at the end of the next report card period; (3) at the close of the semester or term; or (4) at the close of the school year;

c. The student changes schools as a direct result of re-zoning or re-assignment of students by the local school system provided the student transfers at the time they are re-zoned or re-assigned;

d. The student is moving from a boarding school where they are a boarder to the school serving the territory where his/her parents live, or vice versa, provided the student has attended the school he/she is leaving for a minimum of twelve months and provided the principal at the school he/she is leaving indicates in writing that the move is not for athletic or disciplinary reasons. The move must be at the beginning of the school year. (Note: The school must be outside the day school territory of the boarding school.);

e. The student is transferring to a senior high school in the same system into the earliest grade offered at that senior high school, i.e. at the student's first opportunity to move to that school;

f. The student who has been determined by a Court to be dependent and neglected and consequently changes residences and schools as a result of a Court order;

g. The first time the student changes residence from one parent to the other as a result of a court ordered custody change, so long as the principal of the former school attests in writing that the move was not for athletic or disciplinary reasons; or

h. The first time the student changes residence from a guardian to either or both parents as a result of a court ordered custody change, so long as the principal of the former school attests in writing that the move was not for athletic or disciplinary reasons;

i. The student is attending school where the student's parent works as a full-time certified teacher, that parent takes a full-time job as a certified teacher at a different school, and the student transfers to the school where the parent takes the new job. The transfer must take place when the parent takes the job or, if the job change occurs during the school year, the transfer must take place when the parent takes the new job or must be made at the beginning of the following school year;

j. The student who transfers from school A to school B and then returns to school A without having participated in any sanctioned sport at any level or without practicing three or more days after the first official TSSAA day of practice in any sport at any level at school B. This must be verified in writing by the administration of school B.

Section 13. Ineligible Transfer Students.

The following transfer students are ineligible for a period of twelve months from the student's last participation date:

a. A student who transfers without a bona fide change of residence;

b. A student who transfers as a result of a change of residence is ineligible unless (1) the old residence is outside the territory of the new school, (2) the new residence is outside the territory of the old school, *and* (3) the new residence is inside the territory of the new school;

c. If a student has been ruled eligible as a result of a change of residence, and the parents or guardian return to the former residence before the student has been enrolled in the new school for one complete school year (or twelve months if the transfer occurred during the school year), the student will be ineligible for twelve months from his/her last participation date;

d. If a student has satisfied all other requirements for eligibility but was under discipline at his/her former school, the student shall be ineligible at the new school in all sports for twelve months or until the disciplinary charges have been removed, whichever is less. A student is considered to be “under discipline” if he or she has been suspended from school and/or placed in an alternative setting. The discipline has been removed if the school that has imposed the disciplinary action would allow the student to re-enroll.

e. If a student with an athletic record transfers to a new school where an “athletic coaching link” existed in the past 12 months, that student is ineligible for 12 months past their first date of enrollment at the new school at all levels in the specific sports where a linkage was present. Links may include (1) attendance at an individual camp (and then transferring); (2) playing on non-school (independent) teams (and then transferring to that coach’s school); (3) transferring into a school where a former coach has been hired; and (4) transferring to a school where a former or current personal trainer or strength and conditioning coach is employed.

   This rule does not apply if the student moves to his/her new schools after completion of the highest ending grade at his/her previous school.

If the ineligible transfer student has an athletic record for the previous or current school year in any TSSAA sanctioned sport, the student will be ineligible to participate in the sport(s) in which an athletic record has been established.

Section 14. Practice Rules.

Only students who are enrolled and in regular attendance at a school may participate in practice.

A student who engages in three or more days of practice after the TSSAA first official date of practice with a school in which the student is enrolled shall be ineligible in that sport for that season if the student enrolls in another school without a corresponding change in the residence of the student's parents.

Section 15. Foreign-Exchange Programs.

A foreign exchange student is an international student who attends high school in the U.S. To be eligible for interscholastic athletics in the U.S., such student must be under the auspices of and be placed with a U.S. host family by an international student exchange program that has been accepted for listing by the Council on Standards for International Education Travel (CSIET) and be recognized by the U.S. Department of State. The foreign exchange program must assign students to host families by a method that ensures that no student, or his/her parents, school or other interested party may influence the assignment for athletic or other purposes. The foreign exchange student may not be selected or placed on any basis related to his/her athletic interests or abilities.

A foreign exchange student is considered to be placed with a host family when written notice of placement is provided by the exchange organization to the student and his/her parents, and to the host family.

Neither the school the student attends nor any person associated with the school shall have input into the selection of the student.

No member of the school's coaching staff, paid or voluntary, shall serve as the host family.

The foreign exchange student must possess a current J-1 visa, issued by the U.S. State Department.

The foreign exchange student must comply with all eligibility requirements, with the exception of Article II, Section 11 (Residence).

The foreign exchange student may participate a maximum of one school year. If the student decides to stay beyond the year in which they participate, then Article II, Section 11 (Residence) will be applied at the beginning of the next school year.

Please see FAQ's on Page 42-60.

Tuition and Financial Aid

Section 16. If tuition is charged, it must be paid by parent, bona fide guardian or other family member. If a parent, guardian or other family member secures a loan for payment of tuition, it must remain an obligation of the parents, guardian or other family member to repay the principle and interest in full with no exceptions. Any loan program, grant program, educational foundation or similar program that is established and/or administered, in whole or in part, by a school or official of a school is considered financial aid. Financial aid will be allowed under the following conditions:

1. Children of full-time faculty members may be given financial aid, but such students, if transfers, shall be ineligible for 12 months in any sport in which they have an athletic record for the previous or current year.
2. Financial aid may be awarded on the basis of need, but proof of such need must be filed in the TSSAA office on forms approved by the Executive Director. In order to determine the basis for need, all schools awarding financial aid shall use one of the following services: FACTS Grant and Aid Assessment (FACTS), Financial Aid for School Tuition (FAST), School and Student Scholastic Service for Financial Aid (SSS), Family Financial Needs Assessment (FFNA), Private School Aid Services, Smart Tuition Aid, or Tuition Aid Data Services (TADS). Schools must choose one of the companies for all student-athletes. A committee consisting of School Heads from Division II schools and one ex-officio, non-voting member from the Board of Control and Legislative Council will meet and make recommendations to the Board of Control on each student submitted. In addition, this committee will collect information from schools regarding financial aid statistics, grant procedures, and the overall financial aid program within the school. The Board of Control will then rule on all cases at the August meeting. The Board of Control shall have authority to reject the basis of need for students when in its opinion, or in the opinion of the school committee, the amount of need stated by the financial service cannot be justified.

Schools shall remove any student from athletic eligibility whose accounts with the school are 60 days overdue.

All records pertaining to financial aid or tuition assistance shall be open to TSSAA upon its request. Each school shall be responsible for securing necessary authorization to allow TSSAA to review or audit such records.

Please see FAQ's on Page 42-60.

Recruiting Rule

Section 17. Athletic recruiting is prohibited. Athletic recruiting is the use of influence on a student or the parents or guardians of a student, by any person(s) directly or indirectly associated with the school, to secure or retain a student for athletic purposes. In the event that there is a violation of this rule, there shall be a penalty against the school, and the student(s) who was the subject of the violation shall be ineligible for a minimum of one year.

The penalty and any additional period of ineligibility beyond the one-year minimum will be determined by the Executive Director based on a consideration of the number of violations involved, the number of student-athletes involved, the nature of the violation(s), the individual(s) responsible for the violation(s), and the extent to which the violation may have been knowing, deliberate, or in reckless disregard of the provisions of this rule and the commentary that accompanies this rule.

Guidelines for Understanding the Recruiting Rule

1. Athletes or prospective athletes should be treated no differently than students who are not athletes. Students should be seen as students and not singled out based on their potential athletic ability.

2. To avoid the appearance of impropriety, a coach who is contacted by any student or family or individual about attending a school where he or she is the coach should inform that person that he or she needs to contact the administrative official or officials of the school who normally deal with the admission process.

3. To avoid the appearance of impropriety, any meeting with coaches regarding athletes or prospective athletes should be a part of the admissions process at the school and should take place at the school.

Q. How is influence for athletic purposes interpreted in the recruiting rule?

A. Examples of influence for athletic purposes may include, but are not limited to:

1. Offers of or acceptance of any special privileges not afforded to other students, whether athletes or not.

2. Offers of financial aid based on need to any prospective student-athlete by any member of the coaching staff. All financial aid questions should be referred to the principal or person in charge of financial aid.

3. Inducing or attempting to induce or encourage any prospective student-athlete to attend any member school for the purpose of participating in athletics even when the special remuneration or inducement is not given.

4. Any initial contact or prearranged contact by a member of a coaching staff or representative of the school and a prospective student-athlete in the seventh grade and above.

5. Offering or acceptance of any item with school advertisement (shirt, caps, jackets, etc.) to a prospective student; provided that this example does not apply to items of only nominal value (pencils, etc.) that a school gives to all families that participate in the school's admission process.

6. Admitting students to athletic contests free of charge based on their participation in athletics with non-school teams.

7. Recognizing students at athletic contests based on their participation in athletics with non-school teams.

8. Coaches or their representatives sending questionnaires, cards or letters, contacting, or visiting prospective student-athletes and/or their families at their homes. For purposes of the example, the terms "coach" assumes that the individual initiating the contact is acting in his or her capacity as a coach. If that person serves another role at the school and is not acting in his or her capacity as coach, then there may be no violation, unless the contact is really a method for what is in fact the use of influence for athletic purposes.

9. Coaches or their representatives providing refreshments, gifts, and/or asking prospective student-athletes or family members for contact information.

10. Any social media post that encourages prospective student-athletes to consider attending the school.

Q. What is allowed or permitted by member schools in contacting prospective students?

A. The Recruiting Rule is not intended to prevent a member school from marketing its total school program or conducting programs designed to attract students based on the school's overall educational and extracurricular programs. However, such programs must not be used as a method for securing students for athletic purposes. Examples of programs or things that would be permissible include, but are not limited to:

1. With the permission of the administration of both schools, a school may present programs or give information to elementary, junior high, or middle schools, which explain their total educational program. There should be a diversity of presenters, speaking on a variety of topics to students of all interests.

2. Once a student has pre-enrolled at a school in the spring or summer, taken necessary steps, been accepted or approved, paid a deposit (if required), and signed a contract indicating they will attend, the school may contact the student or family concerning summer programs, camps, physicals, etc., provided the student has:

    a. Completed his/her classes and exams at his/her previous school;

    b. Signed the independent school's enrollment contract; and

    c. Paid the deposit required by the independent school.

3. Mass marketing of a school directed to a general population of students.
4. Mass media advertising.
5. Responding to inquiries from parents of prospective students about various aspects of the school's program.

Q. Are there activities that might appear inconsistent with the Recruiting Rule and the Guidelines but have been historically engaged in by many member schools and are permitted under the current Recruiting Rule and Guidelines?

A. Yes. Over the course of many years, there are a number of activities that many schools have customarily engaged in and that have not been regarded as violations of the Recruiting Rule. So long as the activity does not single out particular student-athletes, and so long as the activity is not being used to circumvent the Recruiting Rule, the following such activities are permissible regardless of any apparent inconsistency with the Recruiting Rule or the Guidelines:

1. With the permission of the administration of both schools, a coach may present programs or give information to elementary, junior high, or middle schools, which explain their total program. All information concerning a particular sport program must be given out at one or both of the schools. Any program must be presented at one or both schools. Those students in attendance or who receive information must be determined by the administration of both schools.
2. Students on school teams and/or all students in a school or particular grade may be admitted to athletic contests free of charge provided it has been approved by the administration of both schools.
3. Students on school teams and/or all students in a school or particular grade may be recognized for their accomplishments at athletic contests provided it has been approved by the administration of those schools.

Amateur Rule

Section 18. A student who has never used and is not using his/her knowledge of athletics or his/her athletic skill for pay in the sports which this Association governs and who has always contested under his/her own name is an amateur. (Accepting money for officiating athletic contests or for working as an employee in a city or county recreation program is not a violation of this regulation.) A student who violates the amateur rule shall be ineligible for 12 months in the sport in which the violation occurs. Bowling, golf and tennis students will abide by USBC, USGA, and USTA regulations in accepting pay.

Such a student may be reinstated as an amateur after a period of one calendar year from the time he/she was declared ineligible has elapsed, provided he/she has not violated the amateur rule during this period.

Award Rule

Section 19. A student may accept a medal, trophy, state championship ring, high school letter, sweater, jacket, shirt, blazer or blanket but nothing else of commercial value from his/her school. (A sweater, jacket, shirt, blazer or blanket must carry the high school letter or other appropriate award emblem.) Acceptance of forbidden awards will cause a student to become ineligible for 12 months in the sport in which the violation occurs. Bowling, golf and tennis students will abide by USBC, USGA, and USTA regulations in accepting awards.

Section 20. A member school that has any connection with the presentation of a forbidden award — such as assisting in the selection of the person to receive the award, permitting the award to be given at a school function, or holding the award for a student until he/she has graduated — shall be subject to suspension from tournament play in the involved sport(s) for one season.

Please see FAQ's on Page 42-60.

Independent-Game Participation

Section 21. Once a student's name is listed on the school's eligibility report**, and/or a student participates in a school contest at any level, a student cannot participate in an independent contest prior to the conclusion of the season.** If a student participates in an independent game in that sport after the first contest date allowed and before the season has closed or his/her name has been removed from the eligibility report at the request of the school principal, the student shall be ineligible at the varsity level as explained below.

Any organized game in which players not registered with TSSAA participate – regardless of whether admission is charged - is considered as an independent game. Once a violation of this rule has been confirmed, the student will be ineligible for the remainder of the season in that sport.

A student's name may be removed from the school's eligibility list (TSSAA Portal Roster) upon written request of the principal prior to the first official contest date allowed in that sport without penalty. After the first official contest allowed, a student's name may be removed from the school's eligibility list (TSSAA Portal Roster) upon written request of the principal, and he/she may then participate as an independent without penalty. If the principal requests the state office to remove a student's name after the first official contest date allowed in that sport, such student may not again be certified during the season of that sport.

Students may practice with an independent team regardless of whether or not scrimmage situations occur at the practice for the independent team as long as the scrimmage situation only involves the independent team that is conducting the practice. A group of students who are assembled to try-out for an independent team is considered a single team regardless of the number of students involved.

This rule does not apply to bowling, golf, tennis, wrestling, cross country, and track and field.

Please see FAQ's on Page 42-60.

Specialized Camps

Section 22. All expenses of an athlete who attends any athletic camp where specialized instruction is offered in any sport sponsored by TSSAA must be paid by the athlete or his/her parents.

All-Star Games

Section 23. No student shall be permitted to participate in an all-star game during that sports season.

Please see FAQ's on Page 42-60.

Special Cases Involving Hardship

Section 24. Except for the eligibility rules in regard to age and to the number of semesters in school, TSSAA shall have the authority to set aside the effect of any eligibility rule upon an individual student when:

(a) the circumstances causing the student to fail to satisfy the eligibility rule were unforeseen and unavoidable;

(b) application of the rule to the student works an undue hardship in light of the unforeseen and unavoidable circumstances;

(c) application of the rule would not accomplish the purpose for which the rule was intended; and

(d) in the case of a change of schools, the change is for reasons unrelated to participation in athletics.

The burden of establishing each of these elements to the Executive Director's satisfaction is upon the school at which eligibility is sought.

Any decision of the Executive Director on any request for a waiver of eligibility rules under this Section may be appealed *de novo* to the Board of Control at its August, November, January or March meetings. If the appeal to the Board of Control or any materials in connection with that appeal are received by TSSAA less than one full week prior to the scheduled Board of Control meeting, the member school at which eligibility is sought shall be responsible for all additional expenses associated with providing copies of that material to the Board of Control. A school appealing a decision of the Executive Director under this Section must have an administrator (principal, assistant principal, or athletic director) present at the Board of Control meeting.

Home School Rule

Section 25. This bylaw establishes the minimum eligibility requirements for a home school student desiring to practice, tryout, and participate at any level in extracurricular athletics at a member school:

A. Definitions

1. A "home school" is a school conducted by a parent(s) or legal guardian(s) for their own child. Parents desiring to home school their own children may do so by choosing one of the following three options:

a. **Independent Home School -** Parents may home school their own children pursuant to Tennessee Code Annotated § 49-6-3050 by registering with their local school district. The home school must be operating in compliance with state law.

b. **Church-related Umbrella School -** By authority of the same statute, parents may also home school their own children by registering with a church-related "umbrella" school defined by Tennessee Code Annotated § 49-50-801. Parents who choose this option will be required to provide evidence to the local school district that their child is enrolled in a church-related school. An Intent to Home School form is not required for students who are enrolled in a church-related school. The church-related school will determine record keeping and test requirements for students enrolled in an umbrella program.

c. **Accredited Online School -** Parents may also enroll their child in an accredited online school. Parents choosing this educational option must be sure to determine that the school has legitimate accreditation status and will be required to provide evidence to the local school district that their child is enrolled in an accredited online school.

Note**: **Eligibility of virtual public school students does not fall under the home school rule. Eligibility of virtual public school students shall be determined by Article II, Section 27 (Virtual School Rule).

2. "Director of Schools" shall mean the chief administrative official of a public school system. In the case of a private school, the responsibilities of the Director of Schools are to be carried out by the Head of School or chief administrative official in that school.

B. Minimum Eligibility Requirements

1. **a.** The student shall be enrolled in a home school conducted by his or her parent(s) or legal guardian(s).

b. The student must be taking a minimum of five (5) academic subjects or the equivalent administered by the parent(s) or guardian(s) which would count toward graduation at the school where the student wishes to participate.

2 The participating student must have a legal residence within the school district of the school where he/she will be participating, if participating with a public school. If participating with a private school, the student must have a legal residence within a 20 mile radius of the private school and meet all tuition and financial aid requirements.

3. **The parent or guardian must make application for participation in athletics to the principal of the member school in which the home school athlete wishes to try out and possibly participate before the first official practice date for that sport**.

4. **a.** The home school athlete shall meet the same academic and conduct standards required of a member school student-athlete to participate in the athletic program.

b. The Director of Schools (Head of School for private schools) or their designee shall confer with the parent(s) or guardian(s) conducting the home school to determine that the home school student is academically eligible.

c. If a home school student's course of study does not include five (5) academic subjects or the equivalent, which are being administered by the parent/guardian, then the Director of Schools (Head of School, for a private school) or their designee and the parent/guardian shall develop an alternative measure of academic progress and submit it to the TSSAA for approval.

d. In no event shall a home school student be eligible who is not receiving the minimum four (4) hours per day of instruction administered by their parent/guardian.

e. In no event shall a home school student be eligible who has fallen three (3) or more months behind the student's appropriate grade level.

5. The home school student must provide proof of liability insurance coverage which names the TSSAA as an insured party or the administration of the school must submit to TSSAA a copy of the TSSAA Indemnity Form signed by the guardian(s).

6. **a.** The LEA may impose a participation fee for each sport in which a home school athlete participates. Such participation fee shall not exceed the fees or costs charged to or borne by students enrolled at the school and shall be paid in full prior to the first regular season contest.

b. A home school student participating at a private school must pay full tuition and abide by all financial aid rules. For the purpose of this rule, "full tuition" is defined as the same amount paid by all other students enrolled and in regular attendance at the school.

7. The home school student must meet all other TSSAA eligibility requirements.

8. Eligibility issues may be appealed in accordance with the Bylaws of the TSSAA.

9. The home school athlete must adhere to the same standards of behavior, responsibility, performance, and code of conduct as other participants of the team.

10. Ultimate decisions on team rosters are left to the member schools.

Transfer:

1. After participation at the first member school, any changes within member schools shall be governed by the transfer rule.
2. Once a student establishes an athletic record either as an enrolled student at a member school or as a home school student, any subsequent transfers to or from home school to a member school must meet the TSSAA transfer rule, even if the student will be participating for the same team.
3. Any student who withdraws from a regular school program, which for the purpose of this policy is defined as a member school, to enroll in a home school education program and who is ineligible at the time of withdrawal from the regular school program due to his/her failure to meet academic or behavioral eligibility standards shall be ineligible to compete in interscholastic athletic competition as a home education athlete until such time as he/she has satisfied this home school bylaw as well as all other eligibility bylaws of TSSAA.

Please see FAQ's on Page 42-60.

Athletes Participating in Unified Sports

Section 26. To be eligible to participate as a Special Olympics Athlete in Unified Sports the student must be enrolled and in regular attendance at the member school unless participating as a part of an approved cooperative program. All other eligibility rules do not apply to a Special Olympics Athlete in Unified Sports. Special Olympics Athletes must complete the Special Olympics of Tennessee pre-participation medical and parental release form prior to practicing or competing. The student must be identified by an agency or professional as having one of the following conditions: intellectual disabilities, cognitive delays as measured by formal assessment, or significant learning or vocational problems due to cognitive delay that require or have required specially designed instruction.

Unified Partners must meet all TSSAA eligibility requirements. They are not eligible to participate on the school team for the sanctioned sport in which they are participating in the Unified competition.

All Special Olympics Athletes and Unified Partners must be registered through the TSSAA Eligibility Portal.

Virtual School Rule

Section 27. A public virtual school under the jurisdiction of the local Board of Education must make application and be approved for TSSAA membership in order for students enrolled in the school to participate in TSSAA athletics.

TSSAA virtual school members may choose either (a) to have their own sports' teams or (b) to allow their students to participate in all sports at their zoned public schools as assigned by the local Board of Education.

If the member virtual school administration chooses to allow their students to participate at their zoned public schools, the principal shall provide the host school(s) a list of students who will be participating in each sport and verify that the students are academically eligible prior to the date of first practice in each sport. The principal is responsible to provide the host school(s) with any additional information needed to complete student eligibility. The host school is responsible to submit eligibility to TSSAA for the virtual students participating in their program(s).

Minimum Eligibility Requirements:

This bylaw establishes the minimum eligibility requirements for a student attending a public virtual school in TN operated by the local Board of Education.

1. **In order for a student to practice or participate at any level, the student must reside in the geographic area of the LEA of the member virtual school. The virtual school must be a member of TSSAA in good standing. The administration of the virtual school must choose to allow their students to participate for their zoned public schools.**
2. **In order for a student to practice or participate at any level, the student must participate for their zoned public school as assigned by the local board of education. The zoned school where the student will participate must be a member of TSSAA in good standing.**
3. **Any student that transfers to or from a virtual school, which is under the jurisdiction of the LEA, with an athletic record in the past twelve months and no change of residence that justifies the change in schools will be ineligible to participate on the varsity level twelve months past their last date of participation in the sport where the participation record exists.**
4. **The student must meet all other TSSAA eligibility requirements.**
5. **If the virtual school decides to start their own athletic programs, the students enrolled in the public virtual school must participate in those programs at the school where they are enrolled.**
6. **After participation at the first member school, any changes within member schools shall be governed by the transfer rule.**

Article III
Compliance

Effect of Agreeing to Join TSSAA - Sections 1 and 2
Enforcement - Sections 3, 4, 5, and 6
Unsportsmanlike Conduct - Sections 7, 8, 9, 10, and 11
Playing of Ineligible Student-Athletes – Sections 12, 13, 14, and 15

Effect of Agreeing to Join TSSAA

Section 1. Membership in the association is voluntary. By joining the association, a member school agrees to abide by all rules of the association. If a member school, or that school's governing body, files suit against the association and does not prevail on the merits, the member school shall reimburse the association for all legal fees and expenses incurred by the association in connection with said suit.

Section 2. Each member school has a responsibility to monitor its athletic program and to self-report any violations of TSSAA Bylaws to the Executive Director as soon as the school is aware of possible violations. The responsibility extends to all administrators and coaches at the school. Each member school is responsible for the conduct of its administrators and coaches and for any knowledge possessed by its administrators or coaches.

Enforcement

Section 3. The Executive Director and/or the Board of Control shall have power to suspend, to fine, or otherwise penalize any member school for the violation of any provisions of the Constitution or Bylaws of the association or for other just cause. The period of suspension or other penalty shall be left to the discretion of the Board of Control where the penalty is not fixed.

Section 4. The Executive Director shall, in his discretion, determine whether information about any possible violation of the TSSAA Constitution or Bylaws is sufficiently reliable to justify further investigation. The Executive Director shall also, in his discretion, determine whether to conduct any investigation of possible violations of the Constitution or Bylaws as well as the nature and extent of any investigation that may be conducted and the procedures to be used in any such investigation. Factors to be considered by the Executive Director in making these determinations may include, but are not limited to, the workload of the TSSAA office, the seriousness of the alleged violation, the availability of staff members to assist in any investigation, the cost of investigation, the time needed to conduct an investigation, and any other factor the Executive Director may deem relevant in making these decisions.

Section 5. (a) A violation of the TSSAA Constitution or Bylaws will not result in any investigation or penalty if it is inadvertent and the school first learns of and reports the violation after the conclusion of the following year's playoffs in the sport in which the violation occurred, (b) If it is determined that a school (or any of its administrators or coaches) had knowledge of a violation or possible violation of the TSSAA Constitution or Bylaws and failed to promptly self-report it as required in Section 2, or that a delay in self-reporting occurred as a result of a failure by the school to properly monitor its athletic program as required in Section 15, the provisions of subsection (a) shall not apply. In any such case, a violation may be investigated and penalties may be implemented regardless of when the violation occurred.

Section 6. Any school under suspension, if it has restricted its athletic program to intramural athletics for the period of suspension, may be reinstated by the Board of Control upon application made in writing, 20 days in advance of the time it desires to be reinstated, to the Executive Director by the principal of the school and by the governing board under which the school operates. The Executive Director shall present the application of the suspended school to the Board of Control for its consideration. The principal and the governing board shall agree in writing that the school will abide by all rules of the association in the future. The principal and each member of the governing board shall sign the statement.

If a school with one or more two-year contracts has its athletic program in any sport suspended for violation of TSSAA regulations -- and the first game of the two-year contract has been played at the offending school — such school shall be required to complete the contract, or contracts, when it resumes its athletic program if the school, or schools, affected desire.

Suspension of a member school shall free all existing contracts between that school and other member schools.

Unsportsmanlike Conduct

The TSSAA and its member schools believe strongly that the major purpose of athletics at the secondary level is to be a part of the total educational program. A major part of this purpose is to stress to coaches, players, officials, and fans the vital importance of sportsmanship. It is critical that all people in each of these categories understand the major role that they play and the role model that they can be for others.

Recognizing this principle, unsportsmanlike conduct on the part of any of these groups cannot be accepted. As a result, the following actions will be taken when unsportsmanlike conduct occurs:

Section 7. Student Athletes Ejected for Unsportsmanlike Conduct in Any Sport

A. In contests in which registered TSSAA officials are involved, the officials will immediately notify the state office with a written report if players are ejected for unsportsmanlike conduct. In soccer, this does not apply if the ejection occurs as the result of a player receiving a red card for his/her second caution. In sports where registered TSSAA officials are not used, it will be the responsibility of the principal and/or coach of the player involved to report this incident to the state office.

B. On the ejection of the student-athlete, the school will be required to submit a report on the action of the player and any disciplinary action taken by the school. The minimum penalty will be as follows:

   1. Football – 1 Game Suspension

   2. Soccer – There is no mandatory minimum penalty when a player is ejected for receiving a second yellow card followed by a red card. There is a 2 Game Suspension for serious foul play except for the following offenses which shall result in a 1 Game Suspension:

      a. A player anywhere on the field (other than a goalkeeper within his/her own penalty area) who deliberately handles a ball to prevent it from going into the goal.

      b. A foul by a player against an opponent who is moving toward his/her offensive goal with an obvious opportunity to score.

   3. All other sports – 2 Game Suspension

   The student-athlete is also suspended from all levels of participation (varsity, junior varsity, freshman) the same number of contest(s) in the sport involved.

   If the student-athlete is a senior and cannot fulfill all of the disciplinary action due to the completion of the season, he/she will fulfill the action in the next sport in which they participate.

C. In addition to what is presently required when a player is ejected for unsportsmanlike conduct, a meeting shall be held with the player, coach, principal, and parent(s) or guardian(s) prior to the player's next competition. A Confirmation of Sportsmanship Meeting Form must be sent to the state office by the principal. Schools that have not submitted the required Confirmation of Sportsmanship Meeting Form by the end of the sports season in which the violation occurred shall be subject to a $100 fine.

D. If a player is ejected for a second time for unsportsmanlike conduct, a more severe punishment shall be imposed.

E. Other non-monetary penalties may be assessed by the Executive Director based on all the facts.

F. In all situations where ejections occur for unsportsmanlike conduct, the individual will be removed from the next contest(s) following the one in which the ejection occurred. If the individual plays in a subsequent contest after being ejected for unsportsmanlike conduct the minimum penalty shall be increased by an amount determined by the state office.

Section 8. Substitutes Leaving Bench Area during an Incident or Fans Coming Onto the Field or Floor

A. The school will be required to submit a report and video tape if available. All schools are instructed to inform individuals taping to continue taping all incidents.

B. For substitutes leaving the bench area during an incident, the school will be fined a minimum of $250.00. In addition, other non-monetary disciplinary action may occur, including but not limited to probation and/or restrictive probation for the sport in which the incident occurred.

C. For fans coming onto the field or floor during an incident, the school will be fined a minimum of $250.00. In addition, other non-monetary disciplinary action may occur, including but not limited to probation and/or restrictive probation for the entire athletic program.

Section 9. Coaches Ejected for Unsportsmanlike Conduct

A. The school and coach will be required to submit a written report of the incident.

B. The school will be given a choice of removing the coach for a specified number of contest(s) and pay a fine of $250.00 or face further disciplinary action. The school shall not allow the suspended coach to attend games while under suspension.

C. In addition to what is presently required when a coach is ejected for unsportsmanlike conduct, a meeting shall be held with the coach, principal, and superintendent, or his/her appointed representative prior to the coach returning to their coaching position. A Confirmation of Sportsmanship Meeting Form must be sent to the state office by the principal. Schools that have not submitted the required Confirmation of Sportsmanship Meeting Form by the end of the sports season in which the violation occurred shall be subject to a $100 fine.

D. On any subsequent ejection by the same coach, the school will be given a choice of removing the coach for a specified number of contest(s) and pay a fine of $500.00 or face further disciplinary action. The school shall not allow the suspended coach to attend games while under suspension.

E. If the coach is ejected from the contest and an assistant coach or an employee of the school involved is not available to continue as coach, the event is terminated and forfeited to the opponent

F. Other non-monetary penalties may be assessed by the Executive Director based on all the facts.

G. In soccer, coaches who are ejected for receiving a red card, or a second (yellow card) followed by a red card, are subject to the penalties above.

Section 10. If a team is removed from competition, the school shall be fined $500.00, and the school shall face disciplinary action by TSSAA. Other non-monetary penalties may be assessed by the Executive Director based on the facts.

Section 11. Appeals

Any appeal request regarding the ejection of players or coaches shall be submitted in writing from the administrator of the school, stating which playing rule was misapplied. It should be accompanied by $50.00. If the appeal is granted, the $50.00 will be returned to the school.

Playing of Ineligible Student-Athletes

Section 12. All rulings on eligibility must be in writing, and the accidental, intentional or other use of ineligible players by a member school shall require that team victories in which the ineligible player participated Pageare forfeited to opponents; and any one or more of these additional actions may be taken:

(a) That individual or team records and performances achieved during participation by such ineligibles be vacated or stricken;

(b) That team or individual awards earned by such ineligibles be returned to the TSSAA; and

(c) That a fine for the playing of an ineligible player be assessed against the school, if deemed necessary.

Section 13. If a student is ineligible according to TSSAA rules but is permitted to participate in interscholastic competition contrary to such TSSAA rules but in accordance with the terms of a court restraining order or injunction against his/her school and/or the TSSAA, and that injunction is subsequently voluntarily vacated, stayed, reversed or finally determined by the courts that injunctive relief is not or was not justified or expires without further judicial determination, those actions stipulated in Section 12 and 14 shall be taken.

Section 14. If an ineligible contestant competes in a meet, match or tournament and any violation of TSSAA rules occurs, all points earned by that student, or by a relay team of which he/she may have been a member, in that meet or tournament are to be declared forfeited; and in team sports (baseball, basketball, football, girls soccer, soccer, girls softball and girls volleyball) the entire contest is forfeited.

When a team plays an ineligible athlete in TSSAA tournaments or playoffs, the entire contest is forfeited, the team is removed from the tournament or playoff, and no team replaces that team in the tournament series. All awards and money earned from the post season tournament series must be returned to TSSAA.

The penalty for playing an ineligible contestant shall be $50.00 per contest at the varsity level and $25.00 per contest below the varsity level, with a maximum fine of $250.00, provided it is voluntarily reported by the school, which is in violation, to the Executive Director. If it is not voluntarily reported by the school to the Executive Director, the penalty shall be $100.00 per contest at the varsity level and $50.00 per contest below the varsity level. Other non-monetary penalties may be assessed by the Executive Director based on all the facts.

Section 15. If an otherwise ineligible student-athlete provides false information to a member school and is erroneously determined to be eligible and is allowed to participate on the basis of that false information, the student shall be ineligible at all levels in all sports at any member school for twelve (12) months from his or her last participation date.

Article IV
Miscellaneous

Schools Which Member Schools May Play or Scrimmage – Section 1
Contests with Out-Of-State Teams – Section 2
Tournaments and Meets – Section 3
Varsity Team – Section 4
Eligibility Lists – Section 5
Filing Schedule Reports – Section 6
Rules of the Game – Section 7
TSSAA Sports Calendar – Sections 8 and 9
Jamborees – Section 10
TSSAA Share in Tournament Receipts – Section 11
Filing of Tournament and Playoff Financial Reports – Section 12
Awards – Section 13
Use of Tobacco – Section 14
Officials – Sections 15, 16, 17, 18, 19, and 20
Bond – Section 21
Amendments – Section 22

Schools Which Member Schools May Play or Scrimmage

Section 1. A member of the Tennessee Secondary School Athletic Association is permitted to play or scrimmage any secondary school team with grades 9 and above in regular season play.

For the purposes of this rule, a school team may be one school or a cooperative program of one or more schools.

A member school may play one alumni game or one preseason scrimmage with alumni in all sports except football. If the school has separate teams for boys and girls in a particular sport (e.g., girls' and boys' basketball), each team may play an alumni game or preseason scrimmage. A preseason scrimmage with alumni must count as one of the four permitted preseason scrimmages. A game with alumni must count as a regular season contest.

Please see FAQ's on Page 42-60.

Contests with Out-Of-State Teams

Section 2. All out-of-state trips must be approved by the administration of the school.

Please see FAQ's on Page 42-60.

Tournaments and Meets

Section 3. All Invitational Tournaments or Meets must be approved by the Executive Director.

A member school that wishes to host a tournament or meet that involves out-of-state teams must make application to the Executive Director for sanctioning.

Member schools must obtain sanctioning from the National Federation of State High School Associations when hosting the following types of events:

1. Any interstate or international event involving two (2) or more schools which is co-sponsored by or titled in the name of an organization outside the school community (e.g., a college/university, a theme park, an athletic shoe/apparel company).
2. Events in non-bordering states if five (5) or more states are involved.
3. Events in non-bordering states if more than eight (8) schools are involved.
4. Any event involving two (2) or more schools that involves a team from a foreign country. The host school should complete the international sanction application. This would include any event(s) that involves international traveling teams that play in multiple games in multiple states. (The exceptions to this rule are Canada and Mexico which are considered "bordering states.")

Varsity Team

Section 4. There can be only one varsity team in any sport.

Please see FAQ's on Page 42-60.

Eligibility Lists

Section 5. An eligibility list (TSSAA Portal Roster) containing the name of each student who is to participate during the season in each sport shall be filed online prior to the first contest allowed by the Sports Calendar for each particular sport. If a student whose name does not appear on the original eligibility list (TSSAA Portal Roster) wishes to become a member of the squad, the student's name shall be filed online before the student is allowed to participate. Failure to file the eligibility online by the date required shall result in a fine of $50.00. Any school failing to file such reports promptly along with checks for penalty, after being notified by the Executive Director, shall be subject to suspension.

Filing Schedule Reports

Section 6. Member schools shall file with the state office a copy of the schedule in each sport. Schedules shall be filed online prior to the date of the first contest allowed by the Sports Calendar for each particular sport. Failure to file the schedule online by the date required shall result in a fine of $50.00.

Rules of the Game

Section 7. The official rules books as published by the National Federation of State High School Associations shall be used in football, basketball, baseball, girls' softball, wrestling, girls' soccer, soccer, track and field, cross country, and girls volleyball. The official rules of the USGA shall be used in golf. The official rules of the USTA shall be used in tennis. The official rules of the USBC shall be used in bowling.

For all unsporting acts, TSSAA Bylaws as it relates to unsportsmanlike behavior and officials' jurisdiction supersedes any other rules book.

Cheerleading squads must abide by the USA Cheer Safety Guidelines while practicing or participating in a TSSAA sanctioned event.

Religious headwear is permitted, provided it is not abrasive, hard, or dangerous to the participant and any other player, and must be attached in such a way it is highly unlikely to come off during play. Religious headwear does not need to comply with any of the color restrictions defined in applicable sport uniform codes.

Hijabs, turbans, and yarmulkes are acceptable types of religious headwear.

TSSAA SPORTS CALENDAR

Section 8. For each sport there shall be a beginning practice date, a date for the first contest, a limit for the number of regular season contests, rules in regard to tournaments where applicable, rules in regard to off-season practice, and rules in regard to summer practice.

DEFINITIONS

Dead Period Rule – No coaching, observing, or contact between coach and players in sport involved. There is no practice, no open facilities, and no weight training/conditioning. The Dead Period, which is to be observed by all schools, is the week of the 4th of July and the preceding week – 14 days.

50% Rule – Participation (includes practice or games) during the school year on a non-school team prior to the school season by students that will play the following season on the high school team is limited to 50% of the number of players required to play the game. Only the specified number of students participating on a non-school team prior to the school season may be placed on the high school eligibility list (TSSAA Portal Roster) the following season. Those students cannot be interchanged on the school's team roster.

Off-Season – Begins with the school's elimination from postseason tournament play in a particular sport and concludes with the end of the school year. In football, girls' soccer, and soccer, individual instructions may be given to no more than six students per day. In basketball and girls' volleyball, individual instruction may be given to no more than three students per day. In baseball and girls' softball, individual instructions may be given to no more than five students per day.

Open Facilities – Permitted year round (Monday through Friday) except during the **Dead Period**. Schools may use their facilities for students in their building prior to or after the school day. Coaches may serve in a supervisory capacity only. There is no instruction, no teaching, no coaching, etc. Coaches may not participate or play in any manner. It is a free play type atmosphere. Sport specific skills cannot be taught. ATTENDANCE CANNOT BE MANDATORY.

Practice - Coach and player(s) together with instruction, teaching, coaching, etc. Try-outs are considered practice.

Practice During the School Day – All athletic practice during the regular hours of any school day shall conform to the same rules, regulations, and season as corresponding athletic practice outside the school day.

Pre-Season Practice Rule – Begins the first day of school until the first official day of practice in that particular sport. In basketball, individual instructions may be given to no more than three students per day. In soccer, individual instructions may be given to no more than six students per day. In baseball and girls' softball, individual instructions may be given to no more than five students per day.

Scrimmage Rule – After the TSSAA first official day of practice in all sports other than football, a school cannot practice with or scrimmage another school until both schools have practiced a minimum of three days. After the TSSAA first official day of practice in football, a school cannot practice with or scrimmage another school until both schools have practiced in full pads a minimum of three days. A school may have a maximum of four scrimmages or two scrimmage dates or one scrimmage date and two scrimmages (A scrimmage date is defined as more than two schools scrimmaging on the same day). No tournament format of any type may be used. Scrimmages should look more like practice than games. Once a school has played their first game, there can be no more scrimmages.

Summer – The period of time from the end of the school year until the Monday of NFHS Week 4 (opening day of practice).

Tournament – All tournaments shall be held on consecutive days with no other regular season games being played during the tournament unless permission is granted by the Executive Director. A tournament is defined as competition of three or more teams and three or more games, matches, etc., which progress to determine a winner.

Weight Training/Conditioning – Permitted at all times except during the **Dead Period**. Must be generic type program that would be beneficial to all students and not sport specific. Exception: In baseball and girls' softball, players may throw to condition arms. Sport specific skills cannot be taught. Only students who are enrolled and in regular attendance at the school may participate during the school year. ATTENDANCE CANNOT BE MANDATORY.

TSSAA SPORTS CALENDAR

FOOTBALL

- **Pre-Season Practice Rule** does not apply.
- **Pre-Season Acclimatization:** All TSSAA Football Practice Regulations must be followed. TSSAA Football Practice Regulations can be found at http://tnhs.us/fbpractice.
- First Practice Date in pads is the Monday of NFHS Week 4.
- **Practice Regulations** All TSSAA Football Practice Regulations must be followed. TSSAA Football Practice Regulations can be found at http://tnhs.us/fbpractice.
- **Scrimmage Rule** does apply.
- The Date of the First Contest allowed is the Friday of NFHS Week 7, no earlier than Wednesday. Eligibility and schedules must be filed online prior to playing.
- Maximum number of regular season contests is 10 games. Schools that do not qualify for the playoffs may schedule an additional game for a total of 11.
- Maximum of 12 days of Off-Season team practice within a 15 consecutive school day period and one interschool scrimmage is permitted. The first two days of practice must be in helmets only.
- In the **Summer** there are no restrictions in regard to practice. No pads are permitted. Helmets may be worn.
- There can only be 10 days of team-against-team competition which must occur after the conclusion of the Dead Period (Exception: Two of the 10 days may take place in June, provided the competition takes place in Tennessee.). Pads may not be worn during team-against-team competition.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

GOLF (BOYS' AND GIRLS')

- **Pre-Season Practice Rule** does not apply.
- First Practice Date is the Monday of NFHS Week 2.
- **Scrimmage Rule** does apply.
- The Date of the First Contest allowed is the Monday of NFHS Week 4. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is 14 dates (NOTE: Individuals accompanied by a coach may enter varsity competition at a different site on the same date and time, and this will count as two dates on the school's schedule.).
- In the **Off-Season** there are no restrictions in regard to practice.
- In the **Summer** there are no restrictions in regard to practice.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

GIRLS' VOLLEYBALL

- **Pre-Season Practice Rule** does not apply.
- First Practice Date is the Monday of NFHS Week 4.
- **Scrimmage Rule** does apply.
- The Date of the First Contest allowed is the Monday of NFHS Week 7. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is 35 matches. Maximum number of **Tournaments** is four with each tournament counting as three matches.
- **Off-Season** team practice is not allowed.
- In the **Summer** there are no restrictions in regard to practice.
- Any school starting girls' volleyball for the first time may have five days of **Pre-Season** practice prior to the first season the sport begins.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

CROSS COUNTRY (BOYS' AND GIRLS')

- **Pre-Season Practice Rule** does not apply.
- First Practice Date is the Monday of NFHS Week 4.
- **Scrimmage Rule** does apply.
- The Date of the First Contest allowed is the Monday of NFHS Week 7. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is 11 dates (NOTE: Individuals accompanied by a coach may enter varsity competition at a different site on the same date and time, and this will count as two dates on the school's schedule.).
- In the **Off-Season** there are no restrictions in regard to practice.
- In the **Summer** there are no restrictions in regard to practice.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

GIRLS' SOCCER

- **Pre-Season Practice Rule** does not apply.
- First Practice Date is the Monday of NFHS Week 4.
- **Scrimmage Rule** does apply.
- The Date of the First Contest allowed is the Monday of NFHS Week 7. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is 16 matches. Maximum number of **Tournaments** is two with each tournament counting as two matches.
- **Off-Season** team practice is not allowed.
- In the **Summer** there are no restrictions in regard to practice.
- Any school starting girls' soccer for the first time may have five days of **Pre-Season** practice prior to the first season the sport begins.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

BOWLING (BOYS' AND GIRLS')

- **Pre-Season Practice Rule** does not apply.
- **Scrimmage Rule** does not apply.
- The Date of the First Contest allowed is the Monday of NFHS Week 13. Eligibility and schedules must be filed online.
- There is no limit on the number of regular season contests or **Tournaments**.
- In the **Off-Season** there are no restrictions in regard to practice.
- In the **Summer** there are no restrictions in regard to practice.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

BASKETBALL (BOYS' AND GIRLS')

- **Pre-Season Team Practice** is not allowed.
- First Practice Date is the Monday of NFHS Week 18.
- **Scrimmage Rule** does apply.
- **50% Rule** does apply, which is three players.
- The Date of the First Contest allowed is the Monday of NFHS Week 21. Eligibility and schedules must be filed online.
- Schools may choose to play an unlimited number of **Hall of Champions Games** on any two dates during the week preceding the regular season. These games will not count against the number of regular season contests schools are allowed to schedule. Host schools shall send in 50% of the proceeds after paying referees to the TSSAA Hall of Champions fund.
- Maximum number of regular season contests is 24 games. Maximum number of **Tournaments** is two with each tournament counting as two games.
- Maximum of five days of **Off-Season** team practice within a 10 consecutive school day period.
- In the **Summer** there are no restrictions in regard to practice.
- Coaches may participate in a maximum of 10 days of team-against-team competition which must occur after the conclusion of the school year until the **Dead Period**.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

WRESTLING

- As far as **Pre-Season Practice**, there are no restrictions.
- First Practice Date is the Monday of NFHS Week 18.
- **Scrimmage Rule** does apply.
- The Date of the First Contest allowed is the Monday of NFHS Week 21. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is 22 dates. No individual shall wrestle more than 55 matches, excluding forfeits, in the regular season (NOTE: Individuals accompanied by a coach may enter varsity competition at a different site on the same date and time, and this will count as two dates on the school's schedule.).
- In the **Off-Season** there are no restrictions in regard to practice.
- In the **Summer** there are no restrictions in regard to practice.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

GIRLS' WRESTLING

- As far as **Pre-Season Practice**, there are no restrictions.
- First Practice Date is the Monday of NFHS Week 18.
- **Scrimmage Rule** does apply.
- The Date of the First Contest allowed is the Monday of NFHS Week 21. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is 22 dates. No individual shall wrestle more than 55 matches, excluding forfeits, in the regular season (NOTE: Individuals accompanied by a coach may enter varsity competition at a different site on the same date and time, and this will count as two days on the school's schedule.).
- In the **Off-Season** there are no restrictions in regard to practice.
- In the **Summer** there are no restrictions in regard to practice.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

BASEBALL

- **Pre-Season Team Practice** is not allowed.
- First Practice Date is the Monday of NFHS Week 33.
- **Scrimmage Rule** does apply.
- **50% Rule** does apply, which is five.
- The Date of the First Contest allowed is the Monday of NFHS Week 37. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is 30 games. Maximum of four **Tournaments** with each tournament counting as three games.
- **Off-Season** team practice is not allowed. Exception: Coaches may be involved in a coaching capacity with students in their school on non-school teams.
- In the **Summer** there are no restrictions in regard to practice.
- Any school starting baseball for the first time may have five days of **Pre-Season** practice prior to the first season the sport begins.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

GIRLS' SOFTBALL

- **Pre-Season Team Practice** is not allowed.
- First Practice Date is the Monday of NFHS Week 33.
- **Scrimmage Rule** does apply.
- **50% Rule** does apply, which is five.
- The Date of the First Contest allowed is the Monday of NFHS Week 37. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is 34 games. Maximum of five **Tournaments** with each tournament counting as four games.
- **Off-Season** team practice is not allowed. Exception: Coaches may be involved in a coaching capacity with students in their school on non-school teams.
- In the **Summer** there are no restrictions in regard to practice.
- Any school starting girls' softball for the first time may have five days of **Pre-Season** practice prior to the first season the sport begins.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

TRACK AND FIELD (BOYS' AND GIRLS') / UNIFIED TRACK AND FIELD

- As far as **Pre-Season Practice**, there are no restrictions.
- First Practice Date is the Monday of NFHS Week 33.
- **Scrimmage Rule** does apply.
- The Date of the First Contest allowed is the Monday of NFHS Week 37. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is 11 dates. Each meet counts as one date (NOTE: Individuals accompanied by a coach may enter varsity competition at a different site on the same date and time, and this will count as two dates on the school's schedule.).
- In the **Off-Season** there are no restrictions in regard to practice.
- In the **Summer** there are no restrictions in regard to practice.
- Any school starting track and field for the first time may have five days of **Pre-Season** practice prior to the first season the sport begins.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

TENNIS (BOYS' AND GIRLS')

- As far as **Pre-Season Practice**, there are no restrictions.
- First Practice Date is the Monday of NFHS Week 33.
- **Scrimmage Rule** does apply.
- The Date of the First Contest allowed is the Monday of NFHS Week 37. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is **22** matches. Each **Tournament** counts as two matches (NOTE: Individuals accompanied by a coach may enter varsity competition at a different site on the same date and time, and this will count as two matches on the school's schedule.).
- In the **Off-Season** there are no restrictions in regard to practice.
- In the **Summer** there are no restrictions in regard to practice.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

TSSAA SPORTS CALENDAR

SOCCER

- **Pre-Season Team Practice** is not allowed.
- First Practice Date is the Monday of NFHS Week 33.
- **Scrimmage Rule** does apply.
- The Date of the First Contest allowed is the Monday of NFHS Week 37. Eligibility and schedules must be filed online.
- Maximum number of regular season contests is 16 matches. Maximum of two tournaments with each **Tournament** counting as two matches.
- **Off-Season** team practice is not allowed.
- In the **Summer** there are no restrictions in regard to practice.
- Any school starting soccer for the first time may have five days of **Pre-Season** practice prior to the first season the sport begins.
- **Dead Period Rule** does apply.

Coaches and employees of a school are subject to the guidelines of the TSSAA Sports Calendar when working with students from his/her school.

Please see FAQ's on Page 42-60.

Section 9. The sports season for a school shall end when the team has been eliminated from the TSSAA tournament series or has won the state championship. The sports season shall end for a school whose team does not enter the tournament series with the playing of the last regularly scheduled game.

Please see FAQ's on Page 42-60.

Jamborees

Section 10. A member school may participate in one jamboree per sport provided (a) the jamboree is approved by the state office and is held before any of the participating schools play their first game; (b) the jamboree is sponsored by the participating schools and all proceeds go to the participating schools; (c) the jamboree is conducted in accordance with the following regulations:

A. No team or participant shall play more than the equivalent of half of a game or contest.

B. Registered TSSAA officials must be used.

C. Schools participating in a jamboree must file the regular eligibility report (TSSAA Portal Roster) with the state office prior to participating.

D. Schools must hold membership in TSSAA or membership in a Tennessee conference in order to be eligible to participate in a jamboree. (Out-of-state schools must obtain approval from their state association before participating.)

E. Football schools may participate in a jamboree as early as Thursday of the week preceding the opening of football season.

F. Basketball schools may participate in a jamboree one week preceding the opening of basketball season.

Participation in such a jamboree shall not count as a regular-season contest or pre-season scrimmage provided the jamboree meets the above regulations.

TSSAA Share In Tournament Receipts

Section 11. Eighteen percent of the gross proceeds from district and regional girls volleyball, district and regional girls soccer, district and regional soccer, district and regional bowling, district and regional girls bowling, district and regional baseball, district and regional girls softball, regional, sub-sectional, and sectional track and field meets, two-day invitational, regional and sectional wrestling tournaments, invitational, county, conference, district and regional basketball tournaments shall be paid to TSSAA.

After all expenses in connection with the holding of the state tournaments in football, basketball, bowling, track and field, cross country, baseball, tennis, golf, girls softball, girls volleyball, soccer and wrestling have been paid, the retention and/or disbursement of any remaining funds shall be determined by the Board of Control.

Filing of Tournament and Playoff Financial Reports

Section 12. All checks for district, regional, and sectional tournaments and playoffs must be distributed within 10 business days of the completion of the tournament or game. Failure, without good cause, will result in a $100.00 late fee to be paid to TSSAA and used in the A.F. Bridges sportsmanship program to go to schools or individuals receiving awards. Failure, without good cause, to distribute funds within 20 business days will result in an additional $200.00 late fee (total $300.00). Failure, without good cause, to distribute funds within 40 days will result in an additional $200.00 late fee (total $500.00). The school may not host any tournament or playoff until the principal or athletic director appears before the Board of Control to explain the reasons. The Board would then determine whether the school could host tournaments or playoffs in the future.

Awards

Section 13. TSSAA shall furnish trophies, plaques, ribbons and medals in TSSAA-sponsored sports as determined by the Board of Control.

Please see FAQ's on Page 42-60.

Use of Tobacco

Section 14. The use of tobacco in any form by coaches, officials, and athletes is prohibited at TSSAA sanctioned events.

Officials

Section 15. Officials used in contests in which TSSAA member schools participate are independent contractors and are not employees of TSSAA. Individuals desiring to serve as officials in contests in which TSSAA member

schools participate must register with TSSAA. The Executive Director shall establish the minimum qualifications and standards for registration with TSSAA.

Section 16. (a) For varsity contests, all officials must be assigned by the TSSAA approved local association. (b) These officials must be registered and approved by TSSAA. If a registered official who has been engaged for an athletic contest fails to appear, the principal of the home school may, with the approval of the visiting school, select an official for the contest. If this is done, the principal of the home school must mail to the Executive Director within 48 hours evidence showing that a registered official was employed for the game and that the official did not appear. The principal of the home school shall give the name and address of the registered official who was employed to officiate the game, and the name and address of the non-approved official used as a substitute.

Section 17. In all sports sanctioned by TSSAA, the officials' jurisdiction begins upon the arrival of one official within the visual confines of the field or court and ends when the last official leaves the premises at the conclusion of the game. It shall be the duty of a game official to file immediately a report with the state office if there is any unusual incident involving unsportsmanlike conduct on the part of the players, coaches, cheerleaders, or fans.

Section 18. The Executive Director shall have authority to suspend the registration of officials who are guilty of unsportsmanlike or unethical conduct or who fail to file immediately required reports with the state office. Such decisions shall be subject to review by the Board of Control upon appeal by the official.

Section 19. An official shall be prohibited from working in an athletic contest in which a member of his/her immediate family — son, daughter, brother, sister, mother, father, husband or wife — is playing or is serving as a coach for either team. If an official is a teacher, the official is prohibited from working in an athletic contest if one of the teams represents the school in which the official is employed as a teacher unless otherwise approved by the Executive Director.

Section 20. A school may drop an official from a game after the official has been engaged. If a school decides that it is wise to break its agreement with an official, it may be done by paying the official the regular fee for the game. Canceled and postponed games do not come under the above provision, provided that the official is duly notified. In the case of postponed games, the officials that were originally employed must be given the opportunity to work on the new date.

Please see FAQ's on Page 42-60.

Bond

Section 21. The Executive Director of the TSSAA shall execute annually a Surety Bond on $30,000 or more if the Board of Control directs, covering TSSAA funds held by him. The fee on this bond is to be paid from the Association funds.

Amendments

Section 22. The Bylaws of the TSSAA shall be amended by the same method as the Constitution.

TENNESSEE SECONDARY SCHOOL ATHLETIC ASSOCIATION
CONSTITUTION FREQUENTLY ASKED QUESTIONS

1.

Q. How are members of the Board of Control and Legislative Council selected?

A. Members of the Board of Control and of the Legislative Council are selected at the annual regional meetings in the fall. Each school represented has one vote. The sites, dates, and times of these meetings are determined by the Board of Control and posted on the TSSAA Calendar of Events.

2.

Q. How may a school charged with violating TSSAA regulations present its case?

A. The principal of the school may request the Executive Director to call a hearing in regard to the charges. Such a hearing is held before the Executive Director and two or more Board of Control members representing the Grand Division of the state in which the school is located.

3.

Q. May a decision made by the Executive Director be appealed to the Board of Control?

A. Yes.

4.

Q. What procedure is followed by a school that wishes to appeal to the Board of Control a decision of the Executive Director?

A. The school principal should notify the Executive Director in writing that the principal wants the Board of Control to review the case. If it is satisfactory to hold the review of the case at the next regular meeting of the Board of Control, it will be listed on the agenda. If the case is of such nature that the school wants immediate action, the principal should so indicate. The Executive Director will then communicate with the president of the Board who will call a special session to consider the case. When such a special session of the Board is called, the school requesting the special session shall pay all expenses of the meeting in the event the Board of Control sustains the decisions of the Executive Director.

5.

Q. Does the Executive Director have a vote on matters that are presented to the Board of Control?

A. No. The Executive Director is not a member of the Board of Control and therefore can have no vote on matters being considered by it.

6.

Q. May a member of the Board vote on a matter involving the school which he represents?

A. No. A member of the Board of Control cannot sit in on a case involving his/her own school.

7.

Q. How may a member school submit a proposal to amend the Constitution or to change the Bylaws?

A. By putting the suggested change in writing and filing it with the Executive Director no later than October 15 preceding the December meeting of the Legislative Council.

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TENNESSEE SECONDARY SCHOOL ATHLETIC ASSOCIATION
BYLAWS FREQUENTLY ASKED QUESTIONS

Membership

1.

Q. How much are a school's membership dues?

A. Membership dues are based on where the enrollment of a school would place them in their respective Division.

Class 4A – $550.00 ($250.00 Dues; $300.00 Catastrophic Insurance Assessment.

Class 3A – $550.00 ($250.00 Dues; $300.00 Catastrophic Insurance Assessment.

Class 2A – $400.00 ($200.00 Dues; $200.00 Catastrophic Insurance Assessment) if your school plays football. $300.00 ($200.00 Dues; $100.00 Catastrophic Insurance Assessment) if your school does not play football.

Class 1A – $300.00 ($150.00 Dues; $150.00 Catastrophic Insurance Assessment) if your school plays football. $250.00 ($150.00 Dues; $100.00 Catastrophic Insurance Assessment) if your school does not play football.

Junior High – $200.00 ($100.00 Dues; $100.00 Catastrophic Insurance Assessment)

2.

Q. If a school is not currently a member of TSSAA, what must they do in order to join TSSAA?

A. If the school meets the requirements as set forth in Article I, Section 1 of the TSSAA Bylaws, the school should send a letter to the Executive Director asking to be put on the next Board of Control Agenda for consideration for membership. A copy of the certificate indicating whom the school is accredited/approved by should be included with the letter.

Responsibility of the Principal

1.

Q. Who is held responsible for a member school's observance of TSSAA regulations?

A. The principal or administrative head of the school.

2.

Q. Who is the proper person to sign eligibility reports, contracts, etc.?

A. The principal or administrative head of the school.

3.

Q. Who is responsible for the conduct of the spectators at a game?

A. The principal and coach of the host school are primarily responsible. It is the duty of the host school to see that adequate security is present and assigned so that any disorder can be handled immediately. If the game is played on a neutral field and no host team is designated, the competing schools are jointly responsible for providing adequate security protection. Each school is responsible for the conduct of its students and fans, regardless of where an athletic contest is played.

Non-Faculty Coaches and Classified Employees

1.

Q. If a non-faculty coach or a classified employee has successfully completed the ASEP Coaches Education Course and the TSSAA Online Coaches Training Session prior to May 15, 2013, must they complete the NFHS "Fundamentals of Coaching" and "First Aid, Health, & Safety for Coaches" courses?

A. No.

2.

Q. How long does a non-faculty coach or a classified employee have to successfully complete NFHS “Fundamentals of Coaching” and “First Aid, Health, & Safety for Coaches” courses after being submitted to the TSSAA?

A. All non-faculty coaches and classified employees must successfully complete the NFHS courses prior to coaching.

3.

Q. How often does a non-faculty coach or a classified employee have to complete the NFHS “Fundamentals of Coaching” and “First Aid, Health, & Safety for Coaches” courses?

A. Once a non-faculty high school coach or classified employee successfully completes the courses, he/she will not be required to take any additional courses.

4.

Q. Where can I obtain information about the NFHS “Fundamentals of Coaching” and “First Aid, Health, & Safety for Coaches” courses? How do I access the courses?

A. Information regarding the NFHS courses can be found at nfhslearn.com. Persons required to take these courses will first have to register as a new user at nfhslearn.com. This can be done by selecting "Register" in the upper right hand corner of the homepage. Once you have registered, you will need to click on “Courses” on the tool bar at the top of the page and search for the appropriate courses. Each participant must pay online with a credit or debit card when they register for the courses.

5.

Q. Are student-teachers considered non-faculty coaches?

A. If he/she is currently student teaching, he/she is allowed to do whatever his/her supervising teacher (college professor in charge) allows him/her to do as part of his/her total educational experience. He/She would not be considered non-faculty while he/she is student teaching and should be submitted as a full-time teacher in the portal.

6.

Q. Are retired educators considered non-faculty coaches?

A. No.

7.

Q. If one of my coaches is a Full-Time Teacher/Administrator at another school, are they considered non-faculty coaches?

A. No. When submitting their names in the portal, they should be marked as a full-time teacher.

8.

Q. Do non-faculty cheerleading coaches or classified employees serving as a cheerleading coach have to be registered with TSSAA?

A. Yes. However, it is not necessary for you to pay for cheerleading coaches. We only need the names for insurance purposes. Cheerleading coaches do not have to complete the NFHS “Fundamentals of Coaching” and “First Aid, Health, & Safety for Coaches” courses. Also, cheerleading coaches must attend or complete online the Cheerleading Rules Meeting every year.

9.

Q. Can I register a non-faculty coach or classified employee online throughout the school year?

A. Yes. Once they have been approved by the principal, superintendent, and/or local board of education, they can be submitted online. Also, the registration fee of $50.00 per non-faculty coach must be submitted to the state office.

10.

Q. Can a non-faculty coach or a classified employee be a head coach?

A. Yes. Provided they have successfully completed the NFHS “Fundamentals of Coaching” and “First Aid, Health, & Safety for Coaches” courses OR the ASEP Coaches Education Course in a TSSAA-approved course combined with the TSSAA Online Coaches Training Session prior to May 15, 2013, and have been properly submitted to the TSSAA office.

11.

Q. Are high schools limited to the number of non-faculty coaches they can use?

A. No.

12.

Q. As a first year teacher who is coaching, do I have any requirements?

A. No.

Contracts

Q. Will the TSSAA enforce verbal contracts?

A. No. All contracts, to be binding, should be written on the regular contract forms.

Enrollment and Attendance

Q. Is there any regulation about the time a student must enroll in order to be eligible during a given semester?

A. Yes. A student must enroll on or before the twentieth day of a semester.

Academic Rules

1.

Q. A school requires 28 units of credit for graduation. How many credits must a student earn by the first day of the next school year in order to be eligible?

A. Students in a school that requires 24 or more credits for graduation must earn six credits the preceding school year.

2.

Q. A school requires 21 units of credit for graduation. How many credits must a student earn by the first day of the next school year in order to be eligible?

A. Students in a school that requires less than 24 units of credit for graduation must earn five credits the preceding school year.

3.

Q. A student is academically eligible at the beginning of the school year. At the end of the first semester the student passes only one subject. Is the student eligible to participate in athletics the second semester?

A. Students that are academically eligible at the beginning of the school year will be academically eligible the entire school year.

4.

Q. A student is currently attending a school that requires less than 24 credits for graduation. At the end of the school year the student earns five credits and transfers due to a change of residence to a school that requires 28 credits for graduation. What is the student's eligibility status?

A. Eligible. The student will be academically eligible since he/she would have been eligible to participate at his/her previous school. Academic eligibility for a student is based on the requirements of the school the student was attending at the conclusion of the previous school year.

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5.

Q. A student is currently attending a school that requires 28 credits for graduation. The student earns five credits at the end of the school year. The student has a bona fide change of residence to a school that requires only 21 credits for graduation. What is the student's eligibility status?

A. Ineligible. The student was ineligible academically at the school he/she was attending at the conclusion of the previous school year. Students cannot transfer in order to gain academic eligibility.

6.

Q. At the beginning of the school year, a student is academically ineligible to participate in athletics. May the student gain eligibility the second semester?

A. Yes. Students who are academically ineligible first semester may gain eligibility second semester by passing five subjects (1/2 credit), three blocks (one credit per block), or the equivalent. Students on trimesters may gain eligibility the second semester by passing five subjects (1/2 credit), three blocks (one credit per block), or the equivalent.

7.

Q. A school requires 21 credits for graduation. The student fails every course the first semester. He/she earns three credits the second semester. Can the student attend summer school and earn two credits toward academic eligibility?

A. Yes. Credits earned in summer school may be counted toward academic eligibility. All credits must be earned by the first day of the beginning of the school year.

8.

Q. At the end of the second semester, a student has earned four credits for the school year. The student is in a school that requires 24 or more credits for graduation. Can the student attend summer school and earn one credit and, also, take a correspondence course and receive one credit toward academic eligibility?

A. Correspondence courses approved by the local board of education may count toward athletic eligibility provided the student receives credit toward graduation.

9.

Q. An 8th grade student in middle school finishes the highest ending grade and is academically promoted to the next higher grade. What is his/her eligibility status?

A. The student will be academically eligible the entire school year.

10.

Q. A special education student meets the academic requirements of his/her IEP by the beginning of the school year. What is his/her eligibility status?

A. The student will be academically eligible the entire school year.

11.

Q. A student attends a school that requires 24 or more credits for graduation. The student does not attend school during the fall semester. He/she re-enters school the spring semester and earns four units of credit. What must the student do in order to be academically eligible for athletics the next school year?

A. The student must enroll in summer school or correspondence courses that are recognized by the local board of education and counts toward graduation and earn two full units of credit by the first day of the beginning of the school year. The student must earn six full units of credit. Academic eligibility is based on credits earned and not subjects passed.

12.

Q. The school passing mark is 70. At the close of the first semester an athlete has a grade of 80. At the close of the second semester the grade in the same subject is 65. At the end of the school year the two grades are averaged and the student is allowed one unit of credit. May this subject be used in meeting the academic requirements?

A. Yes.

13.

Q. A student passes both semesters of a course, but does not receive credit toward graduation at the end of the school year because he/she does not meet the attendance policy. Is the student academically eligible to participate in athletics?

A. No. If the student does not receive credit toward graduation, the course may not be counted toward athletic eligibility.

14.

Q. Are subjects such as physical education and ROTC counted in determining the eligibility of a player?

A. Yes. Provided these subjects carry one full credit for the year or one-half credit for the semester and meet one hour each day for five days a week or the equivalent.

15.

Q. Is a student who drops out of school for one or more semesters eligible to participate when that student returns, provided he/she completes the last semester he/she was in school and receives the required number of credits the preceding school year?

A. No. A student must attend school one semester before he/she becomes eligible to participate.

16.

Q. A student is forced to withdraw from school, or is prevented from enrolling in school, due to illness or accident to the student. After being out of school for a semester, or a part of a semester, the student recovers from and enters school at the beginning of the next semester. Is it possible for such a student to be eligible to participate in athletics?

A. Such a case may be considered as a special case by the Executive Director provided the principal submits details in regard to the absence of the student. If the student is ruled eligible, that student shall be charged with a semester of attendance for athletic purposes, even though he/she attended less than forty days of the semester, or did not even enroll.

17.

Q. A student has an incomplete or is conditioned at the end of the school year. Will the student be eligible for participation as soon as the conditions are removed?

A. A student who receives an incomplete in a subject which causes him/her not to meet minimum scholastic requirements is ineligible until the course is satisfactorily completed. His/Her eligibility is restored at that point.

18.

Q. A student was not in school during the spring semester. May that student attend summer school and become eligible for athletic participation the following fall by passing five subjects in summer school that would give him/her the required number of credits for eligibility?

A. No. A student must have been in school the preceding semester or the last semester school was in session in order to be eligible. A summer session is counted as a continuation of the spring semester.

19.

Q. A student repeats a course for which the student has already received a passing grade or is taking a course for which the student is not receiving credit toward graduation. Will this subject count as one of the credits earned the preceding school year for athletic eligibility?

A. No. A student may not repeat a course that he/she has already passed for athletic eligibility purposes nor may a student count a subject for which he/she is not receiving credit towards graduation for athletic eligibility purposes.

20.

Q. A student enrolls in a school and attends only two days. Is this considered enrollment?

A. No. In the definition of “enrolled”, (c) states, ‘‘A student is considered “enrolled” at a school when the student has either attended classes for three days, has engaged in three or more days of football, girls volleyball, cross country, golf, or girls soccer practice during the period, on or after the Monday of the week of August 1, or has participated in an athletic contest in any sport.’’

21.

Q. A student attends school for twenty-five days and then drops out. During the twenty-five days of attendance: (a) he/she participated in one or more athletic contests; (b) he/she did not participate in any athletic contest?

A. (a) Student will be charged with a semester since he/she participated in an athletic contest.

(b) Student will not be charged with a semester since that student did not attend forty or more days. (See Article II, Section 1 of the TSSAA Bylaws.)

22.

Q. A student who was ineligible the first semester becomes eligible the second semester by passing five subjects or three blocks or the equivalent. May he/she participate the weekend that marks the close of the first semester?

A. No. A student is not eligible until the opening day of the second semester.

Eight-Semester Rule

1.

Q. What is the maximum number of semesters a student can attend school and still be eligible for athletic participation in the Senior High Division?

A. After a student has attended school EIGHT SEMESTERS he/she is ineligible for further athletic participation.

2.

Q. When does the EIGHT SEMESTER count begin?

A. As soon as a student enrolls in the ninth grade. A student is considered as enrolled in the ninth grade when he/she schedules two or more ninth grade subjects after having completed one school year in the eighth grade.

3.

Q. How does the semester rule apply to teams playing in the Junior High Division?

A. A student is limited to four semesters of eligibility after entering the 8th grade. The semester count starts when the student enrolls in the 8th grade.

Repeating Rule

1.

Q. If a student repeats the 6th, 7th, or 8th grade, what is the status of the student’s eligibility?

A. If a student repeats the 6th, 7th, or 8th grade and participates in an interscholastic contest (Varsity, JV, or any level) at the school during the year he/she repeats, they will be ineligible during their 9th grade year.

Eighth Grade Participation

1.

Q. If an eighth grade student participates as a member of a senior high school team, is such participation charged against the student?

A. No. Such a student will still be entitled to four years of high school participation.

2.

Q. May a seventh grade student participate or practice as a member of a senior high team?

A. No, a student must be enrolled in the 8th grade or higher grade before he/she can participate or practice in the senior division.

Age Limit

1.

Q. Is a student whose nineteenth birthday falls on August 1 ineligible for participation in the Senior High Division?

A. Yes, any student who becomes nineteen years of age on or before August 1 of any school year is ineligible.

2.

Q. If a student becomes nineteen years of age on August 2, or any date thereafter, is that student eligible to participate for the remainder of the school year?

A. Yes.

Physical Examination and Parental Consent

1.

Q. A student receives a pre-participation physical on May 1 of the current school year. How long is that physical valid for the purposes of the TSSAA Bylaws?

A. The physical would be valid for the following school year, through the summer, and up until the first official day of practice for fall sports the next school year.

2.

Q. A student who has not participated in sports during the current school year receives a pre-participation physical on April 1 in preparation for their school's spring football practice which begins on April 2 How long is that physical valid for the purposes of eligibility and the TSSAA Bylaws?

A. The physical would be valid for the current school year and the summer up until the first official day of practice for fall sports the next school year. The physical would not be valid for the next school year for the purposes of eligibility. Physicals must be dated on or after April 15 to be valid for the upcoming school year.

STUDENTS CHANGING SCHOOLS

1.

Q. A student changes school because of the death of his/her parents or guardians. The change is necessary in order for the student to have a home. Is he/she eligible?

A. Such cases should be submitted to the Executive Director who will make a decision based on the facts submitted.

2.

Q. It becomes desirable for a student to live with his/her grandparents. The change in residence causes a change of school. If the grandparents are designated as the guardians of this student will the student be eligible to participate in athletics?

A. Such a student may be ruled eligible by the Executive Director if he/she is convinced that the guidelines as set forth in Article II, Section 24 of the TSSAA Bylaws have been met.

3.

Q. If an athlete with or without an athletic record lives with a guardian, instead of his/her parents, is the student eligible for athletic participation?

A. He/She may be approved by the Executive Director if the student has lived with the guardian for twelve months or longer. If the athlete has lived with his/her guardian, for a period of less than twelve months, he/she is ineligible unless approved by the Executive Director under the provisions of the hardship rule.

4.

Q. A student with or without an athletic record moves to live with a guardian other than a parent. Is the student eligible?

A. No. A student must live with the new guardian, if other than their parent, for 12 months or longer.

5.

Q. A student whose parents are divorced or separated (provided divorce papers have been signed and processed through the courts) participates in athletics at school A while residing with one parent. The student then transfers to school B where they are residing with the other parent. Is the student eligible to participate in athletics?

A. Yes, provided it is the first change from parent to parent since establishing an athletic record, there is a court-ordered custody change, and a letter from the principal of the student's former school indicating that the move was not for athletic reasons.

6.

Q. A student whose parents are divorced or separated (provided divorce papers have been signed and processed through the courts) participates in athletics at school A while residing with one parent. The student then transfers to school B where they are residing with a guardian other than a parent. Is the student eligible to participate in athletics?

A. No. The student will be ineligible until he/she has lived with his/her new guardian for twelve months.

7.

Q. A student who has a record of participation the previous year in baseball only transfers to a nearby school without any change of residence on the part of the student's parents. Is that student eligible to participate in football or basketball?

A. Yes, provided they meet all other eligibility rules. However, the student is ineligible in baseball for a period of 12 months from the last participation date in baseball. (See Article II, Section 13 of the TSSAA Bylaws regarding eligibility in tennis, volleyball, wrestling, soccer, girls' soccer, bowling, cross country and golf.)

8.

Q. A student transfers to a school because the student's parents have moved to the community in which the school is located. The student's scholastic and athletic records are satisfactory. May such a student be allowed to participate pending the approval of his/her transfer by the Executive Director?

A. No. All transfer students must be approved by the Executive Director before being allowed to participate.

9.

Q. If the parents of an athlete move from the territory in which the athlete has been attending school, may this student remain in the school to which he/she has been going and live with someone other than his/her parents without forfeiting his/her eligibility?

A. Yes, provided he/she has been enrolled in that school for a year or longer, provided no ''undue influence'' has been used to cause the student to continue in the same school, and provided the parents pay the expenses incurred as a result of the student not living at home.

10.

Q. If an athlete's parents change residence after the beginning of the school year, must the athlete transfer immediately to the school serving the district into which his/her parents have moved?

A. No. The athlete may transfer to the new school without loss of eligibility at the time his/her parents move, at the end of the next grading period, at the end of the semester or at the beginning of the next school year. (If the athlete remains in his/her former school and participates in an athletic contest after his/her parents have moved, he/she cannot become eligible to participate in that sport in the second school until he/she has completed the report card period or the semester.)

11.

Q. How are the words ''change of residence'' to be interpreted?

A. As moving from one community to another so as to justify a change of schools. Moving across the street or a few blocks away from the former residence, or similar moves, cannot be accepted as justifying a transfer to another school. TSSAA does not recognize ''dual'' residences (maintaining two homes, apartments, etc.)

12.

Q. What are guidelines that are used in determining whether a bona fide change of residence has taken place?

A. Some guidelines are, but not limited to:

1. Changing of mailing address 2. Disconnecting phone in previous residence 3. Disconnecting of utilities in previous residence 4. All furniture moved from previous residence 5. The original residence should be closed, rented, or disposed of and not used by family.

13.

Q. Is it possible for an athlete who does not live at home with his/her parents or guardians to become eligible?

A. Yes. After such a student has attended school for a full school year, and has lived in the community in which the school is located for a period of at least twelve months, the student's case may be submitted to the Executive Director for a ruling.

14.

Q. A student transfers from School A to School B without a bona fide change in residence by the parents. The change is a result of school zone changes made by the local board of education. Is the student eligible?

A. Yes. Provided he/she meets all other eligibility requirements.

15.

Q. A student with an athletic record the previous year lives in Town A. His/Her father gets work in Town B and decides it will be more convenient for his son or daughter to enter school in Town B since he/she can ride with him as he goes to and from work. Will such a student be eligible to participate on the school team of Town B?

A. No. There has been no change of residence.

16.

Q. An eighth grade student participates as a member of a high school or junior high school team. The next year the student transfers to another school without any change of residence on the part of his parents. Is the student eligible for athletic participation?

A. No. The student is a transfer with an athletic record the previous year. His/Her parents have not changed residence. (This regulation is sometimes misinterpreted due to the statement that eighth grade participation does not count against a student. Such participation does not count as one of the four years he/she is allowed to participate while in high school, but the student is charged with an athletic record the previous year and cannot therefore transfer to another school unless there has been a corresponding change of residence on the part of his/her parents.)

17.

Q. A student participates in basketball at school A. He changes to school B without a corresponding change of residence by the parents and wants to play basketball. Is he eligible?

A. No. A student will be eligible twelve months from his/her last participation date. Example: A student last played basketball on January 16, 2016 at school A. That student would be eligible at school B on January 17, 2017.

18.

Q. A student with an athletic record transfers from school A to school B without a corresponding change of residence of his/her parents. After attending school B, the student returns to school A. Is the student eligible to participate at school A?

A. Yes, provided the student did not participate in contests or practice in any sport at any level at school B. This must be verified in writing by the administration of school B.

19.

Q. A student who transfers from school A to school B due to a bona fide change of residence by his/her parents is ruled eligible at school B and participates in athletics at school B. One month later the family of the student returns to the original residence where the student was attending school A. Is the student eligible to participate in athletics?

A. No. The student is ineligible to participate in athletics for twelve months from his/her last participation date, since the parents have returned to the original residence serving school A before the student has been enrolled in school B for one year.

20.

Q. What is meant by the term “system-wide” public school in the definition of “territory” as defined in the Definitions?

A. A system-wide public school is a school without geographic zones or bus routes that draws students throughout the school system. Examples of system-wide public schools are, but not limited to: Chattanooga School for the Arts & Sciences, Martin Luther King, the magnet portion of Liberty Technology High School, etc.

21.

Q. An international student attends a TSSAA school and lives with someone other than his/her parents. Is the student eligible?

A. Yes, provided the student possess a J-1 visa and is in a Foreign Exchange program which has been approved by the Council on Standards for International Educational Travel (CSIET). Students possessing an F-1 visa are ineligible at the varsity level until they have lived with a guardian for 12 months.

22.

Q. An international student comes to live with a new guardian and enrolls in a school where the guardians reside. The student is not in a Foreign Exchange program approved by the CSIET. Is the student eligible?

A. No. A student must be in a Foreign Exchange program approved by CSIET. The student is ineligible at the varsity level but may be eligible at the junior varsity level provided he/she meets the requirements of Article II, Section 15 of the TSSAA Bylaws.

23.

Q. An international student attends a TSSAA school and is in a foreign exchange program that is not approved by CSIET. Is the student eligible?

A. No. A student must be in a Foreign Exchange program approved by CSIET.

24.

Q. An international student is in a Foreign Exchange program approved by the CSIET. The student participates in athletics with a TSSAA school while living with one host parent then transfers to another school as a result of a change of host parents. Is the student eligible at the new school?

A. No. As a result of the change of guardians the student must now comply with Article II, Section 11 and Article II, Section 12 of the TSSAA Bylaws in the same manner as all other students.

25.

Q. A student attending School A with an athletic record in basketball at School A is receiving individual instruction from a basketball coach at School B in the spring of the current school year. The student transfers to School B with a bona fide change of residence in August. Is the student eligible at School B?

A. The student is ineligible at School B in the sport of basketball. A coaching link exists in the previous 12 months, therefore the student is ineligible for twelve months in the sport where a link is present at all levels of competition.

26.

Q. A student attending School A with an athletic record in basketball at School A attends a summer team camp at School B. The student transfers to School B with a bona fide change of residence in August. Is the student eligible at School B?

A. The student is eligible at School B, provided they meet all other eligibility requirements. Attendance at a team camp where a coach from another school is present does not constitute a coaching link. Attendance at an individual camp where a coach from another school is present would constitute a coaching link and would render the student ineligible at all levels of competition.

27.

Q. A student attending School A with an athletic record plays on a softball team during the summer where an assistant coach at School B is serving as the summer softball team's head coach. The student transfers to School B with a bona fide change of residence prior to or during the following school year. Is the student eligible at School B?

A. The student is ineligible at School B in the sport of softball. A coaching link was established when the student played for the coach's summer softball team. If a coaching link exists in the previous 12 months, the student is ineligible in the sport where a link is present at all levels of competition.

28.

Q. A student attending School A has an athletic record in football, wrestling and soccer at School A. He is receiving strength and conditioning training during the summer from a personal trainer who happens to be the strength and conditioning coach at School B. The student transfers to School B with a bona fide change of residence the following school year. Is the student eligible at School B?

A. The student is ineligible at School B in all sports. A coaching link has been established in all sports since the strength and conditioning coach at School B works with all sports programs at School B.

29.

Q. A student attending School A was injured on September 10 in a varsity football game and was not able to participate in sports the rest of the school year. The student transfers to School B with no change of residence at the beginning of the following school year. The student wants to play football, basketball, and baseball at school B. When is the student eligible at the varsity level in each sport, assuming that the student meets all other eligibility requirements?

A. The student will become eligible in football on September 11. The student will be eligible immediately in basketball and baseball. The student's participation in football does not impact their eligibility in baseball or basketball. Athletic records from each sport are treated independently of each other.

30.

Q. A student plays volleyball and establishes an athletic record at School A. At the end of the first semester, the family has a bona fide change of residence into another school zone where they reside for two months. She enrolls and attends School B. They then return to a residence in School A's zone and the student enrolls in School C. Is she eligible?

A. No. Since the student participated at School A within the past twelve months, she will be ineligible in volleyball twelve months past her last date of participation. Athletic eligibility is always based on what the student has done the past twelve months. In this case, the student participated for a member school in the same zone within the last twelve months. Therefore, the last move does not justify a change in schools.

Tuition and Financial Aid

1.

Q. Is it permissible for a school to employ a student for summer work who has not attended the school the previous year?

A. No. In order for a student, who will be participating in athletics, to be employed by a school during the summer the student must have attended the school the previous school year.

2.

Q. Can a Division II school employ student-athletes to "work off" tuition?

A. No. Article II, Section 16 of the TSSAA Bylaws sets forth the only means for reduction of tuition. A school may employ student-athletes as long as the remuneration or consideration for work is not in excess of the amount regularly paid for such service.

3.

Q. Must all financial aid to student-athletes be need-based?

A. Yes.

4.

Q. Who is allowed to pay a student-athlete's tuition?

A. If tuition is charged, it must be paid by a parent, bona fide guardian, or other family member.

5.

Q. Can TSSAA member schools participating in Division II offer particular groups of employees tuition discounts?

A. Yes, provided it is written into the school's policies. For example, schools may choose to offer a tuition discount to a specific group (all full-time faculty members, all non-faculty head coaches, all trainers, etc.). The discount MUST be given to ALL individuals in a particular category or else it will be considered financial aid.

Award Rule

1.

Q. If a student accepts a gift card or apparel from an outside entity during a camp, combine, showcase, etc., will he/she lose his/her eligibility?

A. No. Accepting these items from an outside source during a camp, combine, or showcase, etc., would not make a student ineligible. Bowling, golf and tennis students must abide by USBC, USGA, and USTA regulations in regards to accepting awards.

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Independent-Game Participation

1.

Q. Team A is eliminated in the district basketball tournament. May players on Team A participate in an independent game or tournament without endangering their eligibility?

A. The basketball season ends for any member school when the school is eliminated from tournament play. Students may participate in a game as members of independent teams in any sport after the season for that sport has closed without affecting their eligibility, provided the amateur rule is not violated.

2.

Q. A golfer wishes to participate in a club tournament during the golf season. Is this a violation of the independent rule?

A. No, provided the golfer participates as an individual and not as a member or representative of his/her school. The independent rule does not apply to sports with an individual championship (golf, tennis, bowling, wrestling, track and field, and cross country).

3.

Q. May a player participate in a scrimmage, practice game or game with an independent team after being registered with TSSAA past the first official day of competition in that sport?

A. No. The student shall be ineligible once TSSAA is made aware of the incident in the sport in which the violation occurs.

4.

Q. Is it a violation for a registered athlete in baseball or softball to practice with an independent team?

A. No, provided the independent team is not scrimmaging another independent team as a part of their practice.

5.

Q. Is it a violation for a registered athlete in track or cross country to participate in a road race?

A. No. The independent rule does not apply to track and field or cross country.

6.

Q. A basketball player participates in an independent game and the school notifies the state office of the violation. What is the penalty for the student athlete?

A. The student will be ineligible for the remainder of the season.

7.

Q. A student is registered on the girls' softball team with School A after the first official day of competition for girls' softball. The student then participates in an independent girls' softball game. She then returns to School A's softball team where she plays three games. The coach of School A determines that the student has played in an independent game and reports the violation to the state office. What is the penalty?

A. The player is deemed ineligible for the remainder of the season. School A is not penalized for games the player may have played in after participating on an independent team during the school season.

8.

Q. Is it a violation for a soccer player to participate in an indoor soccer tournament or a girls' softball player to participate in a slow pitch softball tournament or a basketball player to participate in a three-on-three tournament during the school season?

A. Yes. Participation in a similar sport during the season constitutes a violation of the independent game participation rule.

9.

Q. What are some examples of scrimmage situations that would not be considered a violation of the Independent Game Participation Rule?

A. Following are two examples:

- 48 students are trying out for an AAU basketball, travel baseball or softball, club soccer or 7 on 7 football team. This group of students would be considered one team and could participate in scrimmage situations.
- 65 students are invited to a college university to practice with a college team. This group of students, along with the college students, would be considered one team and could participate in scrimmage situations.

All-Star Games

1.

Q. A civic club plans to hold an all-star basketball game. Only seniors who do not participate in spring sports will participate. Would it be a violation for a coach of a member school to coach one of the teams; for the coach and principal to permit the players to use school equipment; for a registered TSSAA official to officiate the game?

A. Yes, if a game is played during the school year officials and game officials shall have no connection whatsoever with such a contest.

2.

Q. What is the difference between an independent team and an all-star team?

A. An independent team is a team that is organized to play a schedule. An all-star team is a team composed of players from different schools who are usually assembled as a team for playing one particular game.

Home School Rule

1.

Q. Who is eligible to tryout, as a home school athlete, for a TSSAA member school team?

A. Only those who meet all ten criteria outlined within TSSAA's Home School Bylaw are eligible.

2.

Q. Are there any requirements that the parent conducting the home school must meet for purposes of the TSSAA Bylaws?

A. Yes. First, the home school athlete must meet all ten criteria outlined within TSSAA's Home School Bylaw. Additionally, the parent-teacher must satisfy all state law requirements in order for the home school student to be eligible to try out for a TSSAA member school team.

3.

Q. What are the academic requirements for a home school athlete?

A. The academic courses must be approved by the local board of education (or private school) in compliance with state law. TSSAA does not regulate where or how any student athlete receives credit toward graduation. TSSAA is concerned with the following: (1) Are the participants enrolled in a minimum of five academic courses which have been approved by the school and/or school system? And (2) If taken at a member school would the course count towards graduation? If the answer to both questions is "yes", the home school athlete would meet the requirements set forth in the "Academic Rule" and "Home School" Bylaw.

4.

Q. What if a student takes four of the five academic courses at an independent home school, but registers and attends a non-public school for the fifth credit (i.e. science lab,) would this potential home school athlete be eligible under the Home School Bylaw?

A. Yes, provided the student meets the definition of a home school student according to state law.

5.

Q. What is the last date that a home school student can make application for participation in athletics to the principal of the member school in which the athlete wishes to tryout and possibly participate?

A. The parent or guardian must make application for participation in athletics to the principal of the member school in which the home school athlete wishes to try out and possibly participate before the first official practice date for that sport.

6.

Q. Can a home school student tryout for a team prior to meeting all requirements of the rule in the TSSAA Bylaws?

A. No. All requirements of the rule must be met prior to the home school student trying out for a team, with the exception of the participation fee. If a participation fee is imposed by the LEA, the home school student would only be required to pay that fee only if they become a member of the team.

7.

Q. What type of insurance, if any, does a home school athlete participating on a TSSAA member school team need to maintain?

A. The home school student must provide proof of liability insurance coverage which names the TSSAA as an insured party or the administration of the school must submit to TSSAA a copy of the TSSAA Indemnity Form signed by the guardian(s). TSSAA Catastrophic Insurance will extend to the home school athlete as it does with all other student-athletes participating at a member school.

8.

Q. If the LEA imposes a participation fee, could the home school athlete be responsible for any additional monetary payments after he/she makes a particular team?

A. Yes, but this will be left to the LEA, and not TSSAA. Many LEAs charge an additional fee to all the athletes participating in a particular sport, such as golf. Some LEAs charge an equipment fee or uniforms fee, while other LEAs require athletes to raise a certain amount of money with fundraising. If the non-home school student athlete is being held responsible for monetary contributions, the home school athlete can be held responsible for those same monetary contributions, which will vary within LEAs.

9.

Q. If a home school athlete makes the roster of a TSSAA member school team in football, basketball, and baseball, what is the participation fee?

A. The answer will vary by LEA. The maximum amount that the home school athlete could pay shall not exceed the fees or costs charged to or borne by students enrolled at the school.

10.

Q. If a home school athlete wants to participate on a TSSAA member private school team, what must the home school athlete do?

A. (1) The parent or guardian must make application for participation in athletics to the principal **prior to the first official practice date for that sport.** (2) Additionally, the home school athlete must pay full tuition and abide by all financial aid rules.

11.

Q. If a student has dropped out, withdrawn, or been expelled from a TSSAA member school, will that student be eligible to participate at another TSSAA member school as a home school athlete?

A. No. If the student was expelled then he/she would be carrying a discipline record which makes them ineligible for one year or until the disciplinary charges have been removed. If the student dropped out or withdraws from school he/she would be subject to the TSSAA's transfer rules.

12.

Q. If a home school athlete tries out for a TSSAA member school team, is the home school athlete automatically on the roster?

A. No, like all sports rosters, the ultimate decisions are left to the member schools regarding the athletes that make the team as well as the amount of playing time that each athlete receives.

Virtual School Rule

1.

Q. A student lives outside the geographic area of the LEA of any TSSAA member virtual schools. Is there a scenario where this student could participate in athletics for a TSSAA member school?

A. No. Students must live in the geographic area of the LEA of the member virtual school. Their residence must also be in the zone (territory) of the public school where they wish to participate as assigned by the local board of education.

2.

Q. A student lives inside the geographic area of the LEA of a TSSAA member virtual school. School A and School B are both in the geographic area of the same LEA. The student's residence is in the zone (territory) of School A, but they wish to play for School B. The student lives outside the zone (territory) of School B. Can the student play for School B?

A. No. Students must live in the zone (territory) established by the LEA of the school they are participating for.

Schools Which Member Schools May Play or Scrimmage

1.

Q. What schools may a member school of TSSAA scrimmage during pre-season or play during regular season?

A. TSSAA member schools may play or scrimmage the following:

1. Any secondary school team with grades 9 and above.
2. An individual home schooled student who might be invited to participate in a track meet, wrestling competition, golf competition, etc. This would primarily apply to individual sports.
3. A home school team in a team sport, such as basketball, baseball, softball, etc., where home schooled students go together to form a cooperative team.

2.

Q. Who can a member school of TSSAA not play during regular season?

A. Any non-school team. Examples would be a club team, recreational park league team, or any type of independent team.

Contests and Tournaments with Out-Of-State Teams

1.

Q. May a TSSAA school participate in tournaments or meets involving out-of-state teams that have not been sanctioned?

A. No. All tournaments or meets involving out-of-state teams must be sanctioned by TSSAA, the other state associations concerned, and the National Federation.

Varsity Teams

Q. Can a school's junior varsity team participate against another school's varsity team?

A. No. A game is either a varsity game for both teams, a junior varsity game for both teams, or a scrimmage for both teams. An exception may be made by the Executive Director when a school is beginning an athletic program.

TSSAA SPORTS CALENDAR

1.

Q. A coach has a weight lifting program at school during off-season and in the time permitted by the sports calendar. The program is open to both players and non-players. Is this a violation?

A. No, provided activities are limited to weight lifting, and provided no player is required to attend.

2.

Q. Can a coach have a conditioning program in the off season, provided it is not during the Dead Period?

A. Yes, provided it is a program that would benefit all students and is open to all players and non-players.

3.

Q. May a school with grades 7-12, 8-12 or 9-12 have 12 days of varsity spring football practice and 12 days of freshman spring football practice?

A. No. A school may have only 12 days of off-season practice in football.

4.

Q. Is it permissible for a school to have try-outs before the first practice date?

A. Try-outs are considered practice. During the school-year, no school may hold try-outs prior to the first practice date as set forth by the TSSAA Sports Calendar. Try-outs in football and basketball may be held during spring practice but only students enrolled and in regular attendance at that school may participate. Try-outs may be held in the summer during the time outlined for practice in that sport.

5.

Q. In football, five schools come together on a Saturday for a five-way scrimmage on two practice fields. Team A is working a half line scrimmage against Team B, Team C is working 7-on-7 with secondary against quarterbacks and receivers, etc. Later in the day, Team B is scrimmaging Team A, B vs. C, etc. How would this be counted?

A. This is one scrimmage date. All schools would have either two scrimmages or one scrimmage date remaining in preseason.

6.

Q. Three schools go together for a three-way scrimmage with A vs. B, B vs. C, and C vs. A set up during the day. How would this be counted?

A. This is either two scrimmages for each team or one scrimmage date for each team. It really does not make any difference. All three schools would have either two scrimmages or one scrimmage date remaining in preseason.

7.

Q. School A and School B get together and set up a scrimmage with their two schools. During the scrimmage the freshman teams are working against each other at 2:00; the junior varsity teams are working against each other at 3:30; and the varsity teams come back that night and work against each other at 7:00. How would this be counted in preseason scrimmages.

A. This is one preseason scrimmage for both schools, provided all of the scrimmaging is at one site.

8.

Q. A school invites nine schools to participate in an all-day scrimmage on a Saturday. What can occur and how is this counted toward the scrimmage rule?

A. If any of the schools invited scrimmage more than one school, then it would count as a scrimmage date for that school and for all the schools that participate against more than one school in the all-day affair. The schools would then have either two scrimmages remaining or one scrimmage date.

There cannot be any tournament format set up or play that would reflect a regular season game. Preseason scrimmages are an extension of preseason practice and should be learning experiences for athletes and coaches as they prepare for regular season games.

9.

Q. How many students may receive individual instructions during the pre-season and/or off-season?

A. During the pre-season and off-season, individual instruction may be given to no more than three students per day in basketball and girls' volleyball. In football, girls' soccer, and soccer, individual instructions may be given to no more than six students per day. In baseball and girls' softball, individual instruction may be given to no more than five students per day. IT DOES NOT MATTER HOW MANY COACHES YOU HAVE IN A PARTICULAR SPORT. THE TOTAL NUMBER OF STUDENTS THAT ARE ALLOWED TO RECEIVE INSTRUCTIONS ARE GIVEN ABOVE.

10.

Q. Are school personnel/coaches permitted to coach non-school teams with players from their school in the preseason or offseason?

A. If the TSSAA sports calendar does not permit practice during the time of year that the non-school team is practicing or playing, then school personnel are not permitted to coach these teams regardless of how many or how few players from their school are participating for the non-school team.

11.

Q. Does the 50% rule apply to summer teams in any sport?

A. No. The 50% rule applies only to basketball, baseball, and softball and only from the beginning of the school year until the season begins in the sport involved.

12.

Q. School A has one gym and is scheduled to have volleyball practice until 6:00 PM. Can School A have Open Facilities for basketball beginning at 6:30 PM?

A. Yes. Open Facilities is permitted year round (Monday through Friday) except during the Dead Period. It does not have to occur immediately after the school day ends.

Awards

1.

Q. Does TSSAA name All-District, All-Region, or All-State Teams?

A. No. These teams are normally selected by the coaches, the Tennessee Sports Writers Association, or the Associated Press.

Officials and Contracts with Officials

1.

Q. May a school use one or more non-registered officials in a contest provided the other officials are registered?

A. All football officials, including the clock operator, must be registered with TSSAA. All basketball officials, except the timer and scorer, must also be registered with TSSAA. All baseball and girls softball umpires must be registered with TSSAA; also wrestling, girls soccer, soccer and girls volleyball officials.

2.

Q. What is the penalty for using a non-registered football, basketball, wrestling, girls volleyball, girls soccer, soccer, girls softball or baseball official?

A. Schools using non-registered officials shall be fined $15 for the first offense. Continued use of non-registered officials will subject school to suspension or other penalty as determined by the Board of Control.

3.

Q. If a registered official has been employed but for some reason fails to appear, may a school use a non-registered official without being subject to any penalty?

A. Yes, provided the state office is notified in writing within 48 hours after the game is played. This report should give the name and address of the registered official who was employed to work the game and the reason for his/her failure to do so if known; also the name and address of the official who was used in place of the registered official.

4.

Q. What is the policy of TSSAA toward the decisions of officials?

A. The decisions of officials are accepted as final and binding.

5.

Q. May a school drop an official from the game after the official has been engaged?

A. Yes, if a school decides that it is wise to break its agreement with an official, it may be done by paying the official the regular fee for the game.

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COACHING REQUIREMENTS CHECKLIST

Classified Employees and Non-Faculty Coaches serving as Head Coaches

_____ Must be approved by the principal, director of schools, and/or school board each year.
_____ Must be submitted by the principal to TSSAA each year.
_____ Must successfully complete the NFHS "Fundamentals of Coaching" and "First Aid, Health, & Safety for Coaches" courses prior to his/her employment.*****

Classified Employees and Non-Faculty Coaches serving as Assistant Coaches

_____ Must be approved by the principal, director of schools, and/or school board each year.
_____ Must be submitted by the principal to TSSAA each year.
_____ Must successfully complete the NFHS "Fundamentals of Coaching" and "First Aid, Health, & Safety for Coaches" courses prior to his/her employment.*****

Retired Educators (five or more years of teaching experience) **& Full-Time Certified Teachers** (those who are currently teaching a minimum of 100 school days) are not considered non-faculty. These individuals have no other requirements. These individuals must be submitted by the principal to TSSAA each year.

Middle School Non-Faculty Coaches

_____ Must be approved by the principal, director of schools, and/or school board each year.
_____ Must be submitted by the principal to TMSAA each year.
_____ Must successfully complete the NFHS "Fundamentals of Coaching" and "First Aid, Health, & Safety for Coaches" courses prior to his/her employment.*****

Coaches who have successfully completed the ASEP Coaches Education Course AND the TSSAA Online Coaches Training Session prior to May 15, 2013, will not be required to take the NFHS courses.

2022-23 GENERAL OFFICIAL'S INFORMATION

The following fees for regular season varsity contests have been set by the Board of Control. With the exception of basketball, these fees do not apply to invitational tournaments. J.V. or B-Team, freshman, and middle school fees are not set by TSSAA and are negotiable with the local officials' association.

2022-23 Mileage Fees

The Board of Control has set the following fees for mileage, which applies to all officials, and is to be based on mileage that is calculated in Arbiter:

1. If an official travels 30 to 60 miles one-way, they will receive an additional $10.
2. If an official travels more than 60 miles one way, they will receive an additional $20.
3. If an official travels less than 30 miles one way, no additional fee will be paid.

Sport	2022-23		2023-24	
Senior High Football	$115.00 E.C.O. – $85.00		$115.00 E.C.O. – $85.00	
Senior High Basketball	**Two Officials** Single Game $90.00 Doubleheader $120.00	**Three Officials** Single Game $80.00 Doubleheader $110.00	**Two Officials** Single Game $90.00 Doubleheader $120.00	**Three Officials** Single Game $80.00 Doubleheader $110.00
	Doubleheader fees apply to all regular season contests, including Invitational Tournaments and Classics, where there is no more than 15 minutes between contests.			
Senior High Girls' Volleyball	**Two Officials** One Match $70.00 Two Matches $100.00 Three Matches $130.00		**Two Officials** One Match $70.00 Two Matches $100.00 Three Matches $130.00	
	Two officials must be used for all matches, including Invitational Tournaments and Post-Season Tournaments.			
Senior High Girls Soccer and Soccer	**Two Officials** One Game $85.00 Each	**Three Officials** One Game – $85.00, $75.00, $75.00	**Two Officials** One Game $85.00 Each	**Three Officials** One Game – $85.00, $75.00, $75.00
Senior High Baseball	**Two Officials** Single Game $90.00 Doubleheader (JV/JV) $120.00 Doubleheader (JV/V) $120.00 Doubleheader (V/V) $180.00	**Three Officials** Single Game $85.00 Doubleheader (JV/JV) $110.00 Doubleheader (JV/V) $110.00 Doubleheader (V/V) $170.00	**Two Officials** Single Game $90.00 Doubleheader (JV/JV) $120.00 Doubleheader (JV/V) $120.00 Doubleheader (V/V) $180.00	**Three Officials** Single Game $85.00 Doubleheader (JV/JV) $110.00 Doubleheader (JV/V) $110.00 Doubleheader (V/V) $170.00
	Doubleheader fees apply to regular season contests only when there is no more than 30 minutes between games. If one game of the doubleheader is a JV game, it is limited to 5 innings or a 1:15 time limit, whichever comes first. NO EXCEPTIONS.			
Senior High Girls' Softball	**Two Officials** Single Game $80.00 Doubleheader (JV/JV) $110.00 Doubleheader (JV/V) $110.00 Doubleheader (V/V) $160.00	**Three Officials** Single Game $75.00 Doubleheader (JV/JV) $100.00 Doubleheader (JV/V) $100.00 Doubleheader (V/V) $150.00	**Two Officials** Single Game $80.00 Doubleheader (JV/JV) $110.00 Doubleheader (JV/V) $110.00 Doubleheader (V/V) $160.00	**Three Officials** Single Game $75.00 Doubleheader (JV/JV) $100.00 Doubleheader (JV/V) $100.00 Doubleheader (V/V) $150.00
	Doubleheader fees apply to regular season contests only when there is no more than 30 minutes between games.			
Senior High Wrestling	Dual Meet – $85.00 Two Dual Meets @ Same Site – $120.00 Three Dual Meets @ Same Site – $165.00		Dual Meet – $85.00 Two Dual Meets @ Same Site – $120.00 Three Dual Meets @ Same Site – $165.00	

Catastrophic Insurance 2022-23 School Year

When Athletes, Coaches, and Athletic Directors are Covered

1. Participating in a TSSAA sanctioned sport during the time outlined in the TSSAA Sports Calendar.
2. Practicing in a TSSAA sport during the time that conforms with the rules, regulations, and season outlined in the TSSAA Sports Calendar.
3. Summer Practice – Must be a school team practicing as a unit during the time specified in the TSSAA Sports Calendar with a school coach in charge.
4. Weight lifting and conditioning is only covered during the season when teams are allowed to practice.
5. Preseason Scrimmages
6. Team travel to and from an athletic practice and/or contest with a school coach in charge. Independent travel is not covered, i.e. athletes driving their own vehicles.
7. Coaches and athletic directors are covered working all TSSAA sanctioned activities including travel to and from (Medical Limit - $50,000; Deductible (Integrated) - $5,000).

When Athletes, Coaches, and Athletic Directors are Not Covered

1. Open Facilities
2. Weight Training and Conditioning – At no time during the off-season is anyone covered.
3. Summer Camps – TSSAA catastrophic insurance does not cover team camps. The camp may be able to provide the coverage for the participants attending team camps or schools have the option to purchase the individual school coverage that would cover camps.
4. Student-athletes are not covered under the supervision of non-approved coaches or a coach that has not met the TSSAA coaching requirements.
5. Coaches and Athletic Directors are not covered during open facilities, during off-season coaching (i.e. weight training and conditioning), or while coaching/working summer camps

How to Report a Claim

1. The following information should be emailed to sports@loomislapann.com on school letterhead or a school incident report form.

    a. Name of injured party.
    b. Name, address, email, and phone number of injured party's parents or guardian.
    c. Date of accident or injury
    d. Brief overview of what took place

2. Keep a copy to verify you have reported the incident.
3. Loomis & LaPann will send out a claim form and claim filing instructions to injured party's parent or guardian. The claim form **MUST** be signed by Coach/AD at the school verifying the incident. Once the claim form has been signed it would be the responsibility of the parent or guardian to file the claim.
4. It is not necessary to report all injuries. The general procedure is to report any injury that may require surgery. Injuries that require surgery will probably penetrate the $15,000.00 deductible.

Contact Information

For any questions regarding Catastrophic Insurance Coverages, How to Report a Claim, or the Optional Catastrophic Insurance Plan, please contact Greg Joly or Karen Boller at Loomis & LaPann, Inc. at (800) 566-6479 or e-mail:

gjoly@loomislapann.com
kboller@loomislapann.com

2022-23 TSSAA Regional Rules Meetings

ADMINISTRATOR'S MEETINGS

Sept. 19	9:00 AM	Cookeville High School
	10:00 AM	Middle School Meeting
Sept. 20	9:00 AM	Daniel Boone High School
	10:00 AM	Middle School Meeting
Sept. 21	9:00 AM	Hardin Valley Academy
	10:00 AM	Middle School Meeting
Sept. 22	9:00 AM	Silverdale Baptist Academy
	10:00 AM	Middle School Meeting
Sept. 26	9:00 AM	Ensworth High School
	10:00 AM	Middle School Meeting
Sept. 27	9:00 AM	White Station High School
	10:-00 AM	Middle School Meeting
Sept. 28	9:00 AM	Liberty Tech. Magnet High School
	10:00 AM	Middle School Meeting
Sept. 29	9:00 AM	Spring Hill High School
	10:00 AM	Middle School Meeting

REGIONAL MEETINGS

Nov. 7	11:00 AM	Hardin Valley Academy
Nov. 9	10:00 AM	Liberty Tech. Magnet High School
Nov. 10	10:00 AM	Ensworth High School

BASEBALL RULES MEETINGS

Jan. 8	3:00 PM	Cookeville High School
Jan. 9	6:30 PM	Daniel Boone High School
Jan. 11	6:30 PM	Fulton High School
Jan. 12	6:30 PM	Silverdale Baptist Academy
Jan. 15	3:00 PM	Goodpasture Christian School
Jan. 16	6:30 PM	Marshall Co. High School
Jan. 18	6:30 PM	Memphis University School
Jan. 19	6:30 PM	Liberty Tech. Magnet High School

BASKETBALL RULES MEETINGS

Sept. 11	3:00 PM	Morristown East High School
Sept. 12	6:00 PM	Daniel Boone High School
Sept. 13	6:00 PM	Hardin Valley Academy
Sept. 14	6:00 PM	Silverdale Baptist Academy
Sept. 15	6:00 PM	Shelbyville Central High School
Sept. 18	2:00 PM	MUS (Coaches)
Sept. 18	4:00 PM	MUS (Officials)
Sept. 19	6:00 PM	Dresden High School
Sept. 20	6:00 PM	Liberty Tech. Magnet High School
Sept. 21	6:00 PM	DeKalb Co. High School
Sept. 22	6:00 PM	Goodpasture Christian School

FOOTBALL RULES MEETINGS

July 18	6:00 PM	Notre Dame High School
July 19	6:00 PM	Rossview High School
July 25	6:00 PM	Peabody High School
July 26	6:00 PM	Memphis University School
July 27	6:00 PM	Henderson City Hall
July 28	6:00 PM	Shelbyville Central High School
July 31	6:00 PM	Watertown High School
Aug. 1	6:00 PM	Daniel Boone High School
Aug. 2	6:00 PM	Hardin Valley Academy
Aug. 3	6:00 PM	Goodpasture Christian School
Aug. 4	6:00 PM	McMinn Co. High School

GIRLS' SOFTBALL RULES MEETINGS

Jan. 8	2:00 PM	Cookeville High School
Jan. 9	5:30 PM	Daniel Boone High School
Jan. 11	5:30 PM	Fulton High School
Jan. 12	5:30 PM	Silverdale Baptist Academy
Jan. 15	2:00 PM	Goodpasture Christian School
Jan. 16	5:30 PM	Marshall Co. High School
Jan. 18	5:30 PM	Memphis University School
Jan. 19	5:30 PM	Liberty Tech. Magnet School

TRACK RULES MEETINGS

TBA

THE FOLLOWING RULES MEETINGS WILL BE OFFERED ONLINE: GOLF, GIRLS' VOLLEYBALL, GIRLS' SOCCER, BOWLING, TENNIS, SOCCER

NOTE: In order to complete the online coaches meetings, coaches must log into their personal TSSAA Portal Account and be assigned as a coach for the sport in which they are taking the online rules meetings.

Local Rules and Terms of the Competition
For 2022 TSSAA Competition

The Rules of the United States Golf Association and The R&A govern play. These Local Rules and Terms of the Competition are in effect at all TSSAA Championships and qualifying rounds. See applicable Championship or qualifying round Notice to Players for additional Local Rules and Conditions. Complete text of Rules and Local Rules may be found in the Official Guide to the Rules of Golf, effective January 2019.

Unless otherwise noted, the penalty for breach of a Local Rule is the general penalty.

LOCAL RULES

OUT OF BOUNDS: Defined by the line between the course-side points, at ground level, of white stakes and fence posts. **Note:** *A ball, which crosses a public road defined as out of bounds and comes to rest beyond that road, is out of bounds, even though it may lie on another part of the course.*

PENALTY AREAS — When a penalty area is defined on only one side, it extends to infinity. When a penalty area is connected to the out-of-bounds edge, the penalty area extends to and coincides with out of bounds.

GROUND UNDER REPAIR — Defined by white lines. French drains are ground under repair. For grass-covered trenching, see Temporary Power Lines and Cables.

Ground under repair may include areas of unusual damage, including areas where spectators or other traffic has combined with wet conditions to affect materially the ground surface, but only when so declared by an authorized member of the Committee. When immediately adjacent to an immovable obstruction, such an area is part of that obstruction.

RELIEF FROM SEAMS OF CUT TURF (SOD SEAMS) — Local Rule as prescribed in Section 8 of the Committee Procedures is in effect. Model Local Rule F-7.

WHITE-LINED AREAS TYING INTO ARTIFICIALLY SURFACED ROADS AND PATHS: White-lined areas of ground under repair and the artificially surfaced roads, paths or other identified obstructions that they are connected to are a single abnormal course condition when taking relief under Rule 16.1.

TEMPORARY POWER LINES AND CABLES: Local Rule as prescribed in Section 8 of the Committee Procedures is in effect. Model Local Rule F-22.

WOOD CHIPS AND MULCH: Are loose impediments.

INTEGRAL OBJECTS: Includes cables, rods, wires and wrappings when closely attached to trees; artificial walls and pilings when located in penalty areas and bunkers; and bunker liners. NOTE: The committee may treat an exposed bunker liner as ground under repair, but interference does not exist if the liner interferes only with the player's stance.

TEMPORARY IMMOVABLE OBSTRUCTIONS: Local Rule as prescribed in Section 8 of the Committee Procedures is in effect. Model Local Rule F-23.

IMMOVABLE OBSTRUCTIONS: Includes landscaped areas completely surrounded by an obstruction and curbs and other structures attached to the path are part of the path.

LIMITING WHEN STROKE MADE FROM PUTTING GREEN MUST BE REPLAYED UNDER EXCEPTION 2 TO RULE 11.1b: When a ball played from the putting green strikes a player, club, or an animal, it does not need to be replayed. Local rule as prescribed in the Clarifications of the 2019 Rules of Golf is in effect.

APPOINTMENT OF COACH IN TEAM COMPETITIONS: Each team may name one coach, who must be properly registered with TSSAA, whom players on the team may ask advice and receive advice from during the round. The team must select/identify the coach before any player on the team begins their round. The coach may only give advice when a player is in between the play of two holes. (See TSSAA Golf Regulations.)

REPLACEMENT OF BROKEN OR SIGNIFICANTLY DAMAGED CLUB: Model Local Rule G-9 is in effect.

BALL PLAYED FROM OUTSIDE RELIEF AREA WHEN TAKING BACK-ON-THE-LINE RELIEF AREA: Model Local Rule E-12 is in effect.

LIST OF CONFORMING GOLF BALLS: Local Rule as prescribed in Section 8 of the Committee Procedures is in effect. Model Local Rule G-3.

PACE OF PLAY: See separate memorandum to players for pace of play policy, when applicable.

STOPPING AND RESUMING PLAY: Local Rule as prescribed in Section 8 of the Committee Procedures is in effect. Model Local Rule J-1.

All practice areas are closed during an immediate suspension for a dangerous situation until the Committee has declared them open. Players who practice on closed practice areas will be asked to stop practicing; failure to stop practicing might result in disqualification.

An immediate suspension will be signaled by one prolonged airhorn note. All other types of suspension will be signaled by three consecutive airhorn notes. Resumption of play will be signaled by two short airhorn notes.

PRACTICE: Prior to and after a round in stroke play, a player may practice on the designated practice areas. Rule 5.2b covering practice in stroke play is modified in this way: A player may not practice on the competition course before or between rounds. Penalty for breach of Local Rule, see Rule 5.2.

PROHIBITING USE OF MOTORIZED TRANSPORTATION: Local Rule as prescribed in Section 8 of the Committee Procedures is in effect. Model Local Rule G-6.

PROHIBITING USE OF CERTAIN TYPES OF SHOES: Local Rule as prescribed in Section 8 of the Committee Procedures is in effect. Model Local Rule G-7. Penalty for breach of Local Rule – see Rule 4.3.

USE OF CADDIE PROHIBITED: Rule 10.3a is modified is this way: A player must not have a caddie during the round.

TERMS OF THE COMPETITION

CLOSE OF COMPETITION: The competition is deemed to have closed when the trophy has been presented to the winner or, in the absence of a prize ceremony, when all scores have been approved by the Committee. The result of a match is considered to have been “officially announced” when the Committee has approved the result as posted on the public scoreboard.

2021-22 TSSAA Handbook

WRESTLING REGULATIONS

I. GENERAL REGULATIONS

A. TSSAA schools shall be divided into two classes (Division I and Division II) for wrestling competition. Division I shall have two classes for both Individual and Dual Meet Competition, Class A and Class AA, with eight regions. Division II shall have one class for Individual Competition with two regions and two classes for Dual Meet Competition, Class A-AA and Class AAA, with two regions.

B. Video taping or filming is permitted if the taping or filming is for private use or use by the two schools involved and not for public or commercial use. All taping or filming by a school may be approved by the local Game Director, and the Game Director shall assign space, when available, from which the school may tape or film. Persons filming from the corner in an Individual tournament shall count towards the two person limit in the corner as specified in NFHS rules.

C. A school must file a schedule online prior to the date of the first contest allowed by the Sports Calendar with the state office. Contests added after a school submits their schedule online may be subject to approval by TSSAA. No school will be allowed to schedule a wrestling meet or tournament after the dates of the state dual meet championships.

D. It is recommended that during regular season no air horns, cow bells or individual type noisemakers be allowed.

E. A Medical Doctor (M.D.), Osteopathic Physician (D.O.), Certified Nurse Practitioner, or Physicians Assistant may be used to sign the NFHS Medical Release for wrestlers to participate with skin lesions. They may also be used as designated, on-site meet appropriate health care professionals who have the authority to overrule the diagnosis of the appropriate heath care professional who has signed the medical release form for a wrestler to participate or not participate with a particular skin condition as stated in NFHS Rule 4-2-4.

II. INVITATIONAL TOURNAMENTS

A. For the purposes of the TSSAA Wrestling Regulations, an invitational tournament only refers to an Individual Tournament or Combination Tournament as defined in the NFHS Wrestling Rules Book. Two day Invitational tournaments must be approved in writing by the Executive Director. The tournament must be approved in writing prior to the start of the tournament (Contact Trina Melton – tmelton@tssaa.org).

B. Participation in an invitational tournament shall count in the total number of dates in which a member school is allowed to participate during the regular season. An invitational wrestling tournament must include eight teams to receive TSSAA plaques or medals. TSSAA shall receive 18 percent of the gross gate receipts for multiple day invitational tournaments or the cost of plaques and medals, whichever is greater. (On one-day invitational tournaments, TSSAA will not furnish plaques or medals nor will TSSAA share in the gate receipts.)

III. REGIONAL TOURNAMENTS

A. Selection of a tournament site, employment of officials, financial arrangements and other plans for conducting the regional tournaments shall be made by representatives of the schools in the region.

B. All schools entering regional tournaments must submit a pre-match weigh in sheet to the tournament director at the time the seeding meeting is held. Schools that do not file by this deadline may be charged by the tournament director $25.00 for each day they are late in order to enter the meet. The penalty check shall go to the meet director in order to cover tournament expenses. The pre-match weigh in sheet shall also serve as the entry form for the regional tournament.

C. In Division I, Wrestlers that finish 1st, 2nd, 3rd, or 4th in the region tournament shall advance to the sectional tournament. It is recommended that each region place up to 6 wrestlers. In the event that one region has less than four medalists, wrestlers who finish fifth or sixth from the corresponding region tournament will be used to fill the sectional tournament bracket in the place of a region's vacant position(s).

D. In Division II, Wrestlers that finish 1st, 2nd, 3rd, or 4th in the region tournament shall advance to the state tournament.

IV. SECTIONAL TOURNAMENTS (Division I)

A. Selection of a tournament site, employment of officials, financial arrangements and other plans for conducting the sectional tournaments shall be made by representatives of the schools in the section. Priority for hosting is given to schools in odd numbered regions for odd years and even numbered regions for even years.

B. The region champion shall wrestle the corresponding region's 4th place wrestler in the first round of the sectional tournament. The region runner up shall wrestle the corresponding region's 3rd place wrestler in the first round of the sectional tournament. The top four wrestlers from each section shall advance to the state tournament.

V. STATE TOURNAMENT (Division I)

A. The draw for the state tournament shall be made by the state office and shall be released after the completion of all sectional wrestling tournaments.

B. Wrestlers who meet the qualification shall be placed in each weight division in the state tournament. In order to be placed, a wrestler must be a sectional champion and must have been a state place finisher during his high school career. The criteria for placing shall be as follows:

1. Separate all state champions (includes state champions from other states).

2. The following criteria shall be used to separate state champions: **(a)** state champion at same weight, **(b)** state champion at higher weight, **(c)** state champion at lower weight. (If there are two state champions at the same weight the state champion from Tennessee will receive the higher seed.)

3. Follow the same procedure as #2 above for 2nd place from previous year, 3rd place from previous year,

4. Items #2 and #3 shall be applied in order to wrestlers who placed in the state tournament two years prior.

5. Blind draw.

C. After the brackets have been released, if a school suspects than an error has been made in the application of the criteria, the school should email Mark Reeves, mreeves@tssaa.org. If an error has been made, the state office will correct the error as long as the state tournament program has not been sent to print.

VI. STATE TOURNAMENT (Division II)

A. Wrestlers will be placed in their brackets according to their order of finish in the regional qualifying tournament.

VII. DUAL MEET REGIONAL AND SECTIONAL QUALIFYING EVENTS

A. In Division I Class A and Class AA, each district may determine which teams advance to the regional dual meet tournament by any method the district selects. Each region shall determine a champion and runner-up by any method the region selects. If the region uses a dual meet tournament to select its champion and runner-up, both districts must be represented. The format and seeding for the regional dual meet tournament shall be determined by the method the region selects. District coaches shall select their regional tournament site on a rotation basis. In odd-numbered years, the odd-numbered districts shall select the regional site and in even-numbered years, the even-numbered districts shall select the regional site. The regional dual meet champion and runner-up shall be determined by the Friday of NFHS Week 30 (January 28, 2022).

B. Each region champion and runner up shall advance to the sectional round which must be completed by Saturday NFHS Week 30. Region 1 shall be paired with Region 2, Region 3 shall be paired with Region 4, Region 5 shall be paired with Region 6, Region 7 shall be paired with Region 8. The region champion shall host the region runner up from the corresponding region with the winner advancing to the Dual Meet State Championships.

C. In Division I Class A and Class AA, the draw for the tournaments will be released following the completion of all qualifying meets. Teams which qualify for the state dual tournament as sectional champions who placed in the top four in the previous year's state dual tournament, shall be seeded according to their previous year's finish.

D. In Division II Class A-AA and Class AAA, two teams from the East Region and two teams from the West Region shall advance to the Division II State Dual Meet Tournament. The #1 qualifying teams shall wrestle the #4 qualifying teams and the #2 qualifying teams shall wrestle the #3 qualifying teams in their respective class in the first round of the DII State Dual Meet Tournament.

VIII. SKIN CHECKS

A. Before the dual meet begins, the official shall perform skin checks or verify skin checks have been performed by an appropriate health care professional. Coaches may conduct weigh-ins, but cannot conduct skin checks to clear athletes for competition.

B. **Authorized to Perform Skin Checks:** Physician (MD, DO), Nurse Practitioner, Physician Assistant, or Certified Athletic Trainer. The decision on whether to use an appropriate health care professional or the referee for skin checks shall lie with the school hosting the event.

C. The official or Certified Athletic Trainer performing skin checks shall not disqualify a wrestler if the NFHS Skin Release Form is properly completed by a Physician (MD, DO), Nurse Practitioner, or Physician Assistant.

IX. GENERAL TOURNAMENT REGULATIONS

No air horns, cow bells, or individual type noise makers will be allowed at regional and state tournaments. The Executive Director has the authority to select another site if the host's facilities or tournament management system is not adequate to host a state qualifying event.

X. OFFICIALS

State tournament officials shall be selected by the TSSAA state office.

2021-22 WRESTLING WEIGHT MANAGEMENT PROGRAM

Schools are required to follow the provisions of the weight certification program established by the association for all wrestlers competing in varsity and junior varsity programs.

The establishment of a minimum wrestling weight based on 7% body fat for males and 12% for females will be mandatory for all senior high school wrestlers. The TSSAA does not advocate that a wrestler's established minimum weight is the athlete's best weight, but simply the minimum weight at which the athlete will be allowed to compete.

I. Establishing Minimum Weights

A. Bioelectrical impedance (BIA) measurements will be utilized to determine each wrestler's body fat percentage. They will be taken using the Tanita TBF-300WA Body Composition Analyzer.

If the Tanita gives an "Error" reading on two consecutive readings with a wrestler, then skin fold measurements will be used to determine body fat percentage. Lange calipers shall be used at three specific sites to measure skin fold (Lohman sites, Abdominal, Tricep, and Subscapularis).

B. The BIA measurements will be preceded by hydration assessment. A wrestler must pass a specific gravity assessment with less than or equal to 1.025. If the wrestler fails the specific gravity assessment with greater than 1.025, the wrestler must rehydrate and wait at least 48 hours to retest. Digital fiberoptic refractometers shall be used to determine hydration.

Provided the wrestler passes the hydration test, the results of his/her body composition assessment will be entered into the Track Wrestling database Optimal Performance Calculator (OPC) in order to obtain a wrestler's minimum competitive weight based on the parameters in I.A. above.

C. Once a wrestler passes the hydration assessment, the measurement process has begun. If a wrestler is removed at any point after the hydration assessment, his/her only route of assessment is through the appeals process.

D. The lowest weight class in which a wrestler may compete will be determined as follows:

1. If the predicted weight, at 7% body fat for males and 12% for females, less 2% of that weight, is exactly that of one of the weight classes that shall be the wrestler's minimum weight class.

2. If the predicted weight, at 7% body fat for males and 12% for females, less 2% of that weight, falls between two weight classes, they must wrestle at the higher weight class.

II. Time Period for BIA Measurements

A. Regardless of when a wrestler first participates in a practice session, he/she may not compete during the regular season at the varsity or junior varsity level (exhibition matches) until his/her minimum weight has been determined and his/her name and data have been entered into the OPC program. (If there are problems in data entry into the OPC program, an exception may be made by the TSSAA state office, provided all information has been forwarded to the state office.)

B. BIA measurements may be conducted on or after October 15th of each year.

C. The controlled weight loss starting date ("Alpha date") will be the date on which BIA measurements are completed.

D. The deadline for all wrestlers to complete all BIA measurements and appeals is January 15th.

III. Who May Conduct Measurements of the TSSAA Weight Management Program?

Any properly licensed doctor of medicine, osteopathic physician, physician assistant, certified nurse practitioner, or Certified State Licensed Athletic Trainer who has been approved through a TSSAA training program. All names, cities, and telephone numbers will be listed on the TSSAA website.

IV. Growth Allowance

A two-pound growth allowance shall be added to each weight class after December 26th. Wrestlers whose predicted weight falls within 2 pounds of the scratch weight may become eligible for that weight class once the two pound growth allowance goes into effect of December 26th.

V. Weekly Weight Loss Monitoring

All wrestlers will be limited to losing no more than 1.5% of their body weight per week as they make their descent toward their pre-determined minimum wrestling weight. This rule will be monitored as follows:

A. At each weigh-in, all coaches must present a pre-match weigh-in form of their team to the host administrator/coach and the head official. The head official shall place the pre-match weigh in sheet at the scorer's table. All of this can be obtained from the Track Wrestling website. If a school does not have a pre-match weigh in form, the referee shall report this to TSSAA.

B. All head coaches of participating teams in dual meets and tournaments will be required to record their actual weigh-in weights for dual meet and tournament competition. This applies to all levels of competition (varsity, jv, 9th grade, exhibition, etc.). The weigh-in sheet is established prior to competition and actual weights are recorded following competition. Actual weights must be recorded for all individuals who weigh in, regardless of whether or not the wrestler competed in a match.

C. Each participating school should complete the dual meet result section which is on the Track Wrestling website. This should be done immediately following competition. Match results not recorded should not be used for seeding purposes at the individual region tournaments.

D. In the event that any wrestler exceeds the 1.5% weekly weight loss rule, he/she will not be permitted to be entered on the pre-match weigh-in form. **If a wrestler competes at a lower weight class than her/she is eligible, then his/her win will be forfeited. When a team wrestles with an ineligible athlete in a TSSAA Dual Meet postseason tournament, the entire contest is forfeited, the team is removed from the tournament, and no team replaces that team in the tournament series.** If a wrestler violates the 1.5% weekly weight loss program but does not change weight classes, then there is no violation.

VI. Appeal Process

Any wrestler may appeal their body fat composition calculations. Results obtained at any step are automatically accepted. The weight class for which the wrestler qualifies shall be determined by the appeal. The steps of the appeal process are as follows:

A. Appeal – Any wrestler may make a request to a TSSAA Assessor for a complete retest within 14 days of measurement and the retest must also occur within 14 days of the first measurement. If skin fold measurement was used, a complete retest of the wrestler must be conducted by the same certified measurer of first test. Bio-impedance will be used first. Included must be athlete's name, date of measurement, and site of measurement.

Schools shall be assessed $25.00 per appeal. This will be added to each school's weight management invoice. The certified athletic trainer conducting the appeal may choose to charge additional fees to the school for conducting the retest.

B. Final Appeal – Must be completed by January 15 unless approved in writing by TSSAA.

1. DEXA (Dual Energy X-ray Absorptiometer)

a. Test is a test where bone density is measured through a type of x-ray machine that can very accurately determine body fat percentages.

b. The test is paid for by the wrestler or school and not the facility.

c. The results of this test are deemed final and completely binding.

2. Final Appeal Testing Site – Middle Tennessee State University

a. Appointments will need to be made through MTSU.

b. Contact TSSAA and Wade Bartlett at (931)-334-5958 for further information.

VII. Costs

Schools will be responsible for paying their membership fees to NWCA for access to the Optimal Performance Calculator. This will appear on an invoice issued to each school along with a fee of $10.00 per student-athlete to offset the costs of the Weight Management Program. Schools will be invoiced based on the number of wrestlers who appear on the school's Track Wrestling record. No fees shall be collected by TSSAA Assessors who are testing wrestlers at mass testing sites. Assessors may charge additional fees for the testing of wrestlers outside of a mass testing site. All fees for the testing of wrestlers that occur outside a mass testing site will be in addition to the $10.00 per student athlete that TSSAA charges for each wrestler appearing on the school's Track Wrestling report.

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2021-22 TSSAA Handbook

GIRLS' WRESTLING REGULATIONS

I. GENERAL REGULATIONS

A. For Girls' Wrestling, there shall be four regions.

B. Video taping or filming is permitted if the taping or filming is for private use or use by the two schools involved and not for public or commercial use. Video taping or filming must be done from the individual's seat. Individuals will not be allowed to use tripods. A school taping or filming its own matches may use a tripod. A school will not be allowed to tape or film a match unless its wrestler is involved. All taping or filming by a school may be approved by the local Game Director, and the Game Director shall assign space, when available, from which the school may tape or film.

C. A school must file a schedule online prior to the date of the first contest allowed by the Sports Calendar with the state office. Contests added after a school submits their schedule online may be subject to approval by TSSAA.

D. It is recommended that during regular season no air horns, cow bells or individual type noise-makers be allowed.

E. A Medical Doctor (M.D.), Osteopathic Physician (D.O.), Certified Nurse Practitioner, or Physicians Assistant may be used to sign the NFHS Medical Release for wrestlers to participate with skin lesions. They may also be used as designated, on-site meet appropriate health care professionals who have the authority to overrule the diagnosis of the appropriate heath care professional who has signed the medical release form for a wrestler to participate or not participate with a particular skin condition as stated in NFHS Rule 4-2-4.

F. There shall be 12 weight classes: 100, 107, 114, 120, 126, 132, 138, 145, 152, 165, 185, 235.

II. INVITATIONAL TOURNAMENTS

A. For the purposes of the TSSAA Girls' Wrestling Regulations, an invitational tournament only refers to an Individual Tournament or Combination Tournament as defined in the NFHS Wrestling Rules Book. Two day Invitational tournaments must be approved in writing by the Executive Director. The tournament must be approved in writing prior to the start of the tournament (Contact Trina Melton – tmelton@tssaa.org).

B. Participation in an invitational tournament shall count in the total number of dates in which a member school is allowed to participate during the regular season. An invitational wrestling tournament must include eight teams to receive TSSAA plaques or medals. TSSAA shall receive 18 percent of the gross gate receipts for invitational tournaments or the cost of plaques and medals, whichever is greater. (On one-day invitational tournaments, TSSAA will not furnish plaques or medals nor will TSSAA share in the gate receipts.)

III. REGIONAL QUALIFYING TOURNAMENTS

A. Selection of a tournament site, employment of officials, financial arrangements and other plans for conducting the regional tournaments shall be made by representatives of the schools in the region.

B. All schools entering regional tournaments must submit a pre-match weigh in sheet to the tournament director at the time the seeding meeting is held. Schools that do not file by this deadline may be charged by the tournament directory $25.00 for each day they are late in order to enter the meet. The penalty check shall go to the meet director in order to cover tournament expenses. The pre-match weigh in sheet shall also serve as the entry form for the regional tournament.

C. The region tournament must be completed by Saturday, NFHS Week 33. Wrestlers that finish 1st, 2nd, 3rd, or 4th shall advance to the state wrestling tournament. It is recommended that each region place up to 6 wrestlers. In the event that one region has less than 4 medalists, wrestlers who finish fifth or sixth from the corresponding region tournament will be used to fill the state tournament bracket in the place of a region's vacant position(s).

IV. STATE TOURNAMENT

A. Girls who have competed against or accepted a forfeit from boys during the regular season at any level of competition (Varsity, JV, or Exhibition) WILL NOT be eligible for the Girls Wrestling State Championship. Girls wishing to compete must be on their school's eligibility list. Girls participating must also participate in the TSSAA Weight Management Program.

All schools will compete in the same classification. There will be no separation of Division I and Division II. Each March, the state office will provide the Legislative Council the individual participation numbers from Division II schools in the Girls Wrestling Regional Qualifiers. If there is an adequate number of individuals from Division II schools in every weight class at any of the state qualifying events, the Legislative Council will consider separating Division I and Division II for the next classification period.

B. Wrestlers who meet the qualification shall be placed in each weight division in the state tournament. In order to be placed, a wrestler must be a regional champion and must have been a state place finisher during her high school career. The criteria for placing shall be as follows.

1. Separate all state champions (includes state champions from other states)

2. The following criteria shall be used to separate state champions: **(a)** state champion at same weight, **(b)** state champion at higher weight, **(c)** state champion at lower weight. (If there are two state champions at the same weight the state champion from Tennessee will receive the higher seed.).

3. Follow the same procedure as #2 above for 2nd place from previous year, 3rd place from previous year,

4. Items #2 and #3 shall be applied in order to wrestlers who placed in the state tournament two years prior.

5. Blind draw.

V. DUAL MEET REGIONAL AND SECTIONAL EVENT

A. Each region shall determine a champion and runner-up by any method the region selects. The regional dual meet champion and runner-up shall be determined by the Friday of NFHS Week 30.

B. Each region champion and runner up shall advance to the sectional round which must be completed by Saturday of NFHS Week 30. Region 1 shall be paired with Region 2, and Region 3 shall be paired with Region 4. The region champion shall host the region runner up from the corresponding region with the winner advancing to the TSSAA Dual Meet State Championships.

VI. GENERAL TOURNAMENT REGULATIONS

No air horns, cow bells, or individual type noise makers will be allowed at regional and state tournaments.

VII. OFFICIALS

State tournament officials shall be selected by the TSSAA state office.

VIII. SKIN CHECKS

A. Before the dual meet begins, the official shall perform skin checks or verify skin checks have been performed by an appropriate health care professional.

B. **Authorized to Perform Skin Checks:** Physician (MD, DO), Nurse Practitioner, Physician Assistant, or Certified Athletic Trainer. The decision on whether to use an appropriate health care professional or the referee for skin checks shall lie with the school hosting the event.

C. The official or Certified Athletic Trainer performing skin checks shall not disqualify a wrestler if the NFHS Skin Release Form is properly completed by a Physician (MD, DO), Nurse Practitioner, or Physician Assistant.

WRESTLING WEIGHT MANAGEMENT PROGRAM

Schools are required to follow the provisions of the weight certification program established by the association for all wrestlers competing in varsity and junior varsity programs.

The establishment of a minimum wrestling weight based on 12% for females will be mandatory for all senior high school wrestlers. The TSSAA does not advocate that a wrestler's established minimum weight is the athlete's best weight, but simply the minimum weight at which the athlete will be allowed to compete.

I. Establishing Minimum Weights

A. Bioelectrical impedance (BIA) measurements will be utilized to determine each wrestler's body fat percentage. They will be taken using the Tanita TBF-300WA Body Composition Analyzer.

If the Tanita gives an "Error" reading on two consecutive readings with a wrestler, then skin fold measurements will be used to determine body fat percentage. Lange calipers shall be used at three specific sites to measure skin fold (Lohman sites, Abdominal, Tricep, and Subscapularis).

B. The BIA measurements will be preceded by hydration assessment. A wrestler must pass a specific gravity assessment with less than or equal to 1.025. If the wrestler fails the specific gravity assessment with greater than 1.025, the wrestler must rehydrate and wait at least 48 hours to retest. Digital fiberoptic refractometers shall be used to determine hydration.

Provided the wrestler passes the hydration test, the results of her body composition assessment will be entered into the Track Wrestling database Optimal Performance Calculator (OPC) in order to obtain a wrestler's minimum competitive weight based on the parameters in I.A. above.

C. Once a wrestler passes the hydration assessment, the measurement process has begun. If a wrestler is removed at any point after the hydration assessment, her only route of assessment is through the appeals process.

D. The lowest weight class in which a wrestler may compete will be determined as follows:

1. If the predicted weight, at 12% for females, less 2% of that weight, is exactly that of one of the weight classes that shall be the wrestler's minimum weight class.

2. If the predicted weight, at 12% for females, less 2% of that weight, falls between two weight classes, they must wrestle at the higher weight class.

II. Time Period for BIA Measurements

A. Regardless of when a wrestler first participates in a practice session, she may not compete during the regular season at the varsity or junior varsity level (exhibition matches) until her minimum weight has been determined and her name and data have been entered into the OPC program. (If there are problems in data entry into the OPC program, an exception may be made by the TSSAA state office, provided all information has been forwarded to the state office.)

B. BIA measurements may be conducted on or after October 15th of each year.

C. The controlled weight loss starting date ("Alpha date") will be the date on which BIA measurements are completed.

D. The deadline for all wrestlers to complete all BIA measurements and appeals is January 15th.

III. Who May Conduct Measurements of the TSSAA Weight Management Program?

Any properly licensed doctor of medicine, osteopathic physician, physician assistant, certified nurse practitioner, or Certified State Licensed Athletic Trainer who has been approved through a TSSAA training program. All names, cities, and telephone numbers will be listed on the TSSAA website.

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IV. Growth Allowance

A two-pound growth allowance shall be added to each weight class after December 26th. Wrestlers whose predicted weight falls within 2 pounds of the scratch weight may become eligible for that weight class once the two pound growth allowance goes into effect of December 26th.

V. Weekly Weight Loss Monitoring

All wrestlers will be limited to losing no more than 1.5% of their body weight per week as they make their descent toward their pre-determined minimum wrestling weight. This rule will be monitored as follows:

A. At each weigh-in, all coaches must present a pre-match weigh-in form of their team to the host administrator/coach and the head official. The head official shall place the pre-match weigh in sheet at the scorer's table. All of this can be obtained from the Track Wrestling website. If a school does not have a pre-match weigh in form, the referee shall report this to TSSAA.

B. All head coaches of participating teams in dual meets and tournaments will be required to record their actual weigh-in weights for dual meet and tournament competition. This applies to all levels of competition (varsity, jv, 9th grade, exhibition, etc.).The weigh-in sheet is established prior to competition and actual weights are recorded following competition. Actual weights must be recorded for all individuals who weigh in, regardless of whether or not the wrestler competed in a match.

C. Each participating school should complete the dual meet result section which is on the Track Wrestling website. This should be done immediately following competition. Match results not recorded should not be used for seeding purposes at the individual region tournaments.

D. In the event that any wrestler exceeds the 1.5% weekly weight loss rule, she will not be permitted to be entered on the pre-match weigh-in form. **If a wrestler competes at a lower weight class than she is eligible, then her win will be forfeited.** Any points scored by the violating wrestler will be removed. If a wrestler violates the 1.5% weekly weight loss program but does not change weight classes, then there is no violation.

VI. Appeal Process

Any wrestler may appeal their body fat composition calculations. Results obtained at any step are automatically accepted. The weight class for which the wrestler qualifies shall be determined by the appeal. The steps of the appeal process are as follows:

A. Appeal – Any wrestler may make a request to a TSSAA Assessor for a complete retest within 14 days of measurement and the retest must also occur within 14 days of the first measurement. If skin fold measurement was used, a complete retest of the wrestler must be conducted by the same certified measurer of first test. Bio-impedance will be used first. Included must be athlete's name, date of measurement, and site of measurement.

Schools shall be assessed $25.00 per appeal. This will be added to each school's weight management invoice. The certified athletic trainer conducting the appeal may choose to charge additional fees to the school for conducting the retest.

B. Final Appeal – Must be completed by January 15th unless approved in writing by TSSAA.

1. DEXA (Dual Energy X-ray Absorptiometer)

a. Test is a test where bone density is measured through a type of x-ray machine that can very accurately determine body fat percentages.

b. The test is paid for by the wrestler or school and not the facility.

c. The results of this test are deemed final and completely binding.

2. Final Appeal Testing Site – Middle Tennessee State University

   a. Appointments will need to be made through MTSU.

   b. Contact TSSAA and Wade Bartlett at 931-334-5958 for further information.

VII. Costs

Schools will be responsible for paying their membership fees to NWCA for access to the Optional Performance Calculator. This will appear on an invoice issued to each school along with a fee of $10.00 per student-athlete to offset the costs of the Weight Management Program. Schools will be invoiced based on the number of wrestlers who appear on the school's Track Wrestling record. No fees shall be collected by TSSAA Assessors who are testing wrestlers at mass testing sites. Assessors may charge additional fees for the testing of wrestlers outside of a mass testing site. All fees for the testing of wrestlers that occur outside a mass testing site will be in addition to the $10.00 per student athlete that TSSAA charges for each wrestler appearing on the school's Track Wrestling report.

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UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF TENNESSEE

_____

L.E., by his next friends and parents, SHELLEY ESQUIVEL and MARIO ESQUIVEL

Plaintiff

v. No. 3:21-cv-00835

BILL LEE, in his official capacity as Governor of Tennessee; PENNY SCHWINN, in her official capacity as the Tennessee Education Commissioner; TENNESSEE STATE BOARD OF EDUCATION; SARA HEYBURN MORRISON, in her official capacity as the Executive Director of the Tennessee State Board of Education; NICK DARNELL, MIKE EDWARDS, ROBERT EBY, GORDON FERGUSON, ELISSA KIM, LILIAN HARTGROVE, NATE

MORROW, LARRY JENSEN, DARRELL COBBINS, and EMILY HOUSE, the individual members of the Tennessee State Board of Education, in their official capacities; KNOX COUNTY BOARD OF EDUCATION a/k/a KNOX COUNTY SCHOOLS a/k/a KNOX COUNTY SCHOOL DISTRICT; ROBERT M. "BOB" THOMAS, in his official capacity as Director of Knox County Schools

Defendants

VIDEOCONFERENCE DEPOSITION OF

JONATHAN FRANKLIN HIGGINS

DATE: Monday, July 25, 2022

TIME: 11:15 a.m.

LOCATION: Remote Proceeding
Washington, D.C. 20005

REPORTED BY: Janel B. Folsom, Notary Public

JOB NO.: 5338660

A P P E A R A N C E S

ON BEHALF OF PLAINTIFF L.E., BY HIS NEXT FRIENDS AND PARENTS, SHELLEY ESQUIVEL AND MARIO ESQUIVEL:

JOHN W. O'TOOLE, ESQUIRE (by videoconference)
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1875 Pennsylvania Avenue Northwest
Washington, D.C. 20001-3642
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(202) 663-6256

ON BEHALF OF DEFENDANTS KNOX COUNTY BOARD OF EDUCATION A/K/A KNOX COUNTY SCHOOLS A/K/A KNOX COUNTY SCHOOL DISTRICT AND ROBERT M. "BOB" THOMAS, IN HIS CAPACITY AS DIRECTOR OF KNOX COUNTY SCHOOLS:

JESSICA G. A. JERNIGAN-JOHNSON, ESQUIRE (by videoconference)
Knox County Law Director's Office
400 Main Street, Suite 612
Knoxville, Tennessee 37902-2495
jessica.johnson@knoxcounty.org
(865) 215-2327

A P P E A R A N C E S (Cont'd)

ON BEHALF OF DEFENDANTS BILL LEE, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF TENNESSEE; PENNY SCHWINN, IN HER OFFICIAL CAPACITY AS THE TENNESSEE EDUCATION COMMISSIONER; TENNESSEE STATE BOARD OF EDUCATION; SARA HEYBURN MORRISON, IN HER CAPACITY AS THE EXECUTIVE DIRECTOR OF THE TENNESSEE BOARD OF EDUCATION; AND NICK DARNELL, MIKE EDWARDS, ROBERT EBY, GORDON FERGUSON, ELISSA KIM, LILLIAN HARTGROVE, NATE MORROW, LARRY JENSEN, DARRELL COBBINS, AND EMILY HOUSE, THE INDIVIDUAL MEMBERS OF THE TENNESSEE STATE BOARD OF EDUCATION, IN THEIR OFFICIAL CAPACITIES:

STEPHANIE A. BERGMEYER, ESQUIRE (by videoconference)
Office of Tennessee Attorney General
315 Deaderick Street, 20th Floor
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stephanie.bergmeyer@ag.tn.gov
(615) 741-6828

A P P E A R A N C E S (Cont'd)

ALSO PRESENT:

Sasha Buchert, Esq., Lambda Legal Defense and Education Fund Inc. (by videoconference)

Thomas F. Costello-Vega, Esq., WilmerHale, LLP (by videoconference)

Clark L. Hildabrand, Esq., Office of Tennessee Attorney General (by videoconference)

Brandon Townsend, Office of Tennessee Attorney General (by videoconference)

Jerry Curran, Technician, CMI Production Services (by videoconference)

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(Exhibits attached.)

P R O C E E D I N G S

THE REPORTER: Good morning. My name's Janel Folsom; I'm the reporter assigned by Veritext to take the record of this deposition. We are now on the record at 11:15 a.m. Eastern Daylight Time, Monday, July 25, 2022.

This is the deposition of Jon Higgins taken in the matter of L.E., by his next friends and parents, Shelley Esquivel and Mario Esquivel vs. Bill Lee, et al. Case no. 3:21-cv-00835 and this case is filed in U.S. District Court, Middle District of Tennessee, Nashville Division. We are all participating via a Zoom videoconference.

And I'm a notary authorized to take acknowledgements and administer oaths in the Commonwealth of Virginia. Parties agree that I will swear the witness remotely, outside of his presence.

Additionally, absent an objection on the record before the witness is sworn, all parties and the witness understand and agree that any certified transcript produced from the recording virtually of this proceeding:

- is intended for all uses permitted under applicable procedural and evidentiary rules and laws in the same manner as a deposition recorded by stenographic means; and

- shall constitute written stipulation of such.

At this time will all the attorneys in attendance please introduce yourself for the record. Mr. O'Toole, you can go first.

MR. O'TOOLE: Sure. John O'Toole of WilmerHale, counsel for Plaintiff. I'm joined by my colleague Thomas Costello-Vega also of WilmerHale and Sasha Buchert of Lambda Legal.

THE REPORTER: Okay. Let's see. Go ahead, Stephanie.

MS. BERGMEYER: Stephanie Bergmeyer with the Tennessee Attorney General's Office. And with me are Clark Hildabrand and our intern Brandon Townsend.

THE REPORTER: Your mic is not working great.

All right, Mr. Higgins. If you'd just raise your right hand, I'll swear you in.

WHEREUPON,

JONATHAN FRANKLIN HIGGINS,

called as a witness, and having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

THE REPORTER: Okay.

You guys can begin.

EXAMINATION

BY MR. O'TOOLE:

Q Good morning, Mr. Higgins. My name is --

A Yeah.

Q -- John O'Toole and I'll be the lead attorney questioning you today. Thank you for being here. I know it's a hot summer day and you'd probably rather be doing something else than being deposed in this case. So thank you.

Would you first mind stating and spelling your full name for the record?

A It's Jonathan, J-O-N-A-T-H-A-N, Franklin, F-R-A-N-K-L-I-N, Higgins, H-I-G-G-I-N-S.

A Yes, sir.

Q And as you said, you're the only golf coach at Farragut High School currently, right?

A Yes, sir. I've got a volunteer helping me right now, while I'm on vacation.

Q Okay. What are your responsibilities as the golf coach?

A To set up practices, conduct practices, set up matches, and give lineups for matches, and oversee matches and district tournament and region tournament.

Q Okay. Sounds like a lot to do alone. And does Farragut High School have a junior varsity golf team?

A The golf season is tricky. So we don't technically have a junior varsity team, but if we needed to play a JV match or two, we probably could.

Q What do you mean that the season is tricky?

A You get 14 dates to play golf matches. And in -- in those 14 days are included are JV matches. So most teams don't have JV matches.

We don't play JV matches 'cause they have to played on the same day and most teams don't have two

A Yes.

Q Okay. Do the Farragut High School boys' golf team and girls' golf team regularly practice and play together?

A Yes.

Q Okay. And are they allowed to because there's less concern about injury of students on the golf teams playing together?

MS. JERNIGAN-JOHNSON: Object to the form.

A I don't understand the question.

Q Sure. So any concern that a student might injure themselves during a particular match does not bar the Farragut High School boys' golf team and the Farragut High School girls' golf team from playing together, correct?

A No.

Q Mr. Higgins, in your coaching career, to your knowledge, have you ever coached a transgender student?

A No.

Q Okay. In your career, have you ever had

direct interaction with a transgender person?

A In regards to sports?

Q Sure, we could start there.

A No.

Q No. But otherwise?

A Yes.

Q And what was the context of that?

A A teacher, student, just people in the community.

Q Okay. When I refer to Plaintiff in this matter, I'm going to refer to him as L.E.; is that okay with you?

A Yes.

Q Before today, did you know who L.E. was?

A Yes; I know of him, yes.

Q Have you spoken directly to L.E.?

A Not that I'm aware of, no.

Q Okay. Did you come to know L.E. outside the context of this case?

A No.

Q When did you first become aware of L.E.?

A I read an article last fall I guess -- the

article in the paper last fall about a student who tried to play golf that I had never met before.

Q Okay. Do you recall where you saw that article?

A Maybe the Knox News -- the Sentinel maybe. Or WBIR. I can't remember.

Q Okay. Have you ever spoken directly to L.E.'s parents?

A No, sir.

Q So through that article that you read last fall, did you become aware that L.E. enjoys playing golf?

A I read it in the article, yes.

Q Okay. And what is your understanding of the issues in this case?

A That he wants to play golf but can't. Let me rephrase that.

But can't play for the team he wants to play for.

Q Okay. Do you have an understanding of why he alleges that he cannot play for the team that he wants to?

A Yes.
Q And what's your understanding?
A That the law says he cannot.
Q Mr. Higgins, do you know how long has Farragut High School had a golf team?
A I do not.
Q Okay. And so you don't know how long ago the boys' team was established versus the girls' team?
A No, sir.
Q Okay. How many spots are on each of the teams?
A There's no set number of spots.
Q Okay. So how do you determine how many spots there will be a given season?
A Whoever qualifies to make the team at tryouts.
Q Okay. So going into tryouts, there's no fixed number of students --
A No --
Q -- make the team? Okay.
A No. I would like to have five boys and three girls, 'cause that's what I need to play with.

Q And why do you need that to play with?
A That's the amount of kids you can play in a match.
Q Okay. And is there a reason why there are five boys and three girls needed for a match?
A That's what was set by TSSAA I guess.
Q Okay. So you don't determine that number of five --
A No.
Q -- girls. Do you determine how many students end up making the golf team?
A I'd like to say yes, but really their play determines who makes the golf team.
Q Okay. Approximately how many students do not make the team who try out?
A Not many. Two, three maybe.
Q Approximately how many students try out?
A Well this year, I've got 18 kids.
Q Okay. So theoretically, all 18 could make the team; is that right?
A Yes.
Q Do the students who make either of the high

Q Got it. So you have too many students wanting to play on the girls' golf team?

A And only because I can only play three at a time.

Q Okay. Are there separate tryouts held for the boys' team and girls' team?

A No.

Q So how many days are tryouts?

A I think this year we had them for three days.

Q Okay. So here, if you look at bullet 2, it says, "players trying out for the boys' team will need to shoot an average score of 90 or better for 18 walking holes through 3 rounds."

A Yes.

Q Right? So when you say tryouts were over three days, is that what is referenced here as three rounds?

A Yes.

Q Okay. And are those three consecutive days?

A No.

Q What's the length of time between each

A Yes, sir.
Q Okay. So if I refer to it as that, you'll understand what I mean?
A Yes.
Q Okay. What does the TSSAA do?
A I believe they're our governing body.
Q When you say, "our," what do you mean?
A Sports. High school sports. Secondary sports.
Q Okay. So by governing body do you mean that as a coach at a high school in Tennessee, you must abide by their policies?
A Yes.
Q Okay. And Farragut High School is a member of the TSSAA; is that right?
A Yes.
Q Are all Tennessee high schools members?
A No.
Q Okay. Do you know how one becomes a member?
A No.
Q Do you have any particular obligations that you must meet -- let me rephrase that.

Q Is there a championship tournament each school year?
A Yes.
Q And how does the team participate in that tournament?
A As a team, you have to win your region tournament. You take one team from the region to go to state, but you can qualify as an individual to go to state if your team doesn't make it.
Q How many teams participate in the state championship tournament?
A Big school state tournament, I believe there are eight teams. I think, yeah.
Q And is Farragut High School considered a big school?
A Yes.
Q Has the Farragut High School boys' team ever won the state championship tournament?
A Yes.
Q What year was that?
A 2020.
Q And did you come to the regional boys' golf

tournament last year?

A Yes.

Q And do you recall what the boys' team placed in that tournament?

A Second.

Q And do you recall the top four scores of the boys that played in that tournament?

A Mmm. No; not offhand, no. I can't give you exact scores.

MS. BERGMEYER: I'm looking to upload a document and it's not letting me click on that option.

THE TECH CONCIERGE: That's because you probably didn't request -- you don't have the private folder to put them in. That's why. You can e-mail it to --

MS. BERGMEYER: Okay.

THE TECH CONCIERGE: -- you can e-mail it to me and I could put it up here, but you can't.

MS. BERGMEYER: Okay. Or I could share my screen? Is that right?

THE TECH CONCIERGE: You can do that one as I give you permission to do that. Hold on a

second and I'll set that right now.

You can now share your screen, yes, but if you want that document to be entered into the record, you'll still need to get it to me or to the court reporter so it can be put in with the marked exhibits.

MS. BERGMEYER: Okay. Thank you. I'll go ahead and share my screen and I'll e-mail it to you --

THE TECH CONCIERGE: Okay.

MS. BERGMEYER: -- before I do.

BY MS. BERGMEYER:

Q Mr. Higgins, you were previously given an exhibit that was the Farragut High School golf team's Twitter account; is that correct?

A Yes.

Q And I believe you testified that Coach Tate was a Farragut High School employee that might post to that account; is that correct?

A Yes.

Q Does this tweet from September 27th of 2021 refresh your memory about the top four scores for the

Farragut High School boys' golf team?

A Yes.

Q And do you believe this record to be accurate as to what their scores were?

A Yes.

Q What is par for a golf course?

A Seventy-two.

Q And so is it correct that player Owen Queener shot three above par? It that how you would've looked at it?

A Yes, he was three over par.

Q Okay. And the other two players shot six over par; is that correct?

A Yes.

Q And the fourth player shot eight over par; is that correct?

A Yes.

THE TECH CONCIERGE: Did you mean to do that, Counsel?

MS. BERGMEYER: Do what?

THE TECH CONCIERGE: Have your e-mail up?

Q And how often were you in the same gym with L.E.?

A Two, three times a week.

Q But L.E. never spoke to you about the golf team?

A No, ma'am.

Q And L.E. never tried out for the golf team while you've been coach.

A No, ma'am.

MS. BERGMEYER: No further questions. Thank you.

MS. JERNIGAN-JOHNSON: I don't have anything.

MR. O'TOOLE: I just have a few follow-ups.

EXAMINATION

BY MR. O'TOOLE:

Q Mr. Higgins, are mental toughness and determination skills that a person of either gender can have?

A Yes.

Q And you identified the returnees for the

CERTIFICATE OF DEPOSITION OFFICER

I, JANEL B. FOLSOM, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Janel B. Folsom

JANEL B. FOLSOM
Notary Public in and for the
Commonwealth of Virginia

CERTIFICATE OF TRANSCRIBER

I, ALICE AMUSIN, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

ALICE AMUSIN

Exhibit
0007 SB
7/25/2022
Jon Higgins

IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

L.E., by his next friends and parents, SHELLEY ESQUIVEL and MARIO ESQUIVEL	)	
Plaintiff	)	
vs.	)	No. 3:21-cv-00835
BILL LEE, in his official capacity as Governor of the Tennessee, et al.	)	
Defendants	)	

VIDEOTAPED

DEPOSITION

OF

MARIO ESQUIVEL

August 2, 2022

DONNA D. TOUSEULL, LCR
HOOD & McMASTERS
P. O. Box 894, Seymour, TN 37865-0894
Telephone: 865-577-5181

VIDEOGRAPHER: Ernie Tracy, Tracy Imaging

APPEARANCES:

MS. SASHA BUCHERT

MS. LI NOWLIN-SOHL

MS. BRITANY RILEY-SWANBACK

Attorneys for Plaintiff

L.E. by his next friends and

parents, Shelley and Mario Esquivel

MS. STEPHANIE BERGMEYER

MR. TRAVIS ROYER

MR. CLARK HILDABRAND (via Zoom)

Attorneys for Defendants

Governor Bill Lee, et al.

MS. JESSICA JOHNSON

MS. AMANDA MORSE

MR. DAVID SANDERS (via Zoom)

Attorneys for Defendants

Knox County Board of Education, et al.

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The videotaped deposition of MARIO ESQUIVEL, taken pursuant to notice for any and all purposes allowable under the Federal Rules of Civil Procedure before DONNA D. TOUSEULL, Licensed Court Reporter in the State of Tennessee, on the 2nd day of August 2022 at the Knox County Law Office, Suite 612, City-County Building, 400 W. Main Street, Knoxville, Tennessee.

It is agreed that the reporter may swear the witness, take the deposition stenographically, and afterwards reduce the same to typewritten form when the completed deposition may be used in the above-styled cause.

All objections except as to the form of the question are reserved until the time of hearing. All formalities are expressly waived as to caption, certificate, transmission, and the reading and signing of the deposition by the witness.

THE VIDEOGRAPHER: Okay. We're on the record. The time on the camera is 9:02. You may swear the witness.

MARIO ESQUIVEL,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. BERGMEYER:

Q Okay. How long have you played golf?
A I've played golf maybe 22 years.
Q Did you ever play on a golf team?
A No.
Q When you play golf, do you play an 18-hole golf course?
A Typically, yes.
Q Okay. When you began to play with L.E., what golf courses did you play?
A Mostly middle-school courses.
Q Are those courses 18-hole golf courses?
A Yeah, some are 18, and some are par-three courses, which are nine holes.
Q Are par-three courses shorter than 18-hole courses?
A Yes.
Q Okay. And I know that you mentioned nine holes, but are the holes themselves shorter in distance?
A Yes.
Q Okay. Which golf courses have you played with L.E.?
A We primarily play the par-three at Concord Park Par 3.
Q Okay. What other golf courses?
A Knox Municipal Golf Course.

handicaps.

Q Okay. How do you calculate a handicap?

A There's -- you go to a course. You can sign up for one, I believe. I believe Knox Community has one, and you -- you play the same course, you log your rounds in, and they average them out, and then they issue an official handicap.

Q And the response to Interrogatory Number 2 states that L.E. has not calculated and does not have a handicap index or a course handicap for '21 or '22; is that correct?

A Yes.

Q Okay. Has L.E. ever calculated a handicap?

MS. RILEY-SWANBECK: Objection.

A No.

Q Looking to Interrogatory Number 3, it asks to identify the date and location of the last ten rounds of golf that L.E. has played and the score for each round. Did you provide the information that's provided in response to Interrogatory Number 3?

A Yes.

Q I'm turning to Page 13 to verify the date that these were submitted, and it appears to be July 13th of 2022, which is on Page 13. So when you provided

information on or around July 13th of 2022, the only time that L.E. had played a round of golf this year was one time on May 7th?

MS. RILEY-SWANBECK: Objection.

A Yes.

Q Did you play that round of golf with L.E.?

A On May 7th?

Q Yes.

A Yes. If I provided that, yeah.

Q I'm looking at the information provided on Page 5.

A Oh, yeah, yeah, we've got it.

Q Okay. And it says that L.E. did not track or record the score; is that correct?

A Yes, that's correct.

Q Okay. Did you keep track or record L.E.'s score?

A No.

Q So you stated earlier that you haven't calculated your official handicap but that you're over 100.

MS. RILEY-SWANBECK: Objection.

BY MS. BERGMEYER:

Q Do you have a similar estimate although

A That was a state -- the state meet in Nashville.

Q Okay. Did L.E. participate in that meet?

A No.

Q Who from the Farragut Middle School golf team -- and I'm not asking the individuals, but which members participated in the state meet?

MS. RILEY-SWANBECK: Objection.

BY MS. BERGMEYER:

Q Let me ask a better question. Was there a limited number of players that could participate in the state meet for Farragut Middle School golf team?

A Yes.

Q Okay. Do you know how many players were able to play?

MS. RILEY-SWANBECK: Objection.

A I believe it was two, but I could be wrong on that.

Q Do you know how Coach Dave selected which players would play at the state meet?

A Yes.

Q How?

A He takes the top scorer.

Q The top scorers for the season?

A Yes.

Q And L.E. was not one of the top scorers that got to play in the state meet?

A Yes.

MS. RILEY-SWANBECK: Objection.

Q May 4th of 2020 mentions district. Do you know what event that was?

A Yes. That was a regional meet.

Q Was there a limit on the number of players that could participate in the district meet?

A Yes.

Q And do you know how Coach Dave chose those players?

A The stop scorer.

Q Was L.E. one of the top scorers who got to participate in the district meet?

A No. No.

MS. BERGMEYER: Okay. I'd like to make this calendar the first exhibit to this deposition.

(EXHIBIT 1, marked.)

MS. KNOWLIN-SOHL: To clarify, just the calendar, not the school packet?

MS. BERGMEYER: Correct.

Q If you look at Interrogatory Number 15, going back to the Knox County responses, -- it's on Page

FURTHER THE DEPONENT SAITH NOT.

MARIO ESQUIVEL

Sworn to before me when
taken August 2, 2022.

/s/ Donna D. Touseull

Donna D. Touseull
Licensed Court Reporter
LCR No. 342 / License Expires: 06-30-2024

REPORTER'S CERTIFICATE

STATE OF TENNESSEE)

COUNTY OF KNOX)

I, DONNA D. TOUSEULL, Licensed Court Reporter in and the State of Tennessee, do hereby certify that I reported in machine shorthand the foregoing testimony held on the 2nd day of August 2022 that the foregoing 78 pages were transcribed by me and constitute a true record of the proceedings to the best of my knowledge and ability.

I further certify that I am not an attorney or counsel for any of the parties, nor an employee or relative of anyone connected with the action, nor financially interested in the action.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting as a Licensed Court Reporter as evidenced by the LCR number and expiration date following my name below.

WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 22nd day of August 2022.

/s/ Donna D. Touseull

DONNA D. TOUSEULL
Licensed Court Reporter
LCR No. 342 / License Expires: 06-30-2024

IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

L.E., by his next friends and parents, SHELLEY ESQUIVEL and MARIO ESQUIVEL	)	
Plaintiff	)	
vs.	)	No. 3:21-cv-00835
BILL LEE, in his official capacity as Governor of the Tennessee, et al.	)	
Defendants	)	

VIDEOTAPED

DEPOSITION

OF

SHELLEY ESQUIVEL

August 1, 2022

DONNA D. TOUSEULL, LCR
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P. O. Box 894, Seymour, TN 37865-0894
Telephone: 865-577-5181

VIDEOGRAPHER: Ernie Tracy, Tracy Imaging

APPEARANCES:

MS. SASHA BUCHERT

MS. LI NOWLIN-SOHL

MS. BRITANY RILEY-SWANBACK

Attorneys for Plaintiff

L.E. by his next friends and

parents, Shelley and Mario Esquivel

MS. STEPHANIE BERGMEYER

MR. TRAVIS ROYER

MR. CLARK HILDABRAND (via Zoom)

Attorneys for Defendants

Governor Bill Lee, et al.

MS. JESSICA JOHNSON

MS. AMANDA MORSE

MR. DAVID SANDERS (via Zoom)

Attorneys for Defendants

Knox County Board of Education, et al.

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The videotaped deposition of SHELLEY ESQUIVEL, taken pursuant to notice for any and all purposes allowable under the Federal Rules of Civil Procedure before DONNA D. TOUSEULL, Licensed Court Reporter in the State of Tennessee, on the 1st day of August 2022 at the Knox County Law Office, Suite 612, City-County Building, 400 W. Main Street, Knoxville, Tennessee.

It is agreed that the reporter may swear the witness, take the deposition stenographically, and afterwards reduce the same to typewritten form when the completed deposition may be used in the above-styled cause.

All objections except as to the form of the question are reserved until the time of hearing. All formalities are expressly waived as to caption, certificate, transmission, and the reading and signing of the deposition by the witness.

THE VIDEOGRAPHER: Okay. We're on the record. The time on the camera is 1:28 p.m. You may swear the witness.

SHELLEY ESQUIVEL,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. BERGMEYER:

you knew a resource for you when you were deciding the proper response to L.E.?

A She was more of an acquaintance of ours, so I don't -- I don't believe that we ever really talked about L.E. transitioning.

Q And so did you take L.E. to the pediatrician on or around that time?

A Yes, early on in 2020.

Q What was the pediatrician's advice?

A She -- so I did research on my own, and I knew that there was such a thing as puberty blockers, and so in my discussion with her, I mentioned that being a way to kind of pause things, you know, pause puberty while L.E., you know, figures things out with his gender, and she at the time did not know that there were doctors in our area who would provide that treatment to children under 18.

So she had more of a kind of wait-and-see approach, meaning wait to see if this is a phase or if it's not, and then to proceed with hormone treatment or whatever the next step was after the age of 18. She has since apologized because she was very much so uninformed that care is indeed being treated to kids who are younger than 18.

Q So the pediatrician's advice in early

2020 was to wait and see.

MS. NOWLIN-SOHL: Object to form.

A It was -- well, it was either to wait and see or to potentially travel out of state to receive treatment because, again, she wasn't aware of anybody nearby who would provide treatment to children under the age of 18.

Q And why -- did she tell you why providers may not provide treatment to a child under the age of 18 for puberty blockers?

A No, she didn't tell me why. She just said that that was the practice as she was aware of it even though, again, it was not accurate.

Q Did you get a second opinion?

A Actually, I've -- I learned that there -- Children's in Knoxville does indeed provide care to children under the age of 18. So I reached back out to her. She's been L.E.'s pediatrician since the day my kids were born.

So I reached back out to her, and then when she followed up with -- with the clinic herself is when she realized she had made a mistake and that the information she had provided was incorrect. So at that point she was very -- she was very happy to be able to provide a referral so that L.E. could see an

Q Sure. Was there anything else you observed or other knowledge you have that made you think L.E. being a boy was not a phase?

A He would consistently say things like he wished he were born a boy, he doesn't want to develop breasts, absolutely no desire to have children, he wants a deeper voice. In my -- in -- in my opinion, phases don't last for as long as what these kinds of feelings that he conveyed to me lasted.

Q So you mentioned testosterone therapy. Has that been discussed with Dr. Eatajoo?

A Yes.

Q Okay. And is there a plan for L.E. to begin testosterone therapy?

A Yes.

Q And what is the plan?

A The plan is for him to meet with the endocrinologist again in October, and there is something that Children's has put together. It's called a gender clinic, so where other kids -- actually, I really don't -- to be honest with you, I don't know all that it entails, but it's something that where they work through with, I guess, talking about the side effects and things like that of testosterone.

And then originally the plan was for him

to begin testosterone at 16, but the endocrinologist feels comfortable, given that he wants to begin sooner so that he can continue puberty, that around -- at some point after October, so I think 15 and a half is kind of what I'm hearing, which would put us into December, January.

Q Has L.E. expressed any hesitation at receiving testosterone therapy?

A Not at all.

MS. NOWLIN-SOHL: Object to the form.

Q What has L.E. said about receiving testosterone therapy?

A He says that he can't wait, he wants to make sure that breast development doesn't occur, he wants a deeper voice, he wants to have body hair, he wants to go into puberty again so he can begin to get taller. So he's overall conveyed that he's excited to begin testosterone treatment.

Q If L.E. wanted to play a club sport, golf in a club sport, would you have the financial means to afford that?

MS. NOWLIN-SOHL: Object to form.

A It depends. I don't know how much that would cost.

Q Have you looked into leagues, or club sports, or other avenues for L.E. to play golf outside of

playing on the eighth-grade girls' team. He was very adamant that he wanted to try out for the boys' team in high school, and at that time he still would have been allowed to since the law had not been passed, so that was his plan for moving forward into high school.

Q When was the middle-school golf team? What season did they play?

A I believe they were a fall sport with tryouts in the summer, so, yeah.

Q Did you research when the Farragut High School boys' golf team tryouts were for L.E.'s freshman year?

A We did not because at that time the law had already passed that prohibited him from playing on the boys' golf team. I believe they were held around the same time as the girls, but I couldn't be certain.

Q Do you know when the law -- when you say the law, what law are you referring to?

A SB228 I believe is the number of it, the one that requires students in middle school and in high school to play on the team that corresponds with the sex on their birth certificate.

Q Do you recall when that was passed, Senate Bill 228?

A I believe it was in March of 2021.

he was being discriminated against, and I knew that we couldn't be the only ones in this situation, and so together our whole family decided that we wanted to work to try to make things different.

Q L.E. has not tried out for the Farragut High School golf team whether it is the boys' team or the girls' team; is that correct?

A Yes, that's correct.

Q Have you ever spoken to the Farragut High School golf coach about L.E.?

A No, not directly.

Q What do you mean not directly? Who did you speak to L.E. about playing high-school golf?

MS. NOWLIN-SOHL: Object to form.

A I talked to -- I had emailed the principal introducing L.E. and letting him know that L.E. wanted to try out for the boys' golf team. That was before the law had passed.

Q After this lawsuit was filed in November of 2021, an attorney from Knox County raised the idea of L.E. trying out for the golf team. Were you made aware of that offer?

A Yes, I was.

Q Okay. And the offer was denied; is that correct?

A Yes, we denied the offer.

Q Okay. Why?

A Because he wouldn't be able to play on the team. The tryouts were -- would be pretty much meaningless.

Q I would like for you to find the Plaintiff's Responses to Defendant Knox County Board of Education's First Set of Interrogatories. Have you seen the Plaintiff's Responses to Knox County Board of Education's Interrogatories before?

A Yes, I have.

Q Okay. If you'll turn to Page 5, please, and look at Interrogatory Number 2. Interrogatory Number 2 states, "Identify your 2021 handicap index and the course handicap as well as your current handicap index and course handicap." Did I read that correctly?

A Yes.

Q Okay. Do you know what a handicap index is?

A I have a vague understanding of it.

Q Okay. What's your understanding?

A That's it's a way to rank your performance in the game of golf.

Q And do you know what a course handicap is?

sound familiar?

A It does. I've never taken him there, so -- his dad might have.

Q Do you ever go with L.E. and his father when they golf?

A No, I don't.

Q Do you have any reason to disagree with the information provided in Interrogatory Number 3, the plaintiff did not track or record L.E.'s score when he played golf?

A That is my understanding that they don't take score.

Q For Interrogatories Number 5 and 6 which reference L.E. playing golf, would Mr. Esquivel be the correct person to discuss those interrogatories with?

MS. NOWLIN-SOHL: Object to form.

A Yes, he would be.

Q Would you have provided any of the information in the response to Interrogatory Number 5 or 6?

A No.

Q And do you have any information or any reason to disagree with the information provided by either L.E. or your husband for these interrogatories?

A No, I have no reason to disagree.

A Yes.

Q And for you, what are some of those milestones?

A So him identifying as a male and using male pronouns with his peers and with his teachers. There's him getting a puberty blocker, name change, getting his name officially named legally to a more typical male name.

Q Was the gender dysphoria diagnosis a milestone?

A I would say that was, yeah. Yeah.

Q And so what are some of the future milestones that you anticipate for L.E.'s transition?

A Beginning testosterone treatment, possibly surgeries, if he so chooses to do that later on. I don't know. That's all that I can think of. There might be more that we just haven't encountered yet.

Q Okay. And all of those things you just mentioned, the blocker, the name change, coming out, using a new name with his peers, are those all part of his transition?

A Yes.

MS. BERGMEYER: Object to form.

THE WITNESS: Yes.

Q Okay. And remind me when L.E. first

FURTHER THE DEPONENT SAITH NOT.

SHELLEY ESQUIVEL

Sworn to before me when
taken August 1, 2022.

/s/ Donna D. Touseull

Donna D. Touseull
Licensed Court Reporter
LCR No. 342 / License Expires: 06-30-2024

REPORTER'S CERTIFICATE

STATE OF TENNESSEE)

COUNTY OF KNOX)

I, DONNA D. TOUSEULL, Licensed Court Reporter in and the State of Tennessee, do hereby certify that I reported in machine shorthand the foregoing testimony held on the 1st day of August 2022 and that the foregoing 82 pages were transcribed by me and constitute a true record of the proceedings to the best of my knowledge and ability.

I further certify that I am not an attorney or counsel for any of the parties, nor an employee or relative of anyone connected with the action, nor financially interested in the action.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting as a Licensed Court Reporter as evidenced by the LCR number and expiration date following my name below.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 20th day of August 2022.

/s/ Donna D. Touseull

DONNA D. TOUSEULL
Licensed Court Reporter
LCR No. 342 / License Expires: 06-30-2024

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

L.E., by his next friends and parents, SHELLEY ESQUIVEL and MARIO ESQUIVEL, *Plaintiff*, v. BILL LEE, in his official capacity as Governor of Tennessee, *et al.*, *Defendants*.	Case No. 3:21-cv-00835

PLAINTIFF'S RESPONSES TO DEFENDANT KNOX COUNTY BOARD OF EDUCATION'S FIRST SET OF INTERROGATORIES

Plaintiff, by and through his attorneys, and pursuant to Rules 33, 34, and 36 of the Federal Rules of Civil Procedure and the Local Rules of this Court, responds and objects to Defendant Knox County Board of Education's ("Defendant") First Set of Interrogatories, Requests for Admissions, and Requests for Production of Documents and Things as follows:

GENERAL RESPONSES

1. Plaintiff's investigation and development of all facts and circumstances relating to this action is ongoing. These responses and objections are made without prejudice to, and are not a waiver of, Plaintiff's right to rely on other facts or documents at trial.

2. By making the accompanying responses and objections to Defendant's requests for documents and interrogatories, Plaintiff does not waive, and hereby expressly reserves, his right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency,

relevancy, materiality, and privilege. Further, Plaintiff makes the responses and objections herein without in any way implying that he considers the requests and interrogatory, and responses to the requests and interrogatory, to be relevant or material to the subject matter of this action.

3. To the extent responsive documents exist, Plaintiff will produce responsive documents only to the extent that such documents are in his possession, custody, or control, as set forth in the Federal Rules of Civil Procedure. Plaintiff's possession, custody, or control does not include any constructive possession that may be conferred by Plaintiff's right or power to compel the production of documents or information from third parties.

4. A response to a document request or interrogatory stating objections and/or indicating that documents will be produced shall not be deemed or construed that there are, in fact, responsive documents; that Plaintiff performed any of the acts described in the document request, interrogatory, or definitions and/or instructions applicable to the document request or interrogatory; or that Plaintiff acquiesces in the characterization of the conduct or activities contained in the document request, interrogatory, or definitions and/or instructions applicable to the document request or interrogatory.

5. Plaintiff expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).

6. Publicly available documents including, but not limited to, newspaper clippings, court papers, and documents available on the Internet, will not be produced.

GENERAL OBJECTIONS

1. Plaintiff objects to each instruction, definition, and interrogatory to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure and the applicable Rules and Orders of the Court.

2. Plaintiff objects to each interrogatory that is overly broad, vague, unduly burdensome, or seeks information beyond the scope of discovery and disproportionate to the needs of the case.

3. Plaintiff objects to each interrogatory that seeks information that is in the possession of, known to, or otherwise equally available to Defendant.

4. Plaintiff objects to each interrogatory to the extent that it seeks information and/or documents duplicative of information and/or documents already produced to Defendant in the course of this litigation or produced in response to Defendant's First Set of Requests for Admissions or First Set of Requests for Production of Documents.

5. Plaintiff objects to each interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege, attorney work product doctrine, or any other applicable privilege. Should any such disclosure by Plaintiff occur, it is inadvertent and shall not constitute a waiver of any privilege.

6. Plaintiff incorporates by reference every general objection set forth above into each specific interrogatory response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Moreover, Plaintiff does not waive his right to amend his responses.

2. "Identify your 2021 Handicap Index and Course Handicap as well as your current Handicap Index and Course Handicap."

Plaintiff's Response to Interrogatory No. 2:

Plaintiff objects to the terms "Handicap Index" and "Course Handicap" as vague and overbroad, as those terms are undefined in Defendant's Requests. Plaintiff therefore adopts reasonable interpretations of those terms in this response. Plaintiff also objects that this interrogatory is beyond the scope of and irrelevant to this matter, and unduly burdensome. Subject to Plaintiff's objections, Plaintiff responds that he has not calculated and does not have a Handicap Index or Course Handicap for 2021 or 2022.

3. "Identify the date and location of the last ten (10) rounds of golf that you have played and your score for each round."

Plaintiff's Response to Interrogatory No. 3:

Plaintiff objects to the term "rounds of golf" as vague, as that term is undefined in Defendant's Requests. Plaintiff therefore adopts a reasonable interpretation of that term in this response to mean the activity of playing 18 holes of golf. Plaintiff also objects that this interrogatory is beyond the scope of and irrelevant to this matter, and unduly burdensome.

Subject to Plaintiff's objections, the following are the ten most recent "rounds of golf" that Plaintiff has played:

- May 7, 2022, at Knoxville Municipal Golf Course. Plaintiff did not track or record the score.
- November 13, 2021, at Knoxville Municipal Golf Course. Plaintiff did not track or record the score.
- September 23, 2021, at Centennial Golf Course. Plaintiff did not track or record the score.
- July 31, 2021, at Williams Creek Golf Course. Plaintiff did not track or record the score.

- July 13, 2021, at Centennial Golf Course. Plaintiff did not track or record the score.

4. "Identify the date and location of each golf round that you played in 2021 and your score for each round."

Plaintiff's Response to Interrogatory No. 4:

Plaintiff objects to the term "golf round" as vague, as that term is undefined in Defendant's Requests. Plaintiff therefore adopts a reasonable interpretation of that term in this response to mean the activity of playing 18 holes of golf. Plaintiff also objects that this interrogatory is beyond the scope of and irrelevant to this matter, and unduly burdensome.

Subject to Plaintiff's objections, see the above response to Interrogatory No. 3.

5. "Identify the tee box that you played from in 2021."

Plaintiff's Response to Interrogatory No. 5:

Plaintiff objects to the term "tee box" as vague, as that term is undefined in Defendant's Requests. Plaintiff therefore adopts a reasonable interpretation of the term in this response. Plaintiff objects to the entire interrogatory as vague and overbroad, as Plaintiff's understanding of the term "tee box" is the area where a game of golf begins. The interrogatory, as constructed, requests identification of a singular "tee box" and as Plaintiff participated in numerous golf sessions in the year 2021, it is unclear to Plaintiff which golf session and tee box the interrogatory is seeking identification of. Plaintiff also objects that this interrogatory is beyond the scope of and irrelevant to this matter.

Subject to Plaintiff's objections, Plaintiff played from the white tee box and, when playing with his middle school team, from the brown tee box, per league rules.

Subject to Plaintiff's objections, Plaintiff states that he was discriminated against by Defendants by being denied the opportunity to participate in the boys' golf team.

Respectfully submitted,

Dated: July 13, 2022

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Attorneys for Plaintiff L.E., by his next friends and parents, Shelley Esquivel and Mario Esquivel

IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

L.E., by his next friends and parents, SHELLEY ESQUIVEL and MARIO ESQUIVEL	)	
Plaintiff	)	
vs.	)	No. 3:21-cv-00835
BILL LEE, in his official capacity as Governor of the Tennessee, et al.	)	
Defendants	)	

VIDEOTAPED

DEPOSITION

OF

L.E.

August 1, 2022

DONNA D. TOUSEULL, LCR
HOOD & McMASTERS
P. O. Box 894, Seymour, TN 37865-0894
Telephone: 865-577-5181

VIDEOGRAPHER: Ernie Tracy, Tracy Imaging

APPEARANCES:

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MS. LI NOWLIN-SOHL

MS. BRITANY RILEY-SWANBACK

Attorneys for Plaintiff

L.E. by his next friends and

parents, Shelley and Mario Esquivel

MS. STEPHANIE BERGMEYER

MR. TRAVIS ROYER

MR. CLARK HILDABRAND (via Zoom)

Attorneys for Defendants

Governor Bill Lee, et al.

MS. JESSICA JOHNSON

MS. AMANDA MORSE

MR. DAVID SANDERS (via Zoom)

Attorneys for Defendants

Knox County Board of Education, et al.

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The videotaped deposition of L.E., taken pursuant to notice for any and all purposes allowable under the Federal Rules of Civil Procedure before DONNA D. TOUSEULL, Licensed Court Reporter in the State of Tennessee, on the 1st day of August 2022 at the Knox County Law Office, Suite 612, City-County Building, 400 W. Main Street, Knoxville, Tennessee.

It is agreed that the reporter may swear the witness, take the deposition stenographically, and afterwards reduce the same to typewritten form when the completed deposition may be used in the above-styled cause.

All objections except as to the form of the question are reserved until the time of hearing. All formalities are expressly waived as to caption, certificate, transmission, and the reading and signing of the deposition by the witness.

THE VIDEOGRAPHER: Okay. We're on the record. The time on the camera is 10:06. You may swear the witness.

L.E.,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. BERGMEYER:

when I think there is something I definitely want to improve on. Like, there's always something to improve on, but something in particular, like, maybe with my irons, or I'm struggling to keep the ball more straight and it's curving a little bit right, or maybe my long putts are not doing very good at the time, so I want to improve on that.

Q Have you tried to tee off from either the yellow or red tee boxes?

A Yes, I -- yeah, I did do red a little bit, though I would usually go up a club or two or just stay with the same club but do a fuller swing instead of a half swing.

Q How many times did you play golf this summer?

A To be honest, I'm not keeping track of how many times I play. I mean, I went golfing, like, two days ago because I was in Florida and there's, like, a little Top Golf, but not really Top Golf. It was, like, half.

Q When you play golf with your dad, do you play a 9-hole course or an 18-hole course?

A Nine hole because 18 holes is, like, the whole day. We don't have that time.

Q Do you know when the last time you played a 9-hole course was?

A I don't remember. Actually, wait. I don't know the exact date, so I can't -- it was recent. Well, it was like -- I'm just going to say I don't remember.

Q Okay. Do you think it would have been sometime this summer?

A Oh, yeah, it's been the summer.

Q Do you follow professional golf?

A I'm sorry? Can you --

Q Do you follow professional golf?

A Like, watch it?

Q Yes.

A I mean, I usually just -- it's -- if it's on, I just glance to see who's playing and if they did a good shot and then do something else.

Q Do you have any favorite professional golfers?

A No. I'm trying to think. No.

Q Did you want to play golf for your high-school golf team?

A Yes. I wanted to play on the guys' golf team.

Q Okay. And what made you decide that you wanted to play for the guys' team?

A Because I'm a boy.

Q Did you talk to anyone about wanting to play golf for the high-school boys' team?

A Yes.

Q Okay. Who did you speak with?

A My mom, dad, friends, lawyer, lawyers.

Q Sure.

A Yeah.

Q Do you know who the boys' golf coach is for Farragut High School?

A No.

Q Do you know when the boys' golf team have tryouts at your school?

A No, though I think my mom does.

Q Do you follow the players on the Farragut boys' golf team or keep track of how they're doing on the team?

A Not exactly keep track, though I do know they are good.

Q What do you know about them being good?

A They got second place in a tournament, I think it was a tournament.

Q Are you friends with anyone on the boys' golf team?

A No.

Q Why did you not go to tryouts for the

FURTHER THE DEPONENT SAITH NOT.

L.E.

Sworn to before me when
taken August 1, 2022.

/s/ Donna D. Touseull

Donna D. Touseull
Licensed Court Reporter
LCR No. 342 / License Expires: 06-30-2024

REPORTER'S CERTIFICATE

STATE OF TENNESSEE)

COUNTY OF KNOX)

I, DONNA D. TOUSEULL, Licensed Court Reporter in and the State of Tennessee, do hereby certify that I reported in machine shorthand the foregoing testimony held on the 1st day of August 2022 and that the foregoing 43 pages were transcribed by me and constitute a true record of the proceedings to the best of my knowledge and ability.

I further certify that I am not an attorney or counsel for any of the parties, nor an employee or relative of anyone connected with the action, nor financially interested in the action.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting as a Licensed Court Reporter as evidenced by the LCR number and expiration date following my name below.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 19th day of August 2022.

/s/ Donna D. Touseull

DONNA D. TOUSEULL
Licensed Court Reporter
LCR No. 342 / License Expires: 06-30-2024

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

----------x

L.E., by his next friends And parents, *

Plaintiff, *

V. *

BILL LEE, in his official Capacity as Governor of Tennessee; PENNY SCHWINN, In her official capacity as The Tennessee Education Commissioner; TENNESSEE STATE BOARD OF EDUCATION; SARA HEYBURN MORRISON in Her official capacity as The executive Director of The Tennessee State Board Of Education; NICK DARNELL MIKE EDWARDS ROBERT EBY GORDON FERGUSON, ELISSA, KIM LILLIAN HARTGROVE, NATE MORROW, LARRY JENSEN DARRELL COBBINS, and EMILY HOUSE, the individual Members of the Tennessee State Board of Education, In their official Capacities; KNOX COUNTY BOARD OF EDUCATION a/k/a KNOX COUNTY SCHOOLS a/k/a KNOX COUNTY SCHOOL DISTRICT; ROBERT M. “BOB” THOMAS, in his Official Capacity as Director of Knox County Schools, *

Defendants. *

----------x

DEPOSITION OF SARA MORRISON

APPEARING REMOTELY FROM

NASHVILLE, TENNESSEE

August 22, 2022

11:00 a.m.

REPORTED BY:

Dawn L. Halcisak, CLR

APPEARING REMOTELY FROM CRISFIELD, MARYLAND

R E M O T E A P P E A R A N C E S

ON BEHALF OF PLAINTIFF KNOX COUNTY BOARD OF EDUCATION AND BOB THOMAS:

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ON BEHALF OF L.E., by his next friends and parents SHELLEY ESQUIVEL and MARIO ESQUIVEL & ACLU OF TENNESSEE:

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ALSO PRESENT:

FOR KNOX COUNTY LAW DIRECTOR'S OFFICE:

Bob Thomas, Director of Knox County Schools

Coach Donald Dodgen

ATTORNEY GENERAL'S OFFICE:

Anne Levit

Mr. Swaine

Executive Director Morrison

State Board Members

Veda Newman, Law Clerk

Lucas Cameron-Vaugh, ACLU

VERITEXT:

Jerry CUrran, Concierge Tech

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R E M O T E P R O C E E D I N G S

IT IS HEREBY STIPULATED AND AGREED that the reading and signing of this deposition are not waived.

THE REPORTER: Good morning, everyone.

The attorneys participating in this deposition acknowledge that I am not physically present in the deposition room and that I will be reporting this deposition remotely. They further acknowledge that, in lieu of an oath administered in person, the witness will verbally declare his or her testimony in this matter is under penalty of perjury. The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting.

Please indicate your agreement by stating your name, whom you represent, and your agreement on the record, beginning with counsel noticing the deposition.

MR. SCHOENFELD: Good morning. Alan

Schoenfeld of Wilmer Cutler Pickering Hale and Dorr for the Plaintiffs, joined by John O'Toole, and we agree to the stipulation.

MS. BERMEYER: Good morning. This is Stephanie Bermeyer for the Tennessee State Board of Education, and we agree. And also with me is Angela Sanders. She's general counsel for the State Board of Education.

MS. JERNIGAN-JOHNSON: My name is Jessica Jernigan-Johnson. I'm here with my colleague David Sanders on behalf of the Knox County Board of Education and Bob Thomas, and we agree to the stipulation.

THE REPORTER: Okay. Is everyone else just going to be present? Mr. Travis? Yep. And Mr. Shantel?

MR. SCHOENFELD: Yeah. It's just me and John for the Plaintiffs.

THE REPORTER: Okay. Great. Okay. So with that --

MS. BERMEYER: Mr. Travis Herrera.

He's also with the Attorney General's Office. Sorry, John.

MR. NEWKIRK: No, no problem.

THE REPORTER: Okay. great.

(Off record discussion.)

THE REPORTER: And might I ask the witness, can I just ask you your city and state, just for the record; where are you located?

THE WITNESS: Sure. Nashville, Tennessee.

THE REPORTER: Okay. Great. And ma'am, can I ask you to retrieve your government identification. I'm going to ask you to hold that up to the video monitor for verification. If you don't have it with you, counsel can put a stipulation on the record that the person before the video is, in fact, the person on the deposition notice.

(Off record discussion.)

THE REPORTER: Counsel, you want to place a stipulation on the record?

MS. BERMEYER: Yes. I stipulate, for the record, that the person here in the room with me is the Executive Director, Sarah Morrison for the Tennessee State Board of Education.

THE REPORTER: Okay. Great. Perfect.

And with that, ma'am, will you please hold up your right hand for me this morning?

SARA MORRISON,

having been duly sworn, was examined, and did testify as follows:

THE WITNESS: I do.

THE REPORTER: Please state your name, ma'am, and spell your name for the record.

THE WITNESS: Sara Morrison, S-a-r-a, M-o-r-r-i-s-o-n.

THE REPORTER: Okay. Great. Thank you.

Counsel, I am going off the video -- please begin. I'm going off the video monitor, but I am here.

Q. And where does the state board of education's funding come from?

A. Purely from the general assembly. State funds.

Q. Does that include allocation of non-state funds, or is it purely funded by state dollars?

A. It is purely funded by state dollars -- the operation of the Board.

Q. And the Board has certain responsibilities, with respect to the expenditure and allocation of the federal funds; is that right?

A. No, that is not correct. We do not receive federal funds for the operations of the state board.

Q. I'm asking a different question.

In setting policy and -- and setting policy for Tennessee public schools, the state board of education includes in the allocation of funding, that is for the state board policy for

CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC

I, Dawn L. Halcisak, Court Reporter and Notary Public in and for the State of Maryland, the officer before whom the foregoing Remote Deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my direction and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 7th day of September 2022.

My commission expires:

At

Dawn L. Halcisak

NOTARY PUBLIC IN AND FOR THE STATE OF MARYLAND

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Exhibit
0001
8/22/2022
Sara Morrison Ph.D.

L.E., by his next friends and parents, SHELLEY ESQUIVEL and MARIO ESQUIVEL,

Plaintiff,

v.

BILL LEE, et al.,

Defendants.

Case No. 3:21-cv-00835

Chief Judge Waverly D. Crenshaw Jr.
Magistrate Judge Alistair E. Newbern

PLAINTIFF'S NOTICE OF 30(b)(6) DEPOSITION OF DEFENDANT TENNESSEE STATE BOARD OF EDUCATION

Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff L.E., by his next friends and parents, Shelley Esquivel and Mario Esquivel, through the undersigned counsel, provides notice that Plaintiff will take the deposition of Defendant the Tennessee State Board of Education (address 500 James Robertson Parkway, Nashville, TN 37243) with respect to the topics set forth below.

The deposition will take place on July 22, 2022, at 9:30 AM CDT, or at another such date and time agreed upon by the parties. The deposition will be conducted remotely via video teleconference offered by Veritext. The deposition will continue from day to day until concluded. The deposition will be taken under oath before a certified shorthand reporter or other officer authorized to administer oaths. The deposition will be recorded by stenographic means, on videotape, and by instant visual display of testimony using LiveNote or similar software. The deposition shall be used for discovery purposes and may be used as evidence in this action, including at trial.

Plaintiff reserves the right to seek relief from the court in the event that the designated deponent is not properly prepared to testify on behalf of the Tennessee State Board of Education.

Pursuant to Rule 30(b)(6), Defendant Tennessee State Board of Education shall designate one or more knowledgeable officers, directors, managing agents, or other persons who consent to testify on their behalf concerning the subjects set forth in Exhibit A. Prior to deposition, Defendant Tennessee State Board of Education and Plaintiff shall meet and confer about the matters for examination.

Dated: July 8, 2022

Respectfully submitted,

/s/ Stella Yarbrough
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Attorneys for Plaintiff L.E., by his next friends and parents, Shelley Esquivel and Mario Esquivel

Exhibit A

DEFINITIONS

1. "ACTION" refers to the above-captioned litigation instituted by L.E. on November 4, 2021.

2. "L.E." means L.E. and his next friends and parents, Shelley Esquivel and Mario Esquivel.

3. "COMMUNICATION" means any transmission of information from one PERSON to another by any means in the form of facts, ideas, inquiries, or otherwise.

4. "CONCERNING" is defined as information, things, COMMUNICATIONS, or DOCUMENTS that reflect, relate to, identify, constitute, embody, describe, discuss, summarize, evidence, reference, comment on, or concern in any way the subject matter of the Topic.

5. "DOCUMENT" means any written, printed, typed, recorded, magnetic, punched, copied, graphic or tangible thing in, upon, or from which information may be embodied, translated, conveyed, or stored (including, but not limited to, correspondence, memoranda, notes, records, books, papers, telegrams, telexes, dictation or other audio tapes, video tapes, computer tapes, computer discs, computer printouts, microfilm, microfiche, worksheets, diaries, calendars, photographs, charts, drawings, sketches, and all other writings or drafts thereof) as defined in Federal Rule of Civil Procedure 34(a), Federal Rule of Civil Procedure 45, and Federal Rule of Evidence 1001, whether or not labeled "confidential." A draft or non-identical copy is a separate DOCUMENT within the meaning of this term.

6. INTERSCHOLASTIC SPORTS means athletic competitions between students of schools at all educational levels, including but not limited to elementary school, middle school, high school, and college.

7. "PERSON" means any natural person or any business, legal, or governmental entity or association or any other cognizable entity, including, without limitation, corporations, proprietorships, partnerships, joint ventures, consortiums, clubs, associations, foundations, governmental agencies or instrumentalities, societies, and orders.

8. "POLICY" means any policy, procedure, rule, protocol, guideline, regulation, practice, or other principle or course of action.

9. "STATE BOARD" means the Tennessee State Board of Education, as well as its officers, directors, employees, partners, corporate parent, subsidiaries, affiliates, attorneys, accountants, consultants, representatives, and agents.

10. "STATE EXECUTIVE DIRECTOR" means Sara Heyburn Morrison in her official capacity as Executive Director of the State Board and includes each of the officers, directors, employees, partners, corporate parent, subsidiaries, affiliates, attorneys, accountants, consultants, representatives, and agents that report to her in her official capacity. It also means any "Person" who assumes any of Ms. Heyburn Morrison's official positions or responsibilities in part, whether temporarily or permanently.

11. "TENNESSEE DEPARTMENT OF EDUCATION" means the Tennessee Department of Education, as well as its officers, directors, employees, partners,

corporate parent, subsidiaries, affiliates, attorneys, accountants, consultants, representatives, and agents.

12. "YOU," "YOUR," or "YOURS" means the STATE BOARD and the STATE SUPERINTENDENT collectively.

13. "S.B. 228" means Tennessee House Bill 3 of the 2021-2022 112th General Assembly, Tennessee Senate Bill 228 of the 2021-2022 112th General Assembly, or any implementing Policy thereunder.

14. "FEDERAL FINANCIAL ASSISTANCE" means the definition of "Federal financial assistance" provided in 34 C.F.R. § 106.2(g).

TOPICS OF EXAMINATION

TOPIC 1:

The organization and structure of the STATE BOARD, including current employees and former employees of the STATE BOARD who were employed January 1, 2019, onward but since departed, their positions, and the scope of their responsibilities, including the role and responsibilities of the STATE EXECUTIVE DIRECTOR.

TOPIC 2:

YOUR POLICIES, DOCUMENTS, and COMMUNICATIONS concerning rulemaking.

TOPIC 3:

The funding of the STATE BOARD, including any federal funding received by the STATE BOARD and how such federal funding is used.

TOPIC 4:

YOUR POLICIES, DOCUMENTS, and/or COMMUNICATIONS CONCERNING YOUR control, supervision, or authority over INTERSCHOLASTIC SPORTS in Tennessee.

TOPIC 5:

YOUR current and/or expected role in implementing and enforcing S.B. 228, including any delegation of authority to or supervision over the Tennessee Secondary School Athletic Association, Tennessee county boards of education, and/or county superintendents.

TOPIC 6:

The relationship between the STATE BOARD and county boards of education in Tennessee.

TOPIC 7:

The relationship between the STATE BOARD and the Tennessee Secondary School Athletic Association.

TOPIC 8:

The relationship between the STATE BOARD and the TENNESSEE DEPARTMENT OF EDUCATION.

TOPIC 9:

Any FEDERAL FINANCIAL ASSISTANCE received by the STATE BOARD, either directly or indirectly.

TOPIC 10:

Any FEDERAL FINANCIAL ASSISTANCE received by the TENNESSEE DEPARTMENT OF EDUCATION, either directly or indirectly.

TOPIC 11:

YOUR relationship and COMMUNICATIONS with the Tennessee Legislature, including individual legislators, legislative staff, Committees, and/or Committee staff, in developing, drafting, passing, and/or implementing S.B. 228.

TOPIC 12:

YOUR POLICIES, DOCUMENTS, AND COMMUNICATIONS CONCERNING the participation of transgender students in INTERSCHOLASTIC SPORTS in Tennessee from January 1, 2019, to the present.

TOPIC 13:

YOUR POLICIES, DOCUMENTS, AND COMMUNICATIONS CONCERNING the separation of boys and girls in INTERSCHOLASTIC SPORTS in Tennessee prior to and following the passage of S.B. 228.

TOPIC 14:

YOUR understanding CONCERNING the purpose, scope, and implications of S.B. 228. This expressly includes YOUR understanding of what, if any, governmental interests are furthered by S.B. 228.

TOPIC 15:

YOUR POLICIES, DOCUMENTS, AND COMMUNICATIONS CONCERNING L.E. and his family from January 1, 2019, to the present.

TOPIC 16:

YOUR POLICIES, DOCUMENTS, AND COMMUNICATIONS CONCERNING S.B. 228.

TOPIC 17:

The funding of the STATE BOARD, including any federal funding.

TOPIC 18:

All YOUR discovery responses provided to date in this ACTION.

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

L.E., by his next friends and parents, SHELLEY ESQUIVEL and MARIO ESQUIVEL,

Plaintiff,

v. Case No.

BILL LEE, et al., 3:21-cv-00835

Defendants.

VIDEOCONFERENCE DEPOSITION OF
JENNIFER HEMMELGARN

DATE: Friday, July 29, 2022
TIME: 9:33 a.m. CDT/10:33 a.m. EDT
LOCATION: Remote Proceeding
Washington, DC 20005
REPORTED BY: Janel Folsom, Notary Public
JOB NO.: 5335467

A P P E A R A N C E S

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ALSO PRESENT:

Jerry Curran, Tech Concierge (by videoconference)
Brandon C. Townsend, Intern, Tennessee Attorney General (by videoconference)

I N D E X

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(Exhibits retained by counsel.)

P R O C E E D I N G S

THE REPORTER: Good morning. My name is Janel Folsom; I am the reporter assigned by Veritext to take the record of this deposition. We are now on the record at, sorry, 10:33 a.m. on Friday, July 29, 2022.

This is the deposition of Jennifer Hemmelgarn taken in the matter of L.E. by His Next Friends and Parents, Shelley and Mario Esquivel vs. Bill Lee, et al., Case No. 3:21-cv-00835. And this case is filed in the U.S. District Court, Middle District of Tennessee, Nashville Division. We are all participating via a Zoom videoconference.

And I am a notary authorized to take acknowledgments and administer oaths in the Commonwealth of Virginia. Parties agree that I will swear in the witness remotely, outside of her presence.

Additionally, absent an objection on the record before the witness is sworn, all parties and the witness understand and agree that any certified transcript produced from the recording

virtually of this proceeding:

- is intended for all uses permitted under applicable procedural and evidentiary rules and laws in the same manner as a deposition recorded by stenographic means; and

- shall constitute written stipulation of such.

At this time will all the attorneys on the call please introduce yourself for the record. I'm sorry. One second. And, Samuel, you can go first.

MR. STRONGIN: Great, thank you. My name's Samuel Strongin, representing plaintiff L.E., and I'm with the law firm Wilmer Cutler Pickering Hale and Dorr.

MS. BERGMEYER: Good morning, Stephanie Bergmeyer with the attorney general's office. I represent Governor Lee; Commissioner Penny Schwinn; Dr. Morrison; and the individual members of the Tennessee State Board of Education, all in their official capacities; and the Tennessee State Board of

Education. And with me in attendance today from the attorney general's office are Clark Hildabrand and Travis Royer. And we also have an intern here today with us, Brandon Townsend.

MS. JERNIGAN-JOHNSON: Good morning, everyone. My name is Jessica Jernigan-Johnson. I am with the Knox County Law Director's Office. I represent the Knox County Board of Education and Robert Thomas in his official capacity. I am accompanied today by David Sanders and Amanda Morse.

MR. CAMERON-VAUGHN: Good morning, my name is Lucas Cameron-Vaughn, and I'm with the ACLU of Tennessee, and I'm representing L.E., the plaintiff in this matter.

THE REPORTER: Okay. If that's everyone, then, Ms. Hemmelgarn, if you could just raise your right hand, I'll swear you in.

WHEREUPON,

JENNIFER HEMMELGARN,

called as a witness, and having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

THE REPORTER: Okay. You can begin.

EXAMINATION

BY MR. STRONGIN:

Q Thank you. Good morning, Ms. Hemmelgarn. My name is Samuel Strongin. I'm representing plaintiff L.E., from the law firm Wilmer Cutler Pickering Hale and Dorr. How are you doing this morning?

A Good morning. I'm good, thank you.

Q Great. And can you please just confirm that you can see and hear me?

A Yes, I can.

Q And I wanted to first take a minute just to say thank you for taking the time for this deposition. I know things are busy for you this time of year with school getting started, so appreciate that.

Is it all right if I call you Ms. Hemmelgarn, or is there another honorific you prefer?

A Ms. Hemmelgarn is good.

Q Great. And could you please tell me who is in the room with you currently?

secondary level. That -- that would be the most concise way that I think I could describe it.

Q And what role does Knox County Schools play with the Tennessee Secondary School Athletic Association?

MS. JERNIGAN-JOHNSON: Object to the form.

A TSSAA is a membership organization, so members that elect to participate are governed by the bylaws or rules of TSSAA. Knox County Schools, high schools, each of the 16 traditional high schools are members of TSSAA.

Q So is membership at the individual school level, then?

A Membership is at the individual school level, yes.

Q And is Farragut High School a member of the TSSAA?

A Yes.

Q Is TSSAA membership a prerequisite to a school having an interscholastic athletic program?

MS. JERNIGAN-JOHNSON: Object to the

be eligible to participate on the boys' golf team at Farragut High School?

MS. JERNIGAN-JOHNSON: Object to the form.

A No.

MR. STRONGIN: Thank you, Ms. Hemmelgarn. Those are all the questions I have.

MS. BERGMEYER: I have no questions. Thank you.

MS. JERNIGAN-JOHNSON: I'm sorry, Stephanie. Did you say you do have questions?

MS. BERGMEYER: No, I do not.

MS. JERNIGAN-JOHNSON: Oh, okay. Sorry. I just have a couple of questions.

EXAMINATION

BY MS. JERNIGAN-JOHNSON:

Q So, Ms. Hemmelgarn, we talked earlier in the day about sports opportunities in Knox County. Do you recall when we discussed that?

A Yes.

Q And you mentioned football as an example of a sport where both boys and girls can participate on

the same team; is that right?

A Yes.

Q Are you aware of other sports or activities that both boys and girls can participate on the same team?

A Yes. There are other non-gender specific sports. Do you want me to list the ones I recall?

Q Yes, if you can list --

A Okay.

Q -- the ones you recall.

A I believe that, if I recall correctly, soccer is not -- there is soccer and girls' soccer, so it is not designated boys and -- boys and girls. It's just soccer and girls' soccer. I believe that wrestling is the same and also bowling. If I remember correctly, I don't believe that baseball is designated as boys' baseball, but softball is designated as girls' softball.

I would have to consult the TSSAA bylaws, which I can do that, if that's okay.

Q Thank you.

A Okay. So what I am looking at is the TSSAA

bylaws from 2021 to 2022. So that's -- wrestling is listed as wrestling and girls' wrestling, so not boys' wrestling. Bowling, the same. Football is not designated as gender-specific. Baseball is not designated as gender-specific. Soccer is not designated as gender-specific in one season, but there is a girls' soccer as well. There are two activities that are not listed as sports under TSSAA, and that is cheerleading and dance as well.

Q So based on your review of the TSSAA handbook, it's your understanding that there are coed sports and activities in Knox County Schools.

A Opportunities, yes.

Q Okay. And finally, was policy I-171 revised because of the passage of Senate Bill 228 that required us -- that required Knox County to adopt a policy as reflected in that bill?

A Yes.

MS. JERNIGAN-JOHNSON: That is all the questions I have.

MR. STRONGIN: I have no more questions.

MS. BERGMEYER: No more questions, thank you.

THE REPORTER: Okay. If that is all we have, then do we want to give the witness a chance to read and sign?

MS. JERNIGAN-JOHNSON: Do you want to review and sign your transcript?

THE WITNESS: Yes.

THE REPORTER: Okay. Then we are off the record at 2:06 p.m. Eastern Daylight Time.

(Signature reserved.)

(Whereupon, at 1:06 p.m. CDT/2:06 p.m. EDT, the proceeding was concluded.)

CERTIFICATE OF DEPOSITION OFFICER

I, JANEL FOLSOM, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Janel B. Folsom

JANEL FOLSOM
Notary Public in and for the
Commonwealth of Virginia

[X] Review of the transcript was requested.

CERTIFICATE OF TRANSCRIBER

I, LAURA MORIN, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

LAURA MORIN

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF TENNESSEE

_____

L.E., by his next friends and parents, SHELLY ESQUIVEL and MARIO ESQUIVEL

Plaintiff

v. No. 3:21-cv-00835

BILL LEE, in his official capacity as Governor of Tennessee; PENNY SCHWINN, in her official capacity as the Tennessee Education Commissioner; TENNESSEE STATE BOARD OF EDUCATION; SARA HEYBURN MORRISON, in her official capacity as the Executive Director of the Tennessee State Board of Education; NICK DARNELL, MIKE EDWARDS, ROBERT EBY, GORDON FERGUSON, ELISSA KIM, LILIAN HARTGROVE, NATE

MORROW, LARRY JENSEN, DARRELL COBBINS, and EMILY HOUSE, the individual members of the Tennessee State Board of Education, in their official capacities; KNOX COUNTY BOARD OF EDUCATION a/k/a KNOX COUNTY SCHOOLS a/k/a KNOX COUNTY SCHOOL DISTRICT; ROBERT M. "BOB" THOMAS, in his official capacity as Director of Knox County Schools

Defendants

VIDEOCONFERENCE DEPOSITION OF

JOHN CRISTOPHER BARTLETT

DATE: Monday, July 25, 2022

TIME: 2:03 p.m.

LOCATION: Remote Proceeding
Washington, D.C. 20005

REPORTED BY: Janel B. Folsom, Notary Public

JOB NO.: 5338660

A P P E A R A N C E S

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ON BEHALF OF DEFENDANTS KNOX COUNTY BOARD OF EDUCATION A/K/A KNOX COUNTY SCHOOLS A/K/A KNOX COUNTY SCHOOL DISTRICT AND ROBERT M. "BOB" THOMAS, IN HIS CAPACITY AS DIRECTOR OF KNOX COUNTY SCHOOLS AND WITNESS JOHN CRISTOPHER BARTLETT:

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A P P E A R A N C E S (Cont'd)

ON BEHALF OF DEFENDANTS BILL LEE, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF TENNESSEE; PENNY SCHWINN, IN HER OFFICIAL CAPACITY AS THE TENNESSEE EDUCATION COMMISSIONER; TENNESSEE STATE BOARD OF EDUCATION; SARA HEYBURN MORRISON, IN HER CAPACITY AS THE EXECUTIVE DIRECTOR OF THE TENNESSEE BOARD OF EDUCATION; AND NICK DARNELL, MIKE EDWARDS, ROBERT EBY, GORDON FERGUSON, ELISSA KIM, LILLIAN HARTGROVE, NATE MORROW, LARRY JENSEN, DARRELL COBBINS, AND EMILY HOUSE, THE INDIVIDUAL MEMBERS OF THE TENNESSEE STATE BOARD OF EDUCATION, IN THEIR OFFICIAL CAPACITIES:

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A P P E A R A N C E S (Cont'd)

ALSO PRESENT:

Tara L. Borelli, Esq., Lambda Legal Defense and Education Fund Inc. (by videoconference)

Clark L. Hildabrand, Esq., Office of Tennessee Attorney General (by videoconference)

Samuel L. Strongin, Esq., Office of Tennessee Attorney General (by videoconference)

Travis Royer, Office of Tennessee Attorney General (by videoconference)

Brandon Townsend, Office of Tennessee Attorney General (by videoconference)

Jerry Curran, Technician, CMI Production Services (by videoconference)

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P R O C E E D I N G S

THE REPORTER: Good afternoon. My name's Janel Folsom; I'm the reporter assigned by Veritext to take the record of this deposition. We are now on the record at 2:03 p.m. Eastern Daylight Time, on Monday, July 25, 2022.

This is the deposition of Dr. John Bartlett taken in the matter of L.E., by his next friends and parents, Shelley Esquivel and Mario Esquivel vs. Bill Lee, et al. Case no. 3:21-cv-00835 and is filed with the U.S. District Court, Middle District of Tennessee, Nashville Division. We are all participating via a Zoom videoconference call.

And I'm a notary authorized to take acknowledgements and administer oaths in the Commonwealth of Virginia. Parties agree that I will swear the witness remotely, outside of his presence.

Additionally, absent an objection on the record before the witness is sworn, all parties and the witness understand and agree that any certified transcript produced from the recording virtually of this proceeding:

- is intended for all uses permitted under applicable procedural and evidentiary rules and laws in the same manner as a deposition recorded by stenographic means; and
- shall constitute written stipulation of such.

At this time will all the attorneys on the call please introduce yourself for the record. Let's see. Jessica, you can go first.

MS. JERNIGAN-JOHNSON: Hi. I'm Jessica Jernigan-Johnson. I'm here on behalf of the Knox County Board of Education and Bob Thomas, in his official capacity, Defendants. And I'm also here for Dr. Bartlett.

MR. COSTELLO-VEGA: And then I'm Thomas Costello-Vega. I'm with the Plaintiff at the law firm of WilmerHale. And I'm joined by my colleagues Samuel Strongin, also with WilmerHale, and Tara Borelli with Lambda Legal.

THE REPORTER: Okay. Is that everybody? Sorry. I was looking down.

MS. BERGMEYER: Stephanie --

THE REPORTER: Yeah, Stephanie.

MS. BERGMEYER: Stephanie Bergmeyer; I'm here on behalf of Governor Bill Lee, the other state officials, and state entities in this case. Clark Hildabrand is the assistant solicitor general; he's here as well. And Brandon Townsend is an intern with our office.

THE REPORTER: Okay. All right. All right.

Dr. Bartlett, if you'd just raise your right hand, I'll swear you in.

WHEREUPON,

JOHN CRISTOPHER BARTLETT,

called as a witness, and having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

THE REPORTER: Okay.

You can begin.

MR. COSTELLO-VEGA: All right.

//

//

members of the TSSAA?

A I --

MS. JERNIGAN-JOHNSON: Object to the form.

A I believe so. I wouldn't -- I -- there may be -- there may be some fluke one that's not, but I don't know one.

Q Got it. But Farragut High School is a member of TSSAA; is that right?

A Yes.

Q And so that means that Farragut High School must comply with TSSAA policies?

A Yes.

Q Okay. And so it sounds like you have not reviewed this policy before; is that correct?

A That's correct.

Q Were you aware of any TSSAA policies governing the participation of transgender students in school sports?

MS. JERNIGAN-JOHNSON: Object to the form.

A Not prior to this issue coming up.

have.

MS. BERGMEYER: Okay. Wait.

THE REPORTER: Okay. And are we going to -- I'm sorry.

THE TECH CONCIERGE: You're muted, Janel.

THE REPORTER: I tried.

Are we -- if that's all the questions, did you waive read and sign or would you like to do that?

MS. JERNIGAN-JOHNSON: We'll waive read and sign.

THE REPORTER: All right.

If that's all we have then we are off the record at 3:51 p.m. Eastern Daylight Time.

(Signature waived.)

(Whereupon, at 3:51 p.m., the proceeding was concluded.)

CERTIFICATE OF DEPOSITION OFFICER

I, JANEL B. FOLSOM, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Janel B. Folsom

JANEL B. FOLSOM
Notary Public in and for the
Commonwealth of Virginia

CERTIFICATE OF TRANSCRIBER

I, ALICE AMUSIN, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

ALICE AMUSIN

L.E.

vs

LEE, et al.

MELISSA CYPERSKI, PH.D.

August 10, 2022

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

L.E., by his next friends and parents, SHELLEY ESQUIVEL and MARIO ESQUIVEL,

Plaintiff,

vs. No.: 3:21-cv-00835

BILL LEE, in his official capacity as Governor of Tennessee, et al., Chief Judge Crenshaw

KNOX COUNTY BOARD OF EDUCATION a/k/a KNOX COUNTY SCHOOL DISTRICT; ROBERT M. "BOB" THOMAS, in his official capacity as Director of Knox County Schools, Magistrate Judge Newbern

Defendants.

Videoconference Deposition of:

MELISSA A. CYPERSKI, Ph.D.

Taken on behalf of the Defendants
August 10, 2022

Commencing at 9:37 a.m.

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S T I P U L A T I O N S

The videoconference deposition of MELISSA A. CYPERSKI, Ph.D. was taken by counsel for the Defendants, by Notice, with all participants appearing at their respective locations, on August 10, 2022, for all purposes under the Tennessee Rules of Civil Procedure.

All objections, except as to the form of the question, are reserved to the hearing, and said deposition may be read and used in evidence in said cause of action in any trial thereon or any proceeding herein.

It is agreed that Deborah H. Honeycutt, Notary Public and Licensed Court Reporter for the State of Tennessee, may swear the witness remotely, and that the reading and signing of the completed deposition by the witness is not waived.

* * *

THE REPORTER: Good morning. My name is Deborah Honeycutt. I am a stenographic reporter with Elite-Brentwood Reporting Services. My license number is 472.

Today's date is August 10, 2022, and the time is approximately 9:37 a.m. Central time.

This is the deposition of Melissa A. Cyperski, Ph.D. in the matter of L.E. by his next friends and parents, Shelley Esquivel and Mario Esquivel vs. Bill Lee, Governor of Tennessee, et al., filed in the United States District Court for the Middle District of Tennessee, Nashville Division. The Case Number is 3:21-cv-00835. This deposition is being taken by videoconference, and the oath will be administered remotely by me.

At this time, I'll ask counsel to identify yourselves and state whom you represent. If you have any objections with the procedures I've outlined, please state so when you introduce yourself. We will start with the noticing attorney.

MR. HILDABRAND: This is Clark Hildabrand. I am representing the State Defendants in this case, along with Travis Royer is here right

now, and Stephanie Bergmeyer will be joining later in the deposition.

MS. BROWN: Again, Taylor Brown from the American Civil Liberties Union for Plaintiff.

MS. BORELLI: This is Tara Borelli with Lambda Legal for the plaintiff.

MS. BROWN: We also have with us Cameron Vaughn for Plaintiff from the ACLU of Tennessee. And then we also have -- Britany, do you want to introduce yourself?

MS. RILEY-SWANBECK: Yes. This is Britany Riley-Swanbeck from Wilmer Hale.

MR. SANDERS: And this is David Sanders representing Knox County Board of Ed. and Dr. Jon Rysewyk.

* * *

MELISSA A. CYPERSKI, Ph.D.,

was called as a witness, and after having been duly sworn, testified as follows:

EXAMINATION

QUESTIONS BY MR. HILDABRAND:

Q. All right. Thank you for coming to testify today. As we just said, my name is Clark

Hildabrand. I'm one of the attorneys for the State of Tennessee. Just for the record, could you say and spell your last name?

A. Good morning. My name is Melissa Cyperski. C-Y-P-E-R-S-K-I.

Q. Thank you. Before we get underway, I just want to lay out some ground rules. If I cut you off too early, just let me know and I'll let you finish your answer. Similarly, just try to let me finish my answer as well -- sorry -- finish my question as well before you answer. The attorneys there would also appreciate if you give them a second to give them a chance to object if they need to. But unless they instruct you not to answer because of attorney-client privilege, after they object you should answer the question. Is that good with you?

A. Yes.

Q. And since we're trying to create a clear transcript, I'd appreciate it if you could answer with a clear verbal response rather than just shaking your head yes or no like we do in a conversation if we were just having conversation back and forth. Does that make sense?

A. Yes.

Q. And unless you tell me you don't understand

the question, is it fair to assume you understood the question and answered to the best of your ability?

A. Yes.

Q. If you need to take a break at any point, let us know. We'll try to take breaks every once in a while, maybe once an hour, and also break for lunch at some point.

And just to establish the validity of the deposition, there's no reason you would be impaired today or unable to give truthful testimony, such as for taking medication or something like that?

A. There is not.

Q. Thank you. Did you review anything to refresh your recollection in preparation for this deposition?

A. I reviewed my report.

Q. Anything else?

A. Not that I recall.

Q. Did you have discussions with anyone in preparation for today's deposition?

A. I had discussions with counsel.

Q. When were those discussions?

A. Over the past week we met on several occasions.

Q. Thank you. And you cited in the report every authority that you relied upon in drafting your report, correct?
A. Yes.
MR. HILDABRAND: So I'll start by entering what we have as Doc A. We'll have this as Exhibit 1.
Travis, can you circulate that around. You should see in chat there's a Document A, Cyperski report. We're going to enter that as Exhibit 1.
(WHEREUPON, a document was marked as Exhibit Number 1.)
BY MR. HILDABRAND:
Q. Thank you. Dr. Cyperski, can you see that document?
A. Yes, I can.
Q. Is this your expert report?
A. Yes.
Q. Thank you. So we're going to look at this a little bit. On page one, paragraph three, do you see where that is?
A. Yes.
Q. So here do you say that you reviewed the text of Senate Bill 228 at issue in this matter?

A. Yes.
Q. Just to confirm, you are not an attorney, correct?
A. That is correct.
Q. So you're not offering an expert legal opinion on the meaning of the law, correct?
A. That is correct.
Q. Later in paragraph three you say that you relied on professional guidelines and scientific literature in the pertinent fields. Is the pertinent field for you psychology?
A. Yes.
Q. And you are testifying as an offered expert in psychology; is that correct?
MS. BROWN: Objection.
THE WITNESS: So my expert report is around gender identity and including the guidelines. And considering gender dysphoria my expertise is as a mental health professional and psychologist.
BY MR. HILDABRAND:
Q. A medical professional and psychologist. Can you be more specific? What as a medical professional? Are you a psychiatrist?
A. I am sorry. I believe I said a mental health professional --

Q. Okay.
A. -- in which I am a psychologist.
Q. So you're not offering an expert opinion in psychiatry?
A. That is correct.
Q. What is the difference between psychology and psychiatry?
A. So psychologists tend to rely on more talk therapy and in reviewing literature and research related to mental health broadly. Psychiatrists in practice are specifically MDs and focus on prescription of medication to treat psychiatric conditions.
Q. And you mentioned the guidelines. Are you an expert in the WPATH Standards of Care?
A. I rely on these guidelines in my work.
Q. Thank you. And would other psychologists look to the most recent WPATH Standards of Care as well?

MS. BROWN: Objection.

THE WITNESS: I'm sorry, can you repeat the question?

BY MR. HILDABRAND:
Q. Do psychologists rely upon the WPATH Standards of Care?

A. At this time, WPATH Standards of Care are professional guidelines for mental health professionals and medical professionals that are specializing in working with individuals from the transgender community and who experience gender dysphoria.
Q. Do you rely upon the most current WPATH Standards of Care in your practice?
A. I do.
Q. And you joined WPATH last year, 2021, correct?
A. I believe that's correct, yes.
Q. Let's go to I think it's page 12 in the PDF. Page two in the CV. Do you see?
MS. BROWN: Sorry. Clark, if you'll give me one second, we're still scrolling.
MR. HILDABRAND: Of course. No problem.
MS. BROWN: Okay. We're on page two. Where would you like her to look?
BY MR. HILDABRAND:
Q. Do you see where it says professional organizations?
A. Yes.
Q. Does it list your membership in WPATH?
A. It does.

Q. When is the start date?
A. It lists 2021.
Q. Through present, correct?
A. Correct.
Q. Thank you. So let's take a step back and talk about your education. So this is going to be on page 11 of the PDF, page one of the CV, if y'all could scroll there.
MS. BROWN: Okay.
BY MR. HILDABRAND:
Q. Where did you go to college?
A. I attended Danville University, Granville, Ohio.
Q. What did you major in there?
A. I majored in psychology.
Q. And then where did you earn your M.S. degree?
A. I earned my Master's at Auburn University in Auburn, Alabama.
Q. So just curious, working at Vandy, are you more of a War Eagle or a Commodore, or are you really not much a sports person?
A. My heart would be in the Southeastern Conference with Auburn.
Q. Fair enough. I see here you wrote a thesis at Auburn for your M.S.; is that correct?

A. That is correct.
Q. Was that thesis required to earn your M.S.?
A. Yes.
Q. Did professors review and approve your thesis?
A. Yes.
Q. Then you received your Ph.D. in clinical psychology from Auburn as well; is that correct?
A. That is correct.
Q. What was your thesis on for your Ph.D.?
A. My dissertation for my Ph.D. was looking at the therapeutic alliances across the milieu. And these would be implications and challenges working with adjudicated adolescent males in residential treatment.
Q. Okay. Thank you. During your education at Tennessee University, did you receive education in transgender psychology?
MS. BROWN: Objection to form.
THE WITNESS: So I received my education at Auburn University.
BY MR. HILDABRAND:
Q. Yes. During your undergrad -- while receiving your undergraduate degree, your B.S. in psychology at Denison University, did you receive

any education there in transgender psychology?

MS. BROWN: Same objection.

THE WITNESS: I do not recall the specifics of my coursework at Denison. But I do not recall specifically learning about transgender psychology.

BY MR. HILDABRAND:

Q. While receiving your M.S. and Ph.D. at Auburn, did you receive education in transgender psychology?

MS. BROWN: Objection to form.

THE WITNESS: So in my doctoral study at Auburn University, part of the curriculum, including a semester-long course, was focused on clinical competencies with diverse populations on cultural considerations, which would include professions and content related to the LGBTQ+ community and the transgender community.

BY MR. HILDABRAND:

Q. Is what you learned there consistent with your report in this case?

A. So my understanding and professional expertise that was utilized to draft the report has been developed over time, including through continuing education and professional experience

post-graduation.
Q. And you received your Ph.D. in 2016; is that correct?
A. Yes, that is correct.
Q. How many years ago was that?
A. I believe it was seven years ago.
Q. So 2016 was seven years ago from now?
A. If my math is correct, yes.
Q. And while working toward your Ph.D., did you have pre-doctoral internship at Vanderbilt?
A. That is correct.
Q. Did you also have a doctoral fellowship at Vanderbilt University Medical Center?
A. Yes.
Q. And that's where you work today, correct?
A. Correct.
Q. Thank you. I know some of these questions are basic but we just have to get out of the way. And have you worked at the Vanderbilt Pediatric and Adolescent Transgender Health Clinic since the clinic opened in 2018?
A. That is correct.
Q. Is that clinic referred to as the acronym VPATH?
A. Yes.

Q. So VPATH sounds similar to WPATH. Does VPATH follow WPATH's approach to transgender medicine?

MS. BROWN: Objection to form.

THE WITNESS: So we are an interdisciplinary clinic that relies on multiple standards of care, including the WPATH Standards of Care and the Endocrine Society.

BY MR. HILDABRAND:

Q. Do the WPATH Standards of Care and the Endocrine Society Guidelines conflict?

MS. BROWN: Objection to form.

THE WITNESS: Those guidelines from the Endocrine Society and the WPATH are long documents. They are often in agreement with one another but may have points in which there is conflicting information within the hundreds of pages that are present.

BY MR. HILDABRAND:

Q. If there is a conflicting recommendation between the WPATH Standards of Care and the Endocrine Guidelines, is there one or the other that you would prefer?

MS. BROWN: Objection to form.

THE WITNESS: My experience is that it would be up to the treatment team and the particular

specialist that was making a decision about care which guidelines they would refer to specifically and rely on more.

MS. BROWN: Clark, I have a quick question, so I don't mean to interrupt. Do you want us to still be looking at the exhibit? Because when we are looking at it, it's taking up the whole screen, so we're not the seeing the Zoom. I'm just flagging that for you.

MR. HILDABRAND: You don't have to keep looking at it if you don't want to right now. But we'll return to it in just a second. So we'll leave it up there.

MS. BROWN: So leave it up.

BY MR. HILDABRAND:

Q. You mentioned that the provider would choose between the two of those. Is that up to their discretion to decide which is appropriate?

MS. BROWN: Objection to form.

THE WITNESS: The provider would rely on their expertise and scientific knowledge, as well as that assessment and collaboration with the patient and their guardian to determine an appropriate treatment plan and review of the guidelines.

/ /

BY MR. HILDABRAND:
Q. Do you provide service at VPATH inconsistent with both WPATH and the Endocrine Guidelines?
MS. BROWN: Objection to form.
THE WITNESS: I just want to make sure I heard the question correctly. Did you say consistent or inconsistent? Could you repeat, please?
BY MR. HILDABRAND:
Q. So we have discussed situations where there might be conflict or tension between the two. Would there be any scenario where you would provide service to the patient that would be inconsistent with both the Endocrine Guidelines and the WPATH Standards of Care?
MS. BROWN: Same objection.
THE WITNESS: We rely on the Endocrine Society Guidelines and the WPATH Guidelines to inform our practice. Treatment is individualized to meet the needs of each individual patient and their caregiver.
BY MR. HILDABRAND:
Q. Could it be individualized not to follow either the Endocrine Guidelines or the WPATH Standards of Care?

MS. BROWN: Objection to form.
THE WITNESS: Not that I'm aware of.
BY MR. HILDABRAND:
Q. Thank you. So turning back to the report, we're going to go up to the bottom of page two, top of page three. This is paragraph eight.
A. We are scrolling.
Q. Thank you.
MS. BROWN: Can you see that?
THE WITNESS: Yes. We are at the bottom of page two.
BY MR. HILDABRAND:
Q. All right. At the top of page three, do you see where it says: VPATH is an interdisciplinary clinic bringing together practitioners from endocrinology, psychology, primary care, and other fields provide comprehensive care to transgender children, adolescents, and their families; is that correct?
A. Yes.
Q. Just for the record, you are not an endocrinologist, correct?
A. I am not an endocrinologist.
Q. And you are not a primary care doctor, correct?

A. I am not a primary care physician.
Q. So you are not offering expert testimony about endocrinology?
MS. BROWN: Objection to form.
THE WITNESS: I am offering expert testimony around my role and experience as a psychologist and mental health professional. A part of that work, particularly in the VPATH Clinic, we collaborate very closely with our interdisciplinary team of providers, including endocrinologists, primary care physicians, and other providers as well.
BY MR. HILDABRAND:
Q. I understand that you may collaborate with them, but you are not an endocrinologist, correct?
A. I am not an endocrinologist, no.
Q. So do you offer an expert opinion about endocrinology? Yes or no?
A. I do not offer an expert opinion about endocrinology, although there may be some aspects of endocrinology practice that are represented in the Endocrine Society Guidelines or the WPATH that are pertinent to my practice as a mental health professional.
Q. And as we mentioned, you are not a primary

care physician. Are you offering expert testimony as a primary care physician?
A. No, I am not.
Q. Thank you. So turning down to -- back down to page 17 of the PDF. This is page seven of the CV.
A. We are on page seven of the CV.
Q. Does this list community and professional education activities?
A. Yes. These are community and professional education activities which are coursework primarily that I have provided to other professionals.
Q. I see did you provide information to the Tennessee Department of Children's Services otherwise called DCS?
A. Yes.
Q. When was that?
A. In my role at Vanderbilt University Medical Center, I have partnered closely with the Department of Children's Services since starting my pre-doctoral internship in 2016.
Q. And I see the dates for the Child Protective Services Supervisor Academy. Was that from 2020 to 2021?
A. Yes.

Q. But then also the Child Protective Services Academy was 2015 to 2020; is that correct?
A. That is correct.
Q. So in providing this guidance to CPS, are you using the same sort of psychological expertise that you're using to testify in this case?
MS. BROWN: Objection to form.
THE WITNESS: In my work with the Department of Children's Services, I rely on my professional expertise working in trauma influence care and as a licensed clinical psychologist with expertise in child and adolescent psychology.
BY MR. HILDABRAND:
Q. So you use your expertise as a psychologist and mental health provider?
A. Yes.
Q. Have you given presentations to the Tennessee Department of Children's Services?
A. Yes, I have.
Q. Do you still give presentations to DCS?
A. I do.
Q. When was the last presentation you remember giving to DCS?
A. I believe my last presentation with the Department of Children's Services was in May or June

of this year.
Q. Thank you. So going back up in your report to page one, paragraph two, so all the way back in the beginning. Are y'all there?
A. Almost.
MS. BROWN: We'll let you know when we're there.
BY MR. HILDABRAND:
Q. Thank you.
A. We are on page one of the report.
Q. Thank you. So do you see where it says you've been asked to provide your expert opinion on gender identity, gender dysphoria in children, adolescents, the treatment of gender dysphoria, and the impact of laws like Senate Bill 228, Tennessee's legislative ban on transgender middle and high school students for participating on interscholastic sports teams consistent with your gender; is that what you said there?
A. It is.
Q. Are those the subjects you opine on in your expert report?
A. They are.
Q. No other topics?
MS. BROWN: Objection to form.

THE WITNESS: Those are the topics that I addressed through my expert report.
BY MR. HILDABRAND:
Q. And just to go back on to expertise, you're also not a sports physiologist, correct?
A. I am not a sports physiologist, no.
Q. You are not an expert in exercise science, correct?
A. I am not.
Q. So turning to page three in the report, paragraph 13?
A. We're there.
Q. Thank you. So you say here: At birth, most people are assigned a sex, typically male or female based solely on the appearance of their external genitalia; is that correct?
A. Yes.
Q. And you did not offer an alternative definition of sex in your report, correct?
MS. BROWN: Objection to form.
THE WITNESS: This statement reflects that people are assigned a sex at birth typically based on the appearance of their external genitalia.
BY MR. HILDABRAND:
Q. Do you provide a definition of sex other than

this one here in your report?

MS. BROWN: Objection to form.

THE WITNESS: I do not offer a definition of sex in the report outside of this, although there are other understandings and can provide additional information about a definition.

BY MR. HILDABRAND:

Q. But you did not mention other understandings of sex in your report, correct?

MS. BROWN: Same objection.

BY MR. HILDABRAND:

Q. And feel free to look through your report and point me to somewhere if you did.

A. Not that I am aware of.

MS. BROWN: Do you want to take a moment to go through it?

THE WITNESS: I'm happy to take a moment to look through just in case.

MS. BROWN: Clark, we'll let you know. We are going to scroll and come back and then she'll answer your question. Okay.

BY MR. HILDABRAND:

Q. Thank you.

A. So we finished reviewing the document and there are references to sex assigned at birth, which

is what my field primarily uses to discuss an individual's sex assigned at birth. So the definition of sex may be more complicated and nuanced than that, particularly within the medical community.

Q. Just for the benefit of the transcript, you spent the past several minutes reviewing your expert report, correct?

A. That is correct.

Q. And you cannot point me to any page in your expert report where you provide a more complex or complicated definition of sex other than sex assigned at birth, correct?

MS. BROWN: Objection to form.

THE WITNESS: Although there may not be a more complex definition in the body of the report, professional experience would suggest and happy to provide more information about the complications and nuances of the definition of sex.

BY MR. HILDABRAND:

Q. Even if that's the case, you did provide a more complex definition of sex in the report, correct?

MS. BROWN: Objection to form.

THE WITNESS: In my report primarily

referring to sex assigned at birth and the concept of being assigned a sex at birth.
BY MR. HILDABRAND:
Q. You say primarily. Is there anywhere else that you refer to sex other than sex assigned at birth? Yes or no?
MS. BROWN: Objection to form.
THE WITNESS: The convention in the field is to refer to sex assigned at birth.
BY MR. HILDABRAND:
Q. So, sorry. I need you to answer the question. Did you use a definition of sex other than sex assigned at birth in your expert report? Yes or no?
MS. BROWN: Objection to form.
THE WITNESS: I used terminology consistent with sex assigned at birth.
BY MR. HILDABRAND:
Q. Did you use any other terminology in your expert report that you spent several minutes reviewing?
MS. BROWN: Same objection.
THE WITNESS: No.
BY MR. HILDABRAND:
Q. Thank you. In your expert report, did you

use the words "biology" or "biological"? And, again, feel free if you need to take a few minutes to review your expert report.

A. Yes. We'll need to take a few minutes.

Q. Of course.

MS. BROWN: And just let me know when you'd like me to scroll.

THE WITNESS: Okay. Scroll. You can scroll further. Can you scroll down. Scroll down. Please scroll down. Okay. You can scroll.

BY MR. HILDABRAND:

Q. Have you reviewed your report, or are you still looking over?

MS. BROWN: Again, Clark, we'll let you know when we have finished reviewing it. You gave her the offer to review it for the specific words that you mentioned and that's what we're doing. Okay?

BY MR. HILDABRAND:

Q. That's perfectly fine. I didn't know if I had missed you saying you were finished, so take as much time as you need.

A. Thank you. Scroll down. Okay. You can scroll. Go to the next page. Okay. You can scroll. You can scroll. You can scroll.

MS. BROWN: Okay. We reviewed.
THE WITNESS: Can you repeat the question for me?
BY MR. HILDABRAND:
Q. Do you do not use the words "biological" or "biology" anywhere in your expert report, correct?
MS. BROWN: Objection to form.
THE WITNESS: I do not appear to use the word "biology", though aspects of biology are represented in the report.
BY MR. HILDABRAND:
Q. And you did not use the word -- just for the record, you did not use the word "biological" either, correct?
MS. BROWN: Same objection.
THE WITNESS: Same as previous answer. The word "biological" is not captured but aspects of biology or biological consideration are discussed.
BY MR. HILDABRAND:
Q. Thank you. So getting back to sex assigned at birth, is sex assigned at birth or identified at birth?
MS. BROWN: Object to the form.
THE WITNESS: The terminology we use in the field is sex assigned at birth or sometimes sex

designated at birth.
BY MR. HILDABRAND:
Q. And who makes that assignment?
A. Typically sex is assigned by the physician and medical team delivering a baby.
Q. If there's no physician when the baby is delivered, which I know nowadays people deliver most babies in hospitals, but imagine you're in a situation where there's no doctor present when the baby is born. When the baby is born, before anyone has said a word, does the baby already have a sex?
MS. BROWN: Objection to form.
THE WITNESS: An individual sex can be determined by many different factors. It is often based on the appearance of external genitalia which may be visible in some cases at birth.
BY MR. HILDABRAND:
Q. To get back to the question, before anyone in the room says a word to say what the baby's sex is, does the baby already have a sex?
MS. BROWN: Same objection.
THE WITNESS: At birth a baby has aspects of their sex. However, their sex in this context and by definition is assigned at birth.
/ /

BY MR. HILDABRAND:
Q. So if a baby born has XY chromosomes, has a penis, has no disorder of sexual development, is born, before any doctor says a word what is the sex of that baby?
MS. BROWN: Objection to form.
THE WITNESS: So from that scenario it's hard to give an answer because, for example, many individuals with a disorder of sexual development or a DSD would not be available and/or detected at birth. So sex may be assigned at birth based on the appearance of the child's external genitalia.
BY MR. HILDABRAND:
Q. In the question I said a baby who does not have a DSD, a baby who is born with XY chromosomes, has a penis, has no DSD, they are born, they are sitting there, no doctor, the mother, the father, no one has said a word, does the baby already have a sex?
MS. BROWN: Objection to form.
THE WITNESS: I'm sorry, I have to reject the question because a DSD would often be determined later in life. It would not necessarily be detectable at birth.
/ /

BY MR. HILDABRAND:
Q. So rather than fighting the hypothetical, assume that later in life the baby is determined not to have a DSD, even back then when the baby was born, did the baby have a sex before anyone said a word?
MS. BROWN: Same objection.
THE WITNESS: The baby has aspects of sex that might include their biology of gametes and chromosomes and genitalia.
(Court Reporter interrupts for clarification.)
THE WITNESS: Thank you, Ms. Honeycutt. So they have aspects of biology, such as their gametes, their chromosomes, their genitalia, their hormones. Those are present in every individual and a sex is assigned at birth.
BY MR. HILDABRAND:
Q. But is it your position that the baby does not have a sex until it is assigned after birth?
MS. BROWN: Objection to form.
THE WITNESS: The consensus in the field is that a sex is assigned at birth.
BY MR. HILDABRAND:
Q. And that the baby does not have a sex until

it is assigned at birth?
A. In our experience and the way that we conceptualize cases, yes, sex is assigned at birth.
Q. And to return to the question, so there is no sex until it is assigned at birth?
MS. BROWN: Objection to form.
THE WITNESS: Sex is assigned at birth.
BY MR. HILDABRAND:
Q. Can you please answer the question yes or no. Is there a sex before it is assigned at birth?
A. It's very hard to answer as a yes or no because sex is a construct made of many different factors and is considered based on many different aspects of a person's biology and sex itself is a construct.
BY MR. HILDABRAND:
Q. So you cannot say that a baby has a sex before it is assigned at birth; is that correct?
MS. BROWN: Objection to form.
THE WITNESS: My opinion is that a sex is assigned at birth.
BY MR. HILDABRAND:
Q. When the child is in the womb does it have a sex?
MS. BROWN: Objection to form.

THE WITNESS: In the womb a sex may be assigned based on review of, for example, a child's external genitalia.

BY MR. HILDABRAND:

Q. And that would be before birth, correct?

A. So those individuals who received prenatal care, yes, that would be before birth.

Q. So is your definition of sex really sex is assigned at birth or sex is assigned when the child is in the womb?

MS. BROWN: Objection to form.

THE WITNESS: Sex is assigned at birth and represented on legal documents such as a birth certificate.

BY MR. HILDABRAND:

Q. So if the doctor sees -- performs an ultrasound -- sorry. First of all, does Vanderbilt University Medical Center provide ultrasounds to pregnant mothers?

MS. BROWN: Objection to form.

THE WITNESS: I'm here to represent my practice. And my professional opinion, it is likely that Vanderbilt University Medical Center does indeed perform ultrasounds on pregnant mothers, yes.

/ /

BY MR. HILDABRAND:
Q. So during an ultrasound, say that the mother is 20 weeks pregnant with the baby -- I'm sorry. Let's say 24 weeks pregnant with the baby. And the doctor sees in the ultrasound that the baby has a penis. They don't see any signs of a DSD being present, and they say that the baby is a boy. Is that accurate to say at that time that the sex of the baby is male?

MS. BROWN: Again, objection to form.

THE WITNESS: You have described a common experience of individuals receiving an ultrasound at 24 weeks, in which a sex is assigned and designated by a physician or an ultrasound tech.

BY MR. HILDABRAND:
Q. So in some cases, sex could be assigned while the mother is still pregnant before birth?
A. A designation could be made before birth.
Q. So before birth we've established that you could designate a sex before then. If the doctor does not -- some parents don't want to know the baby's sex until the baby is born. That is a common occurrence.

Would the baby still have a sex while in the womb even if the doctor has not designated what the

sex of the baby is?

MS. BROWN: Objection to form.

THE WITNESS: As I have shared previously, there are aspects of sex which may be present and the sex would be then assigned or designated at birth.

BY MR. HILDABRAND:

Q. But you cannot say that the baby in the womb has a sex?

MS. BROWN: Objection to form.

THE WITNESS: Again, we use the terminology of sex assigned at birth.

BY MR. HILDABRAND:

Q. I understand that you use that terminology. But are you telling me that the baby in the womb does not have a sex even though other babies in the womb could be assigned a sex?

MS. BROWN: Again, objection to form. And, Clark, I'm just going to note that, again, she's repeatedly said there are aspects of sex and I'm just confused --

MR. HILDABRAND: I understand that's what she has said, but she has not answered the question that was asked. I understand that she has answered the question she wanted asked, but she has

not answered the question that was asked.

THE WITNESS: Can you remind me of the question that was asked then, please?

BY MR. HILDABRAND:

Q. Yes. So we have established that some babies can have their sex assigned while they are in the womb. Other parents do not want to learn the baby's sex until the child is born. In those cases where the doctor has not said this child's sex is male or female, would the baby still have a sex in the womb before birth?

MS. BROWN: Same objection.

THE WITNESS: My previous answer stands, that a baby would have aspects of sex and that would be then designated a sex at birth for those parents that were not aware of what had been designated previously.

BY MR. HILDABRAND:

Q. Let's go ahead and move on, then. In paragraph two of your report, this is up on page one.

A. We are there.

Q. Do you see where you used the word "gender", consistent with their gender?

A. I see use of the word "gender" and consistent

with their gender, yes.
Q. So let's move forward to page three, paragraph 12. Do you see where it says: A person's gender identity refers to their inner sense of their own gender? Again, do you use the noun --
A. I'm sorry, can you give us one moment?
Q. Of course. Take as much time as you need.
A. You said read paragraph 12; is that right?
Q. That is correct.
A. Okay. Paragraph 12. I see it now.
Q. So is the first sentence there, A person's gender identity refers to their inner sense of their own gender; is that correct?
A. That is correct.
Q. And you used the noun gender here at the end of this sentence, correct?
MS. BROWN: Objection to form.
THE WITNESS: Gender is at the end of a sentence, yes.
BY MR. HILDABRAND:
Q. And this may take some time if you want to review the document. But can you review your report and let me know if anywhere in your report you define the noun gender?
MS. BROWN: Same objection. And we'll

take the time to review. Doctor, is there anywhere you would like me to start or at the beginning?

THE WITNESS: We can start right here.

MS. BROWN: Again, just let me know when to scroll.

THE WITNESS: Okay. Okay. We can scroll. We can scroll. We can scroll further. We can scroll down. We can scroll. We can scroll. We can scroll further. We can scroll down. We reviewed the document. Can you repeat the question?

BY MR. HILDABRAND:

Q. Of course. Thank you for reviewing it. In your report, do you define the noun gender anywhere?

MS. BROWN: Same objection.

THE WITNESS: So in my report I define gender identity.

BY MR. HILDABRAND:

Q. To go back to the question, did you define the noun gender?

A. Gender is based on an individual's gender identity.

Q. So in paragraph 12, the definition of a person's gender identity refers to the inner sense of their own gender. Is it your position that gender itself is defined by gender identity?

MS. BROWN: Objection to form.
THE WITNESS: So here we have a definition of a person's gender identity refers to their inner sense of their own gender in paragraph 12.
BY MR. HILDABRAND:
Q. Yes. Are gender and gender identity distinct concepts?
A. Not that I am aware of.
Q. So is it your understanding that gender identity and gender are the same concepts?
MS. BROWN: Objection to form.
THE WITNESS: So an individual's gender identity is their sense of -- of their own gender. I'm sorry, I don't think I understand what you're getting at.
BY MR. HILDABRAND:
Q. Of course. So my concern is, I'm trying to -- how did you define gender in your report? You referred to the definition of gender identity here, but what is the definition of the gender that you provide in your report, or did you not provide a definition of gender in your report?
MS. BROWN: Objection to form.
THE WITNESS: I provided a definition of

gender identity. And based on my experience and review of the literature would be happy to expand further and discuss the social construct that is gender.

BY MR. HILDABRAND:

Q. So gender is a social construct?

A. Gender is a social construct that is representative of many different aspects of an individual's experience in the world and what's most important to here is that we're talking about what is a person's sense of their own gender.

Q. Did you define -- did you provide that definition of gender in your expert report?

MS. BROWN: Objection to form.

THE WITNESS: We've established that here it is a definition of gender identity.

BY MR. HILDABRAND:

Q. Yes. I think we have established that you provided a definition of gender identity. Please point me to the page in your report where you define the word "gender", not the word "gender identity", the word "gender".

A. So although there may not be a definition of gender specific in the pages of this report, I'm happy to provide an opinion and information about

that definition based on some of the same things that were used to draft the report, which would include review of the literature and my professional experience.

Q. Before we do that, can you point me to the paragraph in your report where you define the word "gender" or did you not define the word "gender" in your report?

MS. BROWN: Objection to form.

THE WITNESS: My experience is that gender is best understood by a person's inner sense of their own gender and gender identity. And so I believe that it is captured in this report by reflecting an individual's inner sense of their gender.

BY MR. HILDABRAND:

Q. Which paragraph in this report defines gender?

A. Here we are looking at paragraph 12, which refers to gender identity and the importance of an individual's inner sense.

Q. So this is your definition of gender in your report?

MS. BROWN: Objection to form.

THE WITNESS: This is a definition of

gender identity and the construct and importance of an individual's inner sense. There may be other information that we can use to break down or to understand the noun gender specifically if that would be helpful.

BY MR. HILDABRAND:

Q. Do you break down the word "gender" in paragraph 12?

A. I do not.

Q. Thank you. And there is no other paragraph in this report that breaks down the word "gender", correct?

MS. BROWN: Objection to form.

THE WITNESS: In the report, there is no additional information about the definition of the term "gender".

BY MR. HILDABRAND:

Q. Thank you. I'm glad we got there.

MS. BROWN: We've been going about an hour, so we'd like a ten-minute break when it's convenient for you. If you have another question that you want to ask...

MR. HILDABRAND: That's a great place to pause for me. Glad to go off the record.

MS. BROWN: Okay. Thank you.

(Recess observed.)
BY MR. HILDABRAND:
Q. Turning back to your expert report, Exhibit 1, Doc A. We are going to go to paragraph 13, which straddles pages three and four.
A. Okay. Paragraph 13. We are there.
Q. Great. Do you see where you write that: Non-transgender people, also referred to as cisgender people, have a gender identity that aligns with their sex assigned at birth. Transgender people have a gender identity that is incongruent within the sex they were assigned at birth. Is that what you wrote here?
A. Yes. That's what's in my report.
Q. And do you still agree with that statement? And feel free to answer and explain further as you need.
A. I believe the report captures the definition of cisgender people and transgender people.
Q. So are there two categories, cisgender people on the one hand and transgender people on the other hand; is that correct?
MS. BROWN: Objection to form.
THE WITNESS: In the report, I'm offering definitions of cisgender and transgender.

However, in the current terminology, there are many categories of a gender identity.
BY MR. HILDABRAND:
Q. So are there additional categories besides transgender and cisgender?
MS. BROWN: Object to the form.
THE WITNESS: Our terminology is often evolving and changing, and there are other gender identities that people may have, yes.
BY MR. HILDABRAND:
Q. So going back up a little bit to paragraph 12, on page three, do you see the last sentence: Every person has a gender identity? Is that what you wrote?
A. That is in the report, yes.
Q. So do you still agree today that every person has a gender identity?
A. Yes, every person has a gender identity.
Q. Does every person have just one gender identity?
MS. BROWN: Objection to form.
THE WITNESS: So the terminology that an individual may use to describe their own gender identity may reflect multiple identities and yet we each have a sense of our own gender, as written in

the report, right, that define our gender identity.
BY MR. HILDABRAND:
Q. So just to make sure I'm understanding you, it could be that they have one sense but they could sense that they have multiple identities?
MS. BROWN: Objection to form.
THE WITNESS: So I'm sharing that a person has a gender identity that refers to their own sense of gender, and what terminology or understanding of their gender is is unique to each individual.
BY MR. HILDABRAND:
Q. So if it's unique to each individual, have you ever encountered someone who claims to have multiple gender identities?
MS. BROWN: Objection to form.
THE WITNESS: I have met individuals in my clinical practice who identify as gender fluid.
BY MR. HILDABRAND:
Q. Can you explain what gender fluid means?
A. Gender fluid is a gender identity in which an individual may have an inner sense of gender that is consistent with male, female, neither, or both, and that that may fluctuate over time.
/ /

BY MR. HILDABRAND:
Q. You said a minute ago that gender identity is unique. How many gender identities would you estimate there are?
MS. BROWN: Objection to form.
THE WITNESS: I do not currently have a way to quantify the number of gender identities. Again, the terminology is often changing and being updated and there may be many gender identities or individual gender identity may have an understanding or a terminology that has not yet been published or used by others.
BY MR. HILDABRAND:
Q. Fair enough. Just to get a sense of the numbers that we are talking about, are there more than two gender identities that you've encountered?
A. Yes, there are more than two gender identities.
Q. Are there more than three gender identities?
A. There are more than three gender identities. In fact, there's an infinite number of gender identities.
Q. Thank you. Going down to paragraph 16 in your report. This is on page four.
A. Did you say paragraph 16?

Q. Yes.
A. Is that correct? Okay. Yes, we're there.
Q. So do you cite the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision? Do you cite that in that paragraph?
A. Yes, that is referenced. Yes.
Q. Who publishes the DSM?
A. The American Psychiatric Association.
Q. Do you use that in your practice?
A. It is common and part of the best practice in mental health to rely on the DSM.
Q. And that's published by the American Psychiatric Association, right?
A. Yes, it is published by the American Psychiatric Association.
Q. And you not a psychiatrist, correct?
A. I am not a psychiatrist, although I am very familiar and well trained in the DSM, and it is part of our best practice as psychologists, as perhaps individuals with Master's degrees who have other backgrounds in mental health, to rely on and use the DSM.
Q. So it's common for nonpsychiatrists, like psychologists or other individuals you described, to

use the DSM as well?
A. Yes.
Q. How does -- does the DSM 5 use the term "gender dysphoria"?
A. It does.
Q. Are you aware of previous editions of the DSM using other terminology to refer to that?
MS. BROWN: Objection to form.
THE WITNESS: It says: Previous editions of the DSM, which are no longer considered valid and appropriate in the field, refer to other disorders by other names.
BY MR. HILDABRAND:
Q. Was the phrase "gender identity disorder" one of the terms previously used in earlier editions of the DSM?
A. It was previously used.
Q. But since the DSM Edition 5 published in 2013, is that phrase no longer commonly used?
A. That is correct.
Q. Is one of the treatments for gender dysphoria in the DSM surgery?
MS. BROWN: Objection to form.
THE WITNESS: We could reference the DSM specifically. How the DSM is used is often to

outline a list of symptoms and psychological or psychosocial diagnoses that are the label to describe a symptom cluster. There is additional information in the DSM about backgrounds of disorders and how the symptoms may have been derived as a cluster.

BY MR. HILDABRAND:

Q. Have any of your patients in your practice received surgery as treatment for gender dysphoria?

MS. BROWN: Again, objection to form.

THE WITNESS: In my practice, I have worked with adolescents and young adults who have received surgical interventions as one aspect of their treatment for gender dysphoria.

BY MR. HILDABRAND:

Q. So surgical intervention can be one aspect of treating gender dysphoria?

MS. BROWN: Objection to form.

THE WITNESS: The interventions and treatment plan for individuals with gender dysphoria is unique to each individual and surgery may be one component of their treatment plan.

BY MR. HILDABRAND:

Q. Are there any other mental health issues that you are aware of that are treated with surgery?

MS. BROWN: Objection to form.

THE WITNESS: Yes, I'm aware of other mental health conditions that may be treated with surgery.

BY MR. HILDABRAND:

Q. Would body dysmorphic disorder be treated with surgery or is surgery one option for treating body dysmorphic disorder?

MS. BROWN: Objection to form.

THE WITNESS: Body dysmorphic disorder an individual may wish to seek surgery as part of the diagnosis and experience of body dysmorphic disorder.

BY MR. HILDABRAND:

Q. Is it appropriate for health providers to provide the surgical interventions that that body dysmorphic individual seeks?

MS. BROWN: Objection to form.

THE WITNESS: A mental health provider would not be offering surgical intervention in performing those surgical interventions, no.

BY MR. HILDABRAND:

Q. Would they recommend surgical interventions for or is there a scenario where a mental health provider would recommend surgical interventions for

an individual with body dysmorphic disorder?
A. In my practice, I have not treated an individual with body dysmorphic disorder so I cannot say.
BY MR. HILDABRAND:
Q. Fair enough. Going forward a little bit to page five, footnote seven.
MS. BROWN: I'm sorry, did you say page or paragraph five?
BY MR. HILDABRAND:
Q. Page five, footnote seven.
A. Page five, footnote seven. Yes, we are there.
Q. So not as a substantive question, but do you cite an article here where the first author is Hembree, Endocrine Treatment of Gender Dysmorphic/Gender Incongruent Persons, an Endocrine Society Clinical Practice Guideline?
A. Yes.
MR. HILDABRAND: Travis, can you circulate, I believe it's Document B. And we will mark this as Exhibit 2.
(WHEREUPON, a document was marked as Exhibit Number 2.)
/ /

BY MR. HILDABRAND:
Q. Can you identify what this document is?
A. This document is the article by Hembree, et al., titled, Endocrine Treatments of Gender Dysphoric, Gender-Incongruent Persons, and Endocrine Society Clinical Practice Guidelines.
Q. And would you refer to this as the Endocrine Society Guideline?
A. Yes.
Q. So let's go -- oh, before we scroll down, on the list of authors, just because of this case, do you see the name Joshua D. Safer?
A. I see that name, yes.
Q. So he would be one of authors on this document?
A. It appears that way, yes.
Q. Thank you. All right. Scrolling down to it's page 3873 in the Journal. It's page five in the PDF.
A. We are on page five of the PDF. Yes.
Q. All right. Thank you. So down in the bottom right-hand column, do you see the line that begins yet such a classification?
A. Can you scroll down a little bit? Yet such a classification, yes.

Q. I'm going to just read it out so we have a copy of it. Does it say: Yet such a classification does not take into account that people may have gender identities outside this continuum. For instance, some experience having both a male and female gender identity, whereas others completely renounce any gender classification. Did I read that correctly?

A. Yes.

Q. Would you agree that some individuals experience themselves as having both a male and female gender identity?

MS. BROWN: Objection to form.

THE WITNESS: I do agree that some individuals have gender identity consistent with a male and female gender identity.

BY MR. HILDABRAND:

Q. And the second part of that is: Whereas others completely renounce any gender classification.

Are there some individuals that you're aware of who renounce any gender classification?

MS. BROWN: Objection to form.

THE WITNESS: In the field is established that others renounce gender

classification and labels.
BY MR. HILDABRAND:
Q. Thank you. So going on to the line, there are also reports of individuals experiencing a continuous and rapid involuntary alternation between a male and female identity or men who do not experience themselves as men but do not want to live as women. So looking at the first part of that sentence, do you agree that some individuals experience a continuous and rapid involuntary alternation between a male and female gender identity?
A. There are some individuals who experience alternations between male and female identity.
Q. And the second half of that sentence, are there some men who do not experience themselves as men but do not want to live as women; would you agree with that?
A. I agree there are some individuals who may reject the sex they were assigned at birth and do not identify in a binary identity.
Q. So if they were born male at birth, they'd reject -- make sure I'm understanding. They reject being male but they don't necessarily want to be female either; is that your understanding?

MS. BROWN: Objection to form.

THE WITNESS: There are individuals whose sense of gender may not fall on the gender binary, so who may not identify with the sex they were assigned at birth or another binary gender identity.

BY MR. HILDABRAND:

Q. So they wouldn't want to be a binary male or female; they might want to be something else?

MS. BROWN: Objection to form.

THE WITNESS: It's not just a question of what they want to be so much as who they are in their gender identity.

BY MR. HILDABRAND:

Q. So would they view who they are as something else besides a binary male or a binary female?

A. Some individuals do not identify as a binary male or a binary female.

Q. Is that what the phrase "nonbinary" refers to, or is that one understanding of what nonbinary means?

MS. BROWN: Objection to form.

THE WITNESS: Individuals who identify as nonbinary tend to have a gender identity that exists outside the gender binary of male or female.

BY MR. HILDABRAND:
Q. Thank you for -- thanks for explaining.
All right. Let's go to page 11 in the PDF. That's page 3879 in the way the Journal does its paging.
A. Page 11 of the PDF. We are there.
Q. Before we ask about this, the Endocrine Society Guideline is something that you rely upon in your practice, correct?
A. Yes. We rely on the Endocrine Society Guidelines.
Q. All right. On the bottom left-hand column, do you see the sentence that begins, However, social transition?
A. On the bottom of the first paragraph, yes.
Q. So does it say: However, social transition in addition to GD/gender incongruence has been found to contribute to the likelihood of persistence? Did I read that accurately?
MS. BROWN: Objection.
THE WITNESS: That statement is in the document and would be important to be considered in context and with the evolving state of the literature.
/ /

BY MR. HILDABRAND:

Q. Feel free to explain further, but do you agree with that statement?

MS. BROWN: Again, objection to form. You read one line of this. Just noting that objection.

BY MR. HILDABRAND:

Q. Would you agree that social transition is likely to contribute to persistence?

MS. BROWN: Objection to form.

THE WITNESS: I am not aware of the data and scientific findings that support this particular claim that social transition contributes to the likelihood of persistence.

BY MR. HILDABRAND:

Q. In your practice, has it been your experience that social transition is likely to contribute to persistence in an expressed gender identity?

MS. BROWN: Again, same objection.

THE WITNESS: In my professional experience, individuals who make a social transition often persist in their gender identities, including because of the significant distress and identification with transgender identity that precipitated the social transition.

BY MR. HILDABRAND:
Q. Is social transition likely to encourage persistence or does it discourage persistence?
MS. BROWN: Objection to form.
THE WITNESS: I am not aware of the evidence that suggests the social transition specifically contributes to persistence.
BY MR. HILDABRAND:
Q. So you wouldn't know if it is likely to or is not likely to contribute to persistence?
MS. BROWN: Same objection.
THE WITNESS: Whether it is likely to or not likely to is a research question that I'm not aware of.
BY MR. HILDABRAND:
Q. And so that's something that you would need further research on?
MS. BROWN: Objection to form.
THE WITNESS: It is important for us to continue to study and to understand phenomenology in all aspects of psychological mental health and medical science, and understanding particulars of persistence may be one area that would benefit from further study.
/ /

BY MR. HILDABRAND:
Q. Is it established in the field of psychology whether social transition contributes to the likelihood of persistence?
MS. BROWN: Objection to form. Again, you've asked this question. It's been asked and answered some, Clark.
MR. HILDABRAND: This is a different question from what I asked and I had asked it definitely precisely because you've objected to the form several times, so I'd like her to answer the question.
MS. BROWN: I'm just letting you know I'm not hearing a different question, so I'm going to continue to object.
MR. HILDABRAND: That fine. I'll keep asking a different question.
BY MR. HILDABRAND:
Q. So is it established in the field of psychology whether social transition contributes to the likelihood of persistence?
MS. BROWN: Same objection.
THE WITNESS: To my knowledge and review of the literature, it has not been established that a social transition contributes to persistence.

BY MR. HILDABRAND:
Q. Thank you. So earlier we discussed the number of gender identities. What is your opinion on how many sexes there are?
MS. BROWN: Objection to form.
THE WITNESS: So to state your question, that would be best directed at one of my interdisciplinary colleagues. You could speak to the medical aspects and definitions of sex, that there may be multiple -- I'm trying to remember the word that you used -- multiple sexes, for lack of a better term.
BY MR. HILDABRAND:
Q. But that's not something -- to be fair, that's not something you would be best situated to answer?
MS. BROWN: Objection to form.
THE WITNESS: I am able to speak to an individual's sex assigned at birth and how that relates to their gender identity.
BY MR. HILDABRAND:
Q. But not to the question of how many sexes there are?
MS. BROWN: Objection to form.
THE WITNESS: I previously stated that

there may be multiple sexes and that a medical provider may be able provide more information.

BY MR. HILDABRAND:

Q. Different question. How many genders are there?

MS. BROWN: Objection to form.

THE WITNESS: We've established that are many different gender identities.

BY MR. HILDABRAND:

Q. How many different? Are there more than two?

A. I believe we previously established there were more than three and an infinite number of possibilities.

Q. To clarify, we previously discussed the number of gender identities. How many genders, not gender identities, are there? How many genders are there?

A. So an individual gender identity is their understanding of their inner sense of gender, and I don't believe that those two can be separated.

Q. So there could also infinite genders?

MS. BROWN: Objection to form.

THE WITNESS: There are many different gender identities which reflect an individual's inner sense of gender, yes.

BY MR. HILDABRAND:
Q. Yes. So given as you testified earlier that there can be infinite gender identities, can there also be infinite genders? Please answer yes or no and then feel free to elaborate.
A. Yes, I believe there are many different gender reflected as a person's gender identity and their own sense of gender.
Q. So to return to the question, yes or no. Can there be infinite genders?
A. I believe I just answered that question and my previous answer stands.
Q. Can you provide a yes or no answer to the question, are there infinite genders?
A. My previous answer included the word yes. I'm sorry if that was not legible and then an ongoing explanation that an individuals' gender identity, there may be many different gender identities reflected of the individual's inner sense of gender.
Q. Sorry, I'm not trying to just ask a question --
A. I'm sorry.
Q. -- so I'm sorry if I misunderstood you. So I just want to understand that your answer was yes,

there can be infinite genders and then you provided a fuller explanation that explained your answer; is that fair?

MS. BROWN: Objection to form. Again, I understand, Clark, that you want a yes or no answer and you can ask her that, but you can't command her answer. She's going to give her answer and that's her answer.

MR. HILDABRAND: I totally get that, too, but I did request a yes or no answer and I want to know what the yes or no answer was. And if she says she has said a yes or no, I also don't want to ask the same question again but I really would like a yes or no answer to this. So yes or no --

MS. BROWN: But there, again, it may just be a situation where, again, she's testifying as an expert. She's giving her opinions and answering your questions. And if she has to provide context and say yes, like she did, then that's going to be the answer.

BY MR. HILDABRAND:

Q. That's totally fine. At the same time, I need to know what the yes or the no is, not go straight into the explanation. I am happy to have her provide further explanation. But I would just

like to know the yes or no to the question, are there infinite genders? And provide any fuller explanation after that, but please begin with a yes or no or I don't know and then provide your fuller explanation to the question are there infinite genders.

MS. BROWN: You can answer the question again, but I'm going to, again, same objection to form that I have been noting.

THE WITNESS: So my previous answer stands. Yes, there are many different gender identities that are reflective of an individual's inner sense of gender.

BY MR. HILDABRAND:

Q. All right. Thank you. We'll move on from that. On page ten of the PDF, page 3878 in the Journal's paging.

MS. BROWN: Sorry, what was the page number?

BY MR. HILDABRAND:

Q. Of course. It's page 3878 or page ten in the PDF.

A. Page ten of the PDF. We are there.

Q. And feel free -- this starts on the previous page at 1.2 so feel free to read that if you want to

just to completely understand that. But can you just read to yourself 1.2 and then I'll ask you a question about part of that. But I want to make sure you've been able to see the entirety of it before the question. So can you please read 1.2?

A. Uh-huh. Scroll down. Okay. I have read 1.2.

Q. Great. And so do you see where it says that one of the factors that's important is the ability to make a distinction between GD/gender incongruence and conditions that have similar features, e.g., body dysmorphic disorder. Can you describe for us --

A. Yes.

Q. Thank you. I think we discussed this a little bit earlier, but can you define for us what body dysmorphic disorder is in your understanding?

A. My understanding of body dysmorphic disorder is a diagnostic label and psychiatric condition which an individual has a significant misrepresentation of their body and this creates distress for them.

Q. Is it your understanding that an appropriate treatment for that misunderstanding, would an appropriate treatment for that be surgery?

MS. BROWN: Objection to form.

THE WITNESS: So the specifics of body dysmorphic disorder may be better left to an expert in body dysmorphic disorder. I would suspect that an individualized treatment plan for an individual with body dysmorphic disorder would be crafted between that individual and their provider and may include an individual to pursue surgery.

BY MR. HILDABRAND:

Q. Are you aware of whether physicians at Vanderbilt provide surgery for body dysmorphic disorder?

A. I am not aware.

Q. On the right column here, do you see where it says: Examples of conditions with similar features are body dysmorphic disorder, bodily integrity -- sorry -- body identity integrity disorder, a condition in which individuals have a sense that their anatomical configuration as an able-bodied person is somehow how wrong or inappropriate?

A. I see that.

Q. Did you see that? Okay. And then does it mention eunuchism after that?

MS. BROWN: Sorry, Clark, you're coming through very choppy. I think there's an internet

connection issue. We are hearing bits and pieces of what you're saying.

BY MR. HILDABRAND:

Q. All right. I can hear y'all clearly. Do you see on the right column --

A. You're speaking but we're not able to hear you. I don't know if others are having the same problem.

MR. SANDERS: I'm not having any problem. I can hear everyone clearly.

MR. ROYER: Here as well.

MR. HILDABRAND: Can you hear everyone else?

MS. BROWN: Sorry, can folks hear us?

MR. HILDABRAND: We can hear y'all.

MS. RILEY-SWANBECK: Yes.

MR. HILDABRAND: I think the problem may be on y'all's end. Can y'all hear us?

MS. BROWN: I can hear you now. You're coming through clear again.

MR. HILDABRAND: Okay. Whatever was going on I'm glad it resolved. So that's how Zoom works.

BY MR. HILDABRAND:

Q. On the right-hand column here, do you see

where it provides examples of conditions with similar features are body dysmorphic disorder, body identity integrity disorder? Do you see that there?
A. Yes.
Q. And then it goes on to describe eunuchism, in which a person is preoccupied with or engages in castration and/or penectomy for reasons that are not gender identity related.
A. I see that.
Q. Is eunuchism a gender identity?
MS. BROWN: Objection to form.
THE WITNESS: Eunuchism is not a gender identity that I have encountered.
BY MR. HILDABRAND:
Q. Are you aware of literature in the psychological field describing eunuchism as a gender identity?
A. I am not.
Q. And I assume that's -- if you're not aware, I assume you're not aware of Vanderbilt treating anyone with castration for eunuchism?
A. I am not aware.
Q. All right. So earlier today we've talked about how you've given presentations to the Tennessee Department of Children's Services using

your psychological expertise, right?
A. Yes.
Q. Let's turn to page 18 of Exhibit 1, your expert report. This is PDF page 18. Page 18. CV page eight. Do you see where you list a February 27 --
A. We're not there quite yet. Slight malfunction, so very sorry.
Q. No problem. Take your time.
A. Page 18 of the PDF. We are there.
Q. All right.
A. We are there.
Q. All right. Do you see where you list a February 2017 presentation to DCS?
A. I do. Item five.
Q. And would that presentation reflect your psychological experience?
MS. BROWN: Objection to form.
THE WITNESS: So yes. This presentation was developed and delivered as a part of my professional expertise.
BY MR. HILDABRAND:
Q. Just one second.
A. Uh-huh.
MR. HILDABRAND: All right. Travis, can

you circulate Doc C, which I think we'll mark as Exhibit 3.

MR. ROYER: One moment. I think I -- Clark, you're familiar with our wonderful dual authentication system. I believe that I got kicked off. Give me one second.

MR. HILDABRAND: No problem. So what would I do to share, Travis? Do I copy and paste or what is the --

MR. ROYER: You could drag and drop or just hit the little paper symbol, do you see that, and skip to location there, or just drag and drop by the folder.

MR. HILDABRAND: Thank you-all for your patience with us.

MR. ROYER: Yes, thank you very much.

MS. BROWN: Of course. Of course.

MR. HILDABRAND: All right. I should have just circulated Doc C, which we'll mark exhibit -- well, sorry. What's -- we are going to mark this as a cumulative exhibit with the next couple. So if we can just hold off on marking it for right now. But this is Doc C if y'all want to pull this up.

MS. BROWN: Sorry, where did you

circulate it?

MR. HILDABRAND: Can y'all not see the document?

MS. BROWN: No. There's nothing in the chat.

MR. HILDABRAND: All right. Can we go off the record for minute while we sort this out?

(Off-the-record discussion.)

BY MR. HILDABRAND:

Q. Thank you. Now that we're back, can you please pull up Doc C?

A. We have it open.

Q. Thank you. Is that a picture of you on the upper right?

A. Yes, that is.

Q. And is this you giving the presentation back in February 2017?

A. It is.

Q. All right. On the left side from the presentation, can you read the quotation there and can you read it out loud?

A. Sure. So it says: Sexuality is much more than sex. It's our values, attitudes, feelings, interactions, and behavior. Sexual development is one part of sexuality and it begins much earlier in

life than puberty. Infants and children may not think about sexuality in the same way as adults but they learn and interpret messages related to sexuality that will shape their future actions and attitudes.

Q. All right. And did you include a picture on the left-hand side of the slide here?

A. There is a picture on the slide, yes.

Q. Can you please describe just for the transcript what the picture depicts?

A. It is a picture of two children who are engaged in play with what appears to be a stethoscope.

Q. What age would you say those children are, or what would be your best guess at what age those children are?

MS. BROWN: Objection to form.

THE WITNESS: The children in the image appear to be toddlers. I would estimate three to four years of age.

BY MR. HILDABRAND:

Q. And is one of them -- does one on the left appear to be a boy? Sorry. I don't know if that got through. Does the child on the left appear to be a boy?

MS. BROWN: Objection to form.

THE WITNESS: So I cannot make assumptions of their gender identity. The child on the left has stereotypically short hair and is wearing a striped shirt. They are also wearing pink glasses.

BY MR. HILDABRAND:

Q. And the child on the right, how would you describe their features or how would society describe -- are they stereotypically a girl?

MS. BROWN: Again, objection to form.

THE WITNESS: I could not assume this child's gender identity. They appear to be wearing a pink shirt, to have longer hair that is styled in pigtails.

BY MR. HILDABRAND:

Q. And the child on the right, is that child holding up the child's shirt?

A. The child on the right is holding up their own shirt, yes.

Q. And the child on the left, is that child touching the child on the right anywhere?

A. In my interpretation of the image, it appears as though the child on the left is holding a stethoscope and perhaps touching the stethoscope but

does not appear to be touching the child on the right.

Q. Thank you for providing that description. Around where on the child in the right's body is the child on the left placing the stethoscope?

A. The child on the left is placing the stethoscope on approximately the child on the right's chest.

Q. Thank you. Why did you select this picture for this slide?

A. This was many years ago, back in 2017, so I'll do my best to estimate why I selected that at the time. It is likely because this image represented typical play in childhood and which many toddlers and young children will play doctor or house in their imaginary play.

MR. HILDABRAND: All right. Travis, can you circulate Doc D.

MS. BROWN: Clark, before you do that, for the record, I'd like to clarify. Is the quote that you had Dr. Cyperski read attributable to the source at the bottom of the slide, which says National Sexual (inaudible) Center 2013?

(Court Reporter interrupts for clarification.)

MS. BROWN: Yes, I'll say it again. Clark, again, to clarify for the record, the quote that you had Dr. Cyperski read, is that attributable to the source at the bottom of the quote on the slide and in parentheses it says: National Sexual Violence Resource Center 2013?

BY MR. HILDABRAND:

Q. So just to clarify the record, you're citing -- you're quoting this source on the slide, correct?

MS. BROWN: I am asking if it's attributable to that source? Is that where you pulled the quote from that you had Dr. Cyperski read? Did you hear my question? Are we having audio issues again? Can folks hear me?

MR. HILDABRAND: I can hear you. I can't hear Dr. Cyperski.

MS. BROWN: Dr. Cyperski didn't say anything. I'm asking you about the quote that you've put on the slide and the source of the slide.

BY MR. HILDABRAND:

Q. So depositions are asking the witness questions, not asking other attorneys, so let's ask the witness. Did she pull this quotation from the National Sexual Violence Resource Center? It says

on the slide -- is that where you pulled the quotation from?
A. That would be my assumption on how the slide is developed. But the quotation that was read previously is attributed to the source from the national Sexual Violence Resource center in 2013.
MR. HILDABRAND: Thank you. Does that clear things up?
MS. BROWN: It does. And for the record, I'll just state that, again, this was a slide and exhibit that you prepared and a source that you included. And of course you're right, the witness is here to answer questions, but I just want to note that I asked you that question.
MR. HILDABRAND: And you of course have an opportunity to ask questions later on as well but I'm glad we can have it as accurate for the record as possible. All right.
BY MR. HILDABRAND:
Q. Let's turn to Doc D which was circulated. So does this also depict you on the right?
MS. BROWN: Sorry. Give us one moment.
BY MR. HILDABRAND:
Q. Okay.
A. This is an image of me on the right.

Q. And is it, again, the slide presentation on the left?
A. That is correct.
Q. So the left column, does it have a column that says stage of development?
A. Yes.
Q. And then underneath that, does it say early childhood, age two to five?
A. It does.
Q. And then there's a column in the middle that says common behavior; is that correct?
A. Yes.
Q. And then a column on the right that says caregiver tasks; is that correct?
A. Yes.
Q. Is one of the caregiver tasks for two- to five-year-olds to provide basic information about reproduction?
A. And it's listed as the first bullet point.
Q. And is consensual and playful exploration with peers, e.g., playing doctor, is that in the common behavior column?
A. It is.
Q. So do you agree today that consensual and playful exploration with peers, e.g., playing

doctor, is a common behavior for two- to five-year-olds?

MS. BROWN: Objection to form.

THE WITNESS: Children in early childhood often engage in consensual and playful exploration with peers in a variety of ways.

BY MR. HILDABRAND:

Q. So to provide a yes or no answer, is it common behavior, yes or no, for two- to five-year-olds to engage in consensual and playful exploration with peers, e.g., playing doctor, yes or no?

MS. BROWN: Same objection.

THE WITNESS: Yes.

BY MR. HILDABRAND:

Q. On the right --

MS. BROWN: Are you finished? So before your next question, I'm going to -- as long as you continue this line of questioning, I'm going to raise a standing objection to scope as we're talking about sexuality here. And, again, for the record, I believe you're conflating sexuality with gender identity and that's going to be my standing objection and I'll continue to make objections. You may proceed.

MR. HILDABRAND: Yes. I believe we agreed to do form objections in this case and not -- I understand you're trying to explain your position but you've talked a lot in the past half hour. That's not how we've been conducting these depositions. And that may be your perspective on the scope of it, but she is testifying as a psychologist and has talked about sexual issues throughout her report.

So I think that's why we are asking these questions today and that's something we can work out later. But for now, please, if you want to object to form whenever you would like.

BY MR. HILDABRAND:

Q. On the right --

MS. BROWN: Yes.

MR. HILDABRAND: So on the right -- all right. Let's turn to -- Travis, can you circulate Doc E.

THE WITNESS: I think we're getting a new document.

MS. BROWN: We have the document open. But, again, for the record, a standing objection to the extent Mr. Hildabrand is questioning the witness about collective slides from what appear to be

larger presentations. You may proceed. We have D open.

MR. HILDABRAND: And we're glad to circulate the -- and, actually, I'll circulate the YouTube link right now if that's what you'd like. And in a minute we will enter the entire video as an exhibit.

MS. BROWN: This is your time. If you'd like to do that, that's fine. I just noted my objection.

MR. HILDABRAND: That's great.

BY MR. HILDABRAND:

Q. All right. On this document -- so do you see I circulated a link to a YouTube page? All right.

A. Yes. We see that in the chat.

Q. Thank you.

A. But we have not opened the link to confirm.

Q. Okay. Can you pull up Doc E? Are you looking at that now? All right. On Doc E, is that, again, you on the right?

A. Yes, this is me in Doc E.

Q. And is there a slide show presentation on the left?

A. There is.

Q. Are there, again, columns labeled stage of

development, common behavior, and caregiver tasks?
A. Yes. They are columns which reflect tables from the source about sexual development.
Q. Is it your understanding that sexual development, is that relevant to the report that you are providing in this case?
A. The report that I provided was within the scope of gender identity and gender dysphoria in individuals who identify as transgender in their treatment, including the treatment guidelines. Sexual development is an important part of childhood development but it's distinct from an individual's gender identity.
Q. So sexual development is not relevant to your report on gender identity; is that correct?
MS. BROWN: Objection to form.
THE WITNESS: Sexual development and gender identity, even say sex identity or sexuality are distinct concepts.
BY MR. HILDABRAND:
Q. So yes or no, sexual development is not relevant to your expert report?
MS. BROWN: Same objection.
THE WITNESS: Again, I would like to make clear that sexual development and identity are

different than gender identity. So I'm not sure how to answer your question with that.
BY MR. HILDABRAND:
Q. So you can't give -- you can't say that this is not sexual -- you cannot say that sexual development is not relevant to your report?
MS. BROWN: Same objection.
THE WITNESS: Sexual development is an important part of childhood development and to the scope that, you know, I can provide expert information about child and adolescent development.
BY MR. HILDABRAND:
Q. But you cannot provide a yes or no answer to that question?
MS. BROWN: Same objection.
THE WITNESS: I'm sorry, I don't mean to be obstinate. I just -- I'm not sure how to answer the question because they're different concepts.
BY MR. HILDABRAND:
Q. Okay. That's fair. Let's ask a few questions about this and then we'll go out to lunch at that point.
A. Okay.
Q. So here is the stage of development listed middle childhood, age five to eight?

A. Yes.
Q. And in the common behavior column, does it say may start showing interest in opposite sex?
A. Yes.
Q. And you used the phrase "opposite sex" here, correct?
A. Yes.
Q. Then the slide says, common behavior includes masturbation for pleasure, increasingly in private. Is that what you said here?
A. Citing the source that's listed at the bottom of the slide; however, that information is listed on the slide.
Q. Would you agree that masturbation for pleasure, increasingly in private, is common behavior for five- to eight-year-olds?
MS. BROWN: Objection to form.
THE WITNESS: Masturbating for pleasure, increasingly in private, is listed as a common behavior and supported in the literature as a common behavior in childhood.
BY MR. HILDABRAND:
Q. Thank you. On the right lists caregiver tasks. Do you see where it says: Promote understanding of gender and how children experience

their identity? Is that what you said on the first bullet?
A. Again, this is citing a particular source. Then we would -- we could verify within that source that is what's listed on the slide to promote understanding of gender and how children experience their identity.
Q. So in your opinion, is that an appropriate caregiver task to help five-to eight-year-olds understand gender and how they experience their gender?
A. I think this is a caregiver task across development in childhood and adolescence, that children, adolescents, and young adults can be supported in understanding concepts about themselves in the world around them, including gender.
Q. Including at ages five through eight, correct?
MS. BROWN: Objection.
THE WITNESS: Yes. Ages five through eight in and across development.
BY MR. HILDABRAND:
Q. Does it also say on the right that a caregiver task is to explain basics of reproduction, including vaginal intercourse? Is that what the

slide says in the second bullet?

MS. BROWN: Sorry, I did not mean to interrupt you. Again, I'm going to note my objection. Clark, I understand but I'm going to say it again. I'm objecting to scope for all of these questions and I'm going to continue.

MR. HILDABRAND: Yes. Just object to form, as was agreed by both parties before the deposition. So I'll repeat my question.

BY MR. HILDABRAND:

Q. On the right-hand side, does it say: Explain basics of reproduction, including vaginal intercourse? Is that in the caregiver task column?

MS. BROWN: Same objection.

THE WITNESS: That is listed in the caregiver task column in this image.

BY MR. HILDABRAND:

Q. Do you agree today that this is an appropriate caregiver task for children ages five through eight?

MS. BROWN: Same objection.

THE WITNESS: Yes. It is an important task for caregivers to provide information and explain basics of reproduction to children.

/ /

BY MR. HILDABRAND:
Q. Farther down that column, do you say: As a caregiver task, explain differences in sexual orientations? Is that an appropriate caregiver task for children ages five through eight?
MS. BROWN: Same objection.
THE WITNESS: Yes.
BY MR. HILDABRAND:
Q. And then, finally, is there also listed in the caregiver task column for children ages five through eight, teach that masturbation is something that occurs in private; is that listed?
MS. BROWN: Same objection.
THE WITNESS: It is listed.
BY MR. HILDABRAND:
Q. Is that an appropriate caregiver task for children ages five through eight?
MS. BROWN: Same objection.
THE WITNESS: It is appropriate within the family's value system and is an important part of an individual's development.
BY MR. HILDABRAND:
Q. Is the family's value system referenced on this slide?
A. On this particular slide, it is not

referenced; however, it was several slides previously and within the context of this presentation, if I recall correctly.

MR. HILDABRAND: Thank you. That's the logical end point for questions right now if y'all want to break for lunch.

MS. BROWN: Before that, quickly, if you'll give me one moment before we go off the record.

MR. HILDABRAND: Before we go off the record, I'll enter collectively as Exhibit 3. This presentation will be Exhibit 3.

(WHEREUPON, documents were marked as Collective Exhibit Number 3.)

MS. BROWN: When you say presentation, are you speaking about the YouTube link you inserted?

MR. HILDABRAND: Yes. This entire presentation will be Exhibit 3. And these clips are from that presentation, so this is collectively Exhibit 3. If you'd like me to, I can enter the clips as a separate exhibit if that's what you'd prefer but that's how we -- is that fine with you?

MS. BROWN: I'm requesting that all the presentations be separately entered in as exhibits.

MR. HILDABRAND: All right. So we'll enter the screenshots collectively as Exhibit 3. The presentation will be Exhibit 4. If that's the case, let's go and pull up this presentation. If you can click the YouTube link in there just so we can establish that this is the presentation.

(WHEREUPON, a document was designated to be marked as Late-filed Exhibit Number 4, when provided.)

MS. BROWN: Okay. We have the presentation playing.

MR. HILDABRAND: Great. So on the first page, do you see -- I'm sorry. Let's play a little bit. At point -- at the first second of the video, if you can go there?

MS. BROWN: Sorry, the second?

MR. HILDABRAND: Yes. 0:01 of the presentation. Just go there.

MS. BROWN: Okay.

BY MR. HILDABRAND:

Q. Do you see -- Dr. Cyperski, do you see yourself in the upper right corner of this video?

A. Yes.

Q. And is there a slide show presentation on the left that says: Sexual behavior problems toward

health and healing for children, adolescents, and their families; is that correct?

A. Yes.

Q. All right. Now let's go to 239. Just go there. We don't need to watch it.

Is that the same slide that we discussed as Doc C?

A. It appears so, yes. If I could, like to request to take a break soon.

Q. Yes. I'm just going to go and just confirm for the other two and then take a break at that point.

A. Okay.

Q. I know we wanted to end at noon but I just wanted to -- so we don't have to go back and confirm each of these.

Let's go now to 3:52 in the video. I'm sorry. This one is -- sorry 5:52 in the video. At 5:52 in the video, do you see a slide that lists stage of development, common behavior, and caregiver tasks?

A. So early childhood age two through five, yes.

Q. Yes. And is that the same slide that we discussed earlier as Doc D?

A. Yes.

Q. All right. Last time, let's go to I think it's seven minutes into the video. Is that the same slide that we discussed as Doc E?
A. It appears that way.
MR. HILDABRAND: That's all that I have if y'all want to take a break now.
MS. BROWN: Okay. I need to say -- we can go off the record.
(Recess observed.)
MR. HILDABRAND: Let's go back on the record. All right. Now that we are back on the record, I have that we've spent two hours and 20 minutes so far in the deposition. Now that we are back, I just want to note, we discussed this off the record a little bit, but my understanding is under the Federal Rules of Civil Procedure 30(c)(2) is that an objection must be stated concisely in a non-argumentative and non-suggestive manner. If there is a concern about speaking objections and coaching, I will put that on the record, that's fine, and we reserve the right to request from the court any further action that we deem necessary to make sure that our deposition is carried out. All right. To restart.
BY MR. HILDABRAND:

Q. Is the mental health of children relevant to your report?

MR. ROYER: Clark, hold on one second. Their mic is still activating.

MR. HILDABRAND: Oh.

MS. BROWN: Okay. We're back.

BY MR. HILDABRAND:

Q. Great. Is the mental health of children relevant to your report?

A. Yes.

Q. Is the psychological development of children relevant to your report?

A. Yes.

Q. Is a child's experience of identity relevant to your report?

A. Yes.

Q. Are the changes that occur during puberty relevant to your report?

MS. BROWN: Objection.

THE WITNESS: The changes that occur during puberty may be considered in part of a gender-affirming process.

BY MR. HILDABRAND:

Q. All right. Is instruction of children about sex relevant to your report?

MS. BROWN: Objection to form.
THE WITNESS: Can you say what you mean?
BY MR. HILDABRAND:
Q. Is instructing children about sexual acts relevant to your report?
MS. BROWN: Objection to form again.
THE WITNESS: What does instructing children about sexual acts mean?
BY MR. HILDABRAND:
Q. Is teaching children about sexual acts relevant to your report?
MS. BROWN: Same objection.
THE WITNESS: Not that I'm aware. Although talking about sexual identity and an individual's sense of identity may be.
BY MR. HILDABRAND:
Q. Is sex as a noun to refer to someone's sex, is that relevant to your report?
MS. BROWN: Objection to form.
THE WITNESS: Again, what do you mean by sex in this context?
BY MR. HILDABRAND:
Q. Not necessarily how I understand it but is sex assigned at birth relevant to your report?
A. Yes.

Q. Is the privacy of children a relevant consideration for your report?

MS. BROWN: Objection to form.

THE WITNESS: What do you mean by privacy?

BY MR. HILDABRAND:

Q. Is the privacy of children in exposing or not exposing their genitalia a relevant consideration in your report?

MS. BROWN: Objection to form.

THE WITNESS: Discussing whether a child is exposing their genitalia to others is not relevant.

BY MR. HILDABRAND:

Q. Can we turn to paragraph 26 in your report. That's Doc A, Exhibit 1, at the bottom of page seven, going on to the top of page eight.

MS. BROWN: I'm sorry, can you provide me with the page number again?

MR. HILDABRAND: Of course. Bottom of page seven, top of page eight. The paragraph goes on to both.

THE WITNESS: Okay. We're on the bottom of page seven.

/ /

BY MR. HILDABRAND:
Q. You say there that maintaining privacy about one's transgender identity can be important to safety given the persistence of harassment and even violence exhibited against transgender people.
A. Yes.
Q. So is maintaining privacy relevant to your report?
MS. BROWN: Objection to form.
THE WITNESS: It may be helpful to know in what specific context we're talking about maintaining privacy as the reports states maintaining privacy about one's identity can be important to their safety.
BY MR. HILDABRAND:
Q. How do you understand the term "privacy" that you used here? What's your understanding of that?
MS. BROWN: Objection to form.
THE WITNESS: My interpretation is privacy representing confidentiality.
BY MR. HILDABRAND:
Q. What sort of confidentiality are you talking about?
MS. BROWN: Objection to form.
THE WITNESS: Is the question about in

the report?
BY MR. HILDABRAND:
Q. You just used the word "confidentiality". In your answer that you gave, what do you mean by confidentiality?
A. I was providing an answer about the definition of privacy. So in this sentence in the report might be that maintaining confidentiality about one's identity could be important to safety.
Q. So not having other people know that one is transgender could be relevant to privacy?
MS. BROWN: Objection to form.
THE WITNESS: Maintaining confidentiality about their identity can be important to safety and that would include about their gender identity.
BY MR. HILDABRAND:
Q. Thank you. Is the understanding of gender identity among psychologists still developing?
MS. BROWN: Objection to form.
THE WITNESS: I'm not sure what you mean still developing.
BY MR. HILDABRAND:
Q. Are there still aspects of gender identity that psychologists disagree about?

MS. BROWN: Objection to form.
THE WITNESS: It's common in medical and scientific fields for the literature or terminology to continue to be evolving with new study and evidence and in that way it is possible that things are still evolving.
BY MR. HILDABRAND:
Q. Is this a rapidly evolving field?
MS. BROWN: Objection to form.
THE WITNESS: What do you mean by rapidly?
BY MR. HILDABRAND:
Q. We can come back to that in a minute. Is there much data on the mental health in transgender children?
MS. BROWN: Objection to form.
THE WITNESS: There is a significant body of evidence about mental health in transgender children.
BY MR. HILDABRAND:
Q. Are most of the studies on transgender mental health based on small sample sizes?
MS. BROWN: Objection to form.
THE WITNESS: I would need to see specific numbers of sample sizes that you referenced

and this would be specific to each article.
BY MR. HILDABRAND:
Q. That's fair. In general, are larger sample sizes preferred to smaller sample sizes?
MS. BROWN: Objection to form.
THE WITNESS: In the mental health literature, we often have peer-review publications that include single case studies or small case studies, ranging all the way from one individual up to large sample sizes. Thousands of people.
BY MR. HILDABRAND:
Q. Everything else being equal, would you prefer a study that had one individual case or a study that had multiple cases considered?
MS. BROWN: Again, objection to form.
THE WITNESS: It would depend on the purpose of the literature and the article I was reviewing.
BY MR. HILDABRAND:
Q. Is the study more likely to be statistically valid if it has a larger sample size or a smaller sample size?
MS. BROWN: Objection to form.
THE WITNESS: Here there may be some nuances about statistical analysis that would be

important to review with a statistician. It's very likely that in large sample sizes, for example, it's easy to find significant differences that have little meaning because there are so many people we can find information. If we're looking at hundreds of thousands of people, that would be significant.

BY MR. HILDABRAND:

Q. Thank you. Let's go to PDF page 13. Page two of your -- sorry -- page three of your CV if you want to scroll down to that. This is back in Doc A, Exhibit 1, your report.

MS. BROWN: Sorry, Clark, page two of the CV?

MR. HILDABRAND: Just one second. Page three of your CV.

THE WITNESS: Okay. We're there.

BY MR. HILDABRAND:

Q. Do you see under continuing medical education an October of 2020 presentation?

A. Yes.

Q. What's the title of that presentation listed there?

A. Path to Affirmative Medical Care for Transgender/Gender Diverse Youth: A Guide for Mental Health Provider.

Q. All right. I'm going to circulate the recording of that in just one second.

MR. HILDABRAND: This will be Doc F, and we'll enter this as Exhibit 5. This will be 5.

(WHEREUPON, a document was designated to be marked as Late-filed Exhibit Number 5, when provided.)

BY MR. HILDABRAND:

Q. Do you have that pulled up?

A. Yes.

Q. Feel free to go ahead to around the 22 second mark, 0:22. When you're there, does it say: Path to Affirmative Medical Care for Transgender/Gender Diverse (TGD Youth): A Guide for Mental Health Providers?

A. It does.

Q. And is your name listed there at the top?

A. It is.

Q. Does this appear to be the presentation that you gave back in October of 2020?

A. Yes.

Q. Okay. Now let's turn to the -- jumping ahead to the 58:22 second mark. 58:22. And if you can, please listen to 58:22 to 58:50. And when you do that, just let me know.

MS. BROWN: Clark, we're actually not getting the audio from this video and I'm sure it's a tech situation on our end. So do you want to go off the record for like five minutes so I can figure out how to get the audio to play? Or is there audio? I'm not hearing anything.

MR. HILDABRAND: Yes. There is audio. So if you want to go off the record for a minute we can sort that out. All right. Let's go off the record.

MS. BROWN: We're ready.

BY MR. HILDABRAND:

Q. All right. We are now back on the record. Before we get to the video, I'm going to read out first the website address of what was entered as Exhibit 4 and what the cumulative Exhibit 3 slides were taken from. That is https:\\www.YouTube.com\watch?v=322u6en50d8. And then I will say the website address for what has been marked Exhibit 5. That is https:\\www.YouTube.com\watch?v=HvLYai7qq0A. All right. And now --

MS. BROWN: Oh, sorry, I didn't want to interrupt. I just wanted to flag Britany on our team, you're not on mute and I saw the audio switch

to you. Okay. Thanks. You got it. Thanks.

MR. HILDABRAND: Thanks for making sure. And now the witness is going to click play around the 58:20 or 58:22 mark of the video and listen to 58:50.

THE WITNESS: Okay. Pressing play.

(Playing video.)

Our best practices are still emerging for children and adolescents. This is, you know -- what we know about therapy and mental health is done through relatively small case studies at this point in time but the literature is growing every day. We look a lot to the principles of trauma-informed care to be supportive and so leading with the individual's affirmation believing their truth and helping them to identify where the distress and the hurt is. I think --

(Stopped video.)

MS. BROWN: Okay. That's at 58:51. You're on mute again. Sorry.

BY MR. HILDABRAND:

Q. Yeah. Dr. Cyperski, was that you speaking?

A. That was me speaking as part of a one-hour presentation.

Q. Did you say that our best practices are still

emerging for children adolescents?

MS. BROWN: If you want to hear it again, it was playing very quickly, to confirm, we can do that.

THE WITNESS: Uh-huh. Uh-huh.

MS. BROWN: And I'm sorry. Will you just repeat the question and then we'll try to confirm?

BY MR. HILDABRAND:

Q. Sure. Yes. This question is, Our best practices are still emerging for children and adolescents, did you say that?

(Playing video.)

Our best practices are still emerging for children and adolescents. This is, you know, what we know about --

(Stopped video.)

BY MR. HILDABRAND:

Q. Right. So did you say that statement?

A. That statement was said again as part of context within a one-hour presentation.

Q. Do you agree that the best practices for psychological treatment of transgender children are still emerging?

MS. BROWN: Objection to form.

THE WITNESS: So this particular statement would need to be understood in context and I believe at this point in the presentation we were answering Q&A. And so would be preferable to review some more of the contents before and after that statement to inform interpretation.

BY MR. HILDABRAND:

Q. Rather than watching the whole -- the entire video, which glad at any point if you -- glad after the deposition if you want to review that or during a break. But would you agree with the statement today that best practices are still emerging for children and adolescents regarding transgender healthcare?

MS. BROWN: Objection to form.

THE WITNESS: So the question is if best practices are still emerging -- can you repeat it? I'm so sorry.

BY MR. HILDABRAND:

Q. Are best practices for transgender children, treating them for mental health, still emerging?

MS. BROWN: Same objection.

THE WITNESS: We have many established best practice guidelines such as the Endocrine Society and the WPATH. As previously provided in an

answer a few minutes ago, in all of medical sciences we are regularly updating the literature and exploring new information to keep our practice current in support of best practices.
BY MR. HILDABRAND:
Q. Did you also say that what we know about therapy and mental health is done through relatively small case studies at this point in time? And if you want to watch the video, that's fine.
A. Okay. We're going to pull up the video again.
MS. BROWN: Clark, do you have a time stamp? I know it's relatively short but...
MR. HILDABRAND: And you can start at 5:24. I'll be after that statement, the statement we discussed a minute ago.
MS. BROWN: 58:25.
THE WITNESS: Okay. Hitting play.
MS. BROWN: Oh, wait. And just to make sure, Clark, will you repeat the question?
BY MR. HILDABRAND:
Q. Did you say that what we know about therapy and mental health is done through relatively small case studies at this point in time?
(Playing video.)

What we know about therapy and mental health is done through relatively small case studies at this point in time.

(Stopped video.)

THE WITNESS: Yes. Again, that statement was made in context of a larger discussion in a one-hour presentation and is a very small snippet of which may wish to more accurately describe and articulate in another context.

BY MR. HILDABRAND:

Q. So at this point in time, two years later, would you agree that what we know about therapy and mental health is done through relatively small case studies at this point in time? And feel free to elaborate or provide further context.

MS. BROWN: Objection to form.

THE WITNESS: What we know about mental health in the transgender population is that there is a significant body of literature that identifies mental health concerns and experience in transgender children and we are ongoing working to update and advance the literature in the state of the science as is consistent with best practices across medicine and other professions.

/ /

BY MR. HILDABRAND:
Q. Are those developments done through relatively small case studies at this point in time today?
MS. BROWN: Objection to form.
THE WITNESS: I would be curious what you mean and what the definition of relatively small case studies would be.
BY MR. HILDABRAND:
Q. How would you understand that phrase, "relatively small case studies"? Do you have an understanding of what that would mean?
MS. BROWN: Same objection.
THE WITNESS: I can see several different interpretations of what relatively small case studies would mean.
BY MR. HILDABRAND:
Q. What are some of those interpretations?
A. If someone were using that phrase, it might mean that there were a small number, so a handful of case studies. It might mean that there were case studies which included a small number of participants would be another interpretation.
Q. In your practice, do you begin by believing the individual's truth about their gender identity?

MS. BROWN: Objection to form.
THE WITNESS: Can you repeat the question?
BY MR. HILDABRAND:
Q. Of course. In your practice treating transgender individuals, do you begin by believing their truth about what they express their gender identity to be?
MS. BROWN: Same objection.
THE WITNESS: It might be important to define believing their truth and the statement could be considered in the context of gender-affirming care.
BY MR. HILDABRAND:
Q. Are some children incorrect about what their gender identity is?
MS. BROWN: Objection to form.
THE WITNESS: No.
BY MR. HILDABRAND:
Q. So all children know what their gender identity is; is that your position?
MS. BROWN: Objection to form.
THE WITNESS: By definition that we established previously, individual gender identity is their own sense of self of their internal sense

of gender. So I'm having a hard time thinking through when an individual's declaration of their gender identity would ever be incorrect because it is their own understanding of their gender.

Q. Thank you. That's helpful. Let's go to your report, paragraph 14, which is on page four.

A. Okay. Page four of the report. Paragraph 14?

Q. Yes.

A. We are there.

Q. Great. Does it say that many transgender people become aware of their gender identity at a very early age? Is that what the report says?

A. That is in the report.

Q. Do you still agree with that statement today?

A. Yes.

Q. You used the phrase "at a very early age." What ages do you mean by that phrase here?

A. In the literature, there is evidence that children and people can start to become aware of their gender as young as three years old or younger. It is going to vary by individual and by their unique abilities.

Q. What is the youngest a patient has told you that they are transgender?

MS. BROWN: Objection to form.

THE WITNESS: In my clinical experience, I have heard patients and their caregivers recount that they first became aware and shared their gender identity at the age of two or three.

BY MR. HILDABRAND:

Q. Just to clarify, is that a transgender identity they shared at the age of two or three?

MS. BROWN: Objection to form.

THE WITNESS: Can you restate the question for me, please?

BY MR. HILDABRAND:

Q. Glad to. So are you aware of children ages two to three expressing a gender identity inconsistent with their sex assigned at birth?

A. Yes.

Q. Have children at the ages of two to three who have expressed a gender identity inconsistent with their sex assigned at birth been treated at VPATH?

MS. BROWN: Objection to form.

THE WITNESS: Within the VPATH Clinic, I am not aware of the specific age range for all of the patients seen by all of the providers in our clinic. So I don't know that I am aware of how to answer that question at this point.

BY MR. HILDABRAND:
Q. What's the youngest age child who expressed a gender identity inconsistent with their sex assigned at birth that you are aware being treated at VPATH?
MS. BROWN: Same objection.
THE WITNESS: I am aware of children who are probably six years old that have been -- who have met with one of the providers in our interdisciplinary clinic.
BY MR. HILDABRAND:
Q. Are you aware of children at ages five or younger who have met with professionals at VPATH?
A. It is certainly possible that children under six years old could meet with one of the professionals.
Q. But today you're not aware one way or the other?
A. I am not.
Q. All right. Going back to Exhibit 5, the YouTube video. Actually, before we do that, what percentage of children persist in their expressed transgender identity?
MS. BROWN: Objection to form.
THE WITNESS: We would need some additional context to answer that question.

BY MR. HILDABRAND:
Q. What's your estimation of the percentage of children that persist in their gender identity? And feel free to break it out if you want to between prepubertal children or children in the middle of puberty or children are teenagers who have completed puberty?
MS. BROWN: Same objection.
THE WITNESS: So the question is around individuals who persist in their gender identity. And there is a high percentage of individuals, children and adolescents who, upon sharing and discovering their gender identity, will persist in their identity.
BY MR. HILDABRAND:
Q. Let's go in the video, Exhibit 5, to the 12:15 mark. We're not going to listen to anything here. We're just going to just look at the screen if you can see that.
MS. BROWN: I'm sorry, Clark. What's the title of the video?
MR. HILDABRAND: Oh. This is the more recent one, the Path to Affirmative Medical Care for Transgender/Gender Diverse Youth.
MS. BROWN: So are we done with audio?

MR. HILDABRAND: Don't need the audio.

MS. BROWN: Okay. Well, we have it pulled up.

BY MR. HILDABRAND:

Q. In about the 12:15, 12:20 mark, the slide there.

MS. BROWN: Okay. We're at 12:16.

BY MR. HILDABRAND:

Q. Does this slide say considerations for youth?

A. Yes.

Q. Then does it say validity in prepubertal children versus adolescents?

A. It does.

Q. What percentage does it give for how children persist?

A. On this slide from, I believe it was a presentation in 2020, it says: Fluidity in prepubertal children versus adolescents and the first bullet point is children persist 12 to 27 percent.

Q. And just to be fair with you earlier, in the bottom right-hand side corner, is there anything that it looks like the slide is citing?

A. Yes, sir. There are several articles that are cited on this slide.

Q. And then going back up, does it say that adolescents near 100 percent persistence?
A. It does.
Q. In your experience as a psychologist, is it 12 to 27 percent persistence, do you find that accurate for children?
MS. BROWN: Objection to form.
THE WITNESS: In my professional practice, I find this number is significantly lower than what I have experienced in practice.
BY MR. HILDABRAND:
Q. And then for the adolescents near 100 percent persistence, is that accurate with what you've found in your practice?
MS. BROWN: Same objection.
THE WITNESS: In my professional practice adolescents have 100 percent persistence.
BY MR. HILDABRAND:
Q. Are you aware of any academic studies done of individuals who have desisted from an express transgender gender identity?
MS. BROWN: Objection to form.
THE WITNESS: Define what you mean by academic studies in this case.
/ /

BY MR. HILDABRAND:
Q. A peer-reviewed journal article, for example.
A. And the question was a peer-reviewed journal article about what?
Q. A peer-reviewed journal article about individuals who previously expressed that their gender identity was inconsistent with their sex assigned at birth but later expressed that they were incorrect and that their gender identity really was consistent with their sex assigned at birth?
MS. BROWN: Objection to form.
THE WITNESS: There has been peer-reviewed studies on a number of topics, including individuals' persistence of gender identity.
MR. HILDABRAND: Travis, can you go ahead and circulate Document K.
THE WITNESS: We have that open.
BY MR. HILDABRAND:
Q. And what is the title of this article?
A. It reads: Individuals Treated for Gender Dysphoria with Medical and/or Surgical Transition who Subsequently Detransitioned, A Survey of 100 Detransitioners by Lisa Littman.
Q. And what journal does this appear to be

published in? And --
A. This is published -- I'm sorry. Go ahead.
Q. I'm sorry, just for help, toward the top would be somewhere to look. But if you want to answer.
A. Yes. It's published in the, appears, in The Archives of Sexual Behavior, 2021.
Q. Is that a reputable journal?
MS. BROWN: Objection to form.
BY MR. HILDABRAND:
Q. In your professional experience, is this the sort of journal whose articles you might rely upon?
A. I am not familiar with the specifics of this journal. And it appears to be a publication from that journal, however.
Q. Have you read this article or heard about it before?
MS. BROWN: Objection to form.
THE WITNESS: I have read this article in the past.
BY MR. HILDABRAND:
Q. Do you remember what your impression of the article was when you read it?
MS. BROWN: Objection to form.
THE WITNESS: Is the question about when

I initially read the article?
BY MR. HILDABRAND:
Q. What's your -- do you have an opinion about this article?
MS. BROWN: Objection to form.
THE WITNESS: I would need to review the article again. It has been sometime since I last read this article.
BY MR. HILDABRAND:
Q. All right. So let's go through parts of this article and discuss.
A. Okay.
Q. I'll point you to parts of it in just one second.
MS. BROWN: Is it zoomed in enough for you?
THE WITNESS: Yeah, I can see it. Thank you.
BY MR. HILDABRAND:
Q. So under introduction, do you see the first line? Can you read that out?
A. Uh-huh. Detransition is the act of stopping or reversing a gender transition.
Q. Do you agree that that is a fair definition of the word "detransition" in this field?

MS. BROWN: Objection to form.

THE WITNESS: This is a definition of detransition and our field uses other terms to describe this phenomenon as well.

BY MR. HILDABRAND:

Q. What terms would you use to describe this phenomenon?

A. One common term that's been identified in the field is also retransition.

Q. Is detransition a term that others in your field use to describe this?

MS. BROWN: Objection to form.

THE WITNESS: Some professionals use the term "detransition".

BY MR. HILDABRAND:

Q. How many of your patients have ever detransitioned or retransitioned?

MS. BROWN: Objection to form.

THE WITNESS: We would need to define those terms of detransition or retransition to answer that question.

BY MR. HILDABRAND:

Q. How many of your -- how many of the individuals you have treated in your practice have stopped or reversed a gender transition?

MS. BROWN: Objection to form.

THE WITNESS: None of my patients have ever stopped or reversed a gender transition.

BY MR. HILDABRAND:

Q. Are you aware of any patients at VPATH who have stopped or reversed a gender transition?

MS. BROWN: Objection to form.

THE WITNESS: I am aware of one case by another provider in the Interdisciplinary Clinic of an individual who identified as retransitioning.

BY MR. HILDABRAND:

Q. Can you give me any particulars you can remember about that case without providing names of the individual?

MS. BROWN: Objection to form.

THE WITNESS: Which particulars would you be interested in?

BY MR. HILDABRAND:

Q. Sure. Have they been on puberty blockers at any point in their treatment to the best of your knowledge?

A. So the patient I am thinking of I did not have contact with. And in fact I believe they may have established care prior to the initiation of our interdisciplinary clinic at VPATH with one of our

endocrinologists. So I'm not aware of many of the details of their case.

Q. Which professional at VPATH would be aware of the details of that case?

A. I believe it was a patient of Dr. Jennifer Najjar, who is a pediatric endocrinologist.

Q. Thank you. If it's the case that that doctor handled, I'll stop asking you questions about it.

Going back up to the abstract of this. Do you see where it says that only 24 percent of respondents informed their clinicians that they had detransitioned?

A. I see that text in the abstract, yes.

Q. Do you mainly treat children and adolescents?

A. I work with children, adolescents, young adults, and their caregivers.

Q. What's the age range of patients whom you treat?

A. Are you asking about current caseload or in my practice in general?

Q. We can ask current caseload first.

A. Okay. In my current caseload, I have patients I would estimate who are seven to 22.

Q. Are most of your patients under the age of 18?

A. Many of my patients are under the age of 18. I would agree that most are, yes.
BY MR. HILDABRAND:
Q. How long have you been licensed to practice psychology in Tennessee?
A. I believe I have been licensed since 2017 in the state of Tennessee.
Q. Any states prior to that where you were licensed to practice psychology?
A. No. I was licensed as soon as I was eligible.
Q. And so that's about five years; is that correct?
A. Yes.
Q. So you have not been treating -- there is no patient you have been treating -- I'm sorry. Rephrase.
Are there any patients you are treating whom you have been treating for more than five years?
A. I have some patients in my practice that I have had a treatment relationship with since I would say the start of my predoctoral internship or the year of my predoctoral internship, which would be 2015 or 2016.
Q. So you have not been treating -- you do not

have any relationship with a patient who you been treating that's lasted more than eight years; is that correct?

A. That's correct.

Q. All right. So earlier you mentioned that you wrote a thesis that was required to receive your Master's of Science from Auburn University; is that correct?

A. Yes.

MR. HILDABRAND: Travis, can you circulate Document G. And we'll mark that as Exhibit 6.

THE REPORTER: Did we mark Exhibit K?

MR. HILDABRAND: Oh, you're right. I think that one should be marked Exhibit 6 and this will be Exhibit 7.

(WHEREUPON, documents were marked as Exhibit Numbers 6 and 7.)

BY MR. HILDABRAND:

Q. Just one second. All right. If you can see that, what is the title of this document?

A. It says Examining Executive Functioning Deficits in Juvenile Delinquents with a History of Trauma Exposure.

Q. And who is the author?

A. Myself, Melissa Cyperski.
Q. Is this the thesis you submitted for your MS?
A. It appears that way. This is the title page. We've not reviewed the full document.
Q. On the title page, does it say approved by and lists three different professors?
A. Yes.
Q. All right. Let's turn to page 20 in the PDF. This will be page 14 in the thesis pagination but it'll be page 20 in the PDF.
A. Which page on the document? We're on page 20 of the PDF, but to confirm.
Q. Page 14 in the thesis's pagination.
A. Yes.
Q. Do you see -- in the first full paragraph, do you see the line that says: Throughout their lifetime, trauma survivors of both sexes experience increased rates of new disturbance, anxiety, disordered personality, maladaptive eating and substance use, ADHD, and oppositional defiant behavior?
A. I see that sentence in the document.
Q. In that sentence, did you use the phrase "both sexes"?
A. In this document from 2012, I did use the

term "both sexes".
Q. Do you still use the phrase "both sexes" today?
MS. BROWN: Objection to form.
THE WITNESS: I would not use the terminology "both sexes" today.
BY MR. HILDABRAND:
Q. So you would not use the terminology today that you used in your MS thesis ten years ago?
MS. BROWN: Objection to form.
THE WITNESS: I would use current terminology and my understanding of the literature and the state of our science in our field in my practice today.
BY MR. HILDABRAND:
Q. So is both sexes not current terminology?
MS. BROWN: Objection to form.
THE WITNESS: It is not consistent with my current practice.
BY MR. HILDABRAND:
Q. All right. Let's go back to your report. This is Doc A, Exhibit 1. Let's go to -- it's page 21 in the PDF, page 11 in the CV.
A. Page 21 of the PDF and I believe that this is 11 of the CV. We are scrolling to confirm. Yes, we

are there.
Q. Does this list all the articles you have published?
A. It does list peer-reviewed articles that I have published, yes.
Q. Have you published any since submitting your expert report?
A. No.
MR. HILDABRAND: All right. Do y'all want to take a break here? We've been going for about an hour since then, or do you want to keep going?
MS. BROWN: We're happy to take a break.
MR. HILDABRAND: Okay. Let's go off the record, then.
(Recess observed.)
MR. HILDABRAND: So I have about three hours and 12 minutes on the record so far.
BY MR. HILDABRAND:
Q. So going back to your CV, we were just discussing this list of articles. Is the first article listed there titled: Disproportionate minority contact: Comparisons across juveniles adjudicated for sexual and non-sexual offenses? Is that the article title?

A. Yes. Yes.
Q. Does it appear that the subject of this article is the mental health of transgender adolescents or children?
MS. BROWN: Objection to form.
THE WITNESS: So I would need to review the specifics of that article.
BY MR. HILDABRAND:
Q. If you can't remember off of the top of your head, that's fine. You can't just remember right now that that's the subject of it?
A. The subject is related to the concept of disproportionate minority contacts.
Q. So the second article is: Installing trauma-informed care through the Tennessee Child Protective Services Academy.
Do you remember -- and of course feel free to say if you can't remember off the top of your head right now -- whether or not that was related to the subject of the mental health of transgender adolescents or children?
A. That paper is not related to transgender individuals.
Q. And then the third article is: Heterogeneity in male adolescents with illegal sexual behaviors:

A latent profile approach to classification. Is that the title of the article?
A. Yes.
Q. Do you recall whether or not the subject of that article is the mental health of transgender adolescents or children?
A. That article is not related to transgender children or adolescents.
Q. And then the last article here is titled: Supporting transgender/gender diverse (TGD) youth across settings in systems of care: Experiences from a pediatric interdisciplinary clinic. Is that the title of the article?
A. It is.
Q. And that would be related to the subject of the mental health in transgender adolescents or children?
A. Correct.
MR. HILDABRAND: Travis, can you circulate Document H. And we'll mark that as Exhibit 8 I believe is the number we're on.
(WHEREUPON, a document was marked as Exhibit Number 8.)
BY MR. HILDABRAND:
Q. Thank you. Dr. Cyperski, when you can see

that, what is the title of the article here?
A. We can see it. The title reads: Supporting transgender/gender diverse youth across settings and systems of care: Experiences from a pediatric interdisciplinary clinic.
Q. Does this appear to be the fourth article listed in your CV?
A. It does appear that way, yes.
Q. And who are the authors of this article?
A. Authors are Melissa Cyperski, along with Drs. Mary Romano and Cassandra Brady.
Q. And do you work with Mary Romano and Cassandra Brady at Vanderbilt University Medical Center?
A. I do.
Q. If you can remember, what is the subject of this? What is this article about?
A. From what I can recall, this article is about ways to support transgender youth across various settings and systems of care, so different ways that youth, that providers can support youth in various situations and settings in which they interact on a daily basis.
Q. And was this a peer-reviewed article?
A. It was.

Q. Did you conduct any scientific experiment --

MS. BROWN: Objection to form.

BY MR. HILDABRAND:

Q. -- in providing this article?

MS. BROWN: Same objection.

THE WITNESS: Have I conducted scientific experiments before writing this article? Yes.

BY MR. HILDABRAND:

Q. Did you conduct a scientific experiment to contribute to writing this article?

A. Scientific experimentation was not a part of writing this article.

Q. Thank you for clarifying. So there wasn't -- this article doesn't involve a control and experiment group?

MS. BROWN: Objection to form.

THE WITNESS: There is no control or experiment group in this paper.

BY MR. HILDABRAND:

Q. All right. Was there any statistical -- original statistical analysis conducted in this article?

MS. BROWN: Objection to form.

THE WITNESS: This paper does not

include original statistical analysis.
BY MR. HILDABRAND:
Q. Does this article reflect your opinion at the time, along with the opinions of the other authors listed?
MS. BROWN: Objection to form.
THE WITNESS: This article reflects our experiences and practices and recommendations at the time.
BY MR. HILDABRAND:
Q. So on PDF page one, the first page here, Journal page 242, in the middle column, can you read the first two sentences here, starting with therefore?
A. I'm not seeing. At the top of the second column?
Q. Do you see a therefore, the purpose of this paper is?
A. Yes.
Q. Do you mind reading that sentence and then the sentence that follows it?
A. Sure. Therefore, the purpose of this paper is to outline several possible opportunities for mental providers or other healthcare professionals to advocate for transgender and gender diverse

patients, TGD patients, in order to address their psychosocial needs, enhance health outcomes, and promote resiliency across setting. Do you want me to continue?

Q. If you want to finish the second sentence. Sorry about that.

A. Do you want me to read the second sentence, too?

Q. Yes.

A. Okay. We hope to highlight various strategies or actions providers can take as needed to support patients and their families on an individual, community, or systemic scale.

Q. Was a purpose of this paper to encourage advocacy by mental health professionals?

MS. BROWN: Object to form.

THE WITNESS: Define what you mean by advocacy.

BY MR. HILDABRAND:

Q. How do you understand the word "advocacy" as used in this paper?

A. I would need to review this paper more specifically.

Q. Okay. We'll do that. Let's look at the left-hand column here.

A. Okay.
Q. Do you see about halfway down, where you describe studies about how transgender individuals are more likely to consider suicide?
A. I believe I know where you're looking.
Q. Is it consistent with your experience and practice that transgender individuals are more likely to consider suicide?
MS. BROWN: Objection to form.
THE WITNESS: The question of comparison, more likely than what?
BY MR. HILDABRAND:
Q. More likely than, for example, cisgender individuals?
MS. BROWN: Objection to form.
THE WITNESS: Can you restate the question for me, please?
BY MR. HILDABRAND:
Q. Of course. Is it your experience and practice that transgender individuals are more likely to consider suicide than cisgender individuals are?
MS. BROWN: Same objection.
THE WITNESS: There is a body of evidence which suggests that transgender individuals

may have higher percentages of suicidality or suicide attempts when compared to their cisgender peers.

BY MR. HILDABRAND:

Q. I know it's a weighty subject, but have any of your patients ever attempted suicide?

A. Unfortunately, I have had patients who have attempted suicide in the past, yes.

Q. Have any attempted suicide after beginning a patient-provider relationship with you?

MS. BROWN: Object to form.

THE WITNESS: Individuals have attempted suicide after establishing a therapeutic relationship with me as their provider.

BY MR. HILDABRAND:

Q. About how many patients in that category have attempted suicide?

A. I can think of two individuals who have attempted suicide.

Q. Toward the bottom of the left column, do you see where you say that healthcare professionals and mental health counselors in particular are in a unique position to recognize, respond to, and advocate for the multifarious and complex needs of TGD youth? Do you see that?

A. I do.
Q. Just to clarify, what are TGD youth?
A. TGD stands for transgender or gender diverse.
Q. Are there other individuals in the gender diverse category who are not transgender?
MS. BROWN: Object to form.
THE WITNESS: There are individuals who identify as gender diverse.
BY MR. HILDABRAND:
Q. Who would not identify as transgender?
A. There are individuals who identify as various gender identities which are broadly conceptualized as gender diverse that do not specifically identify as transgender.
Q. Thank you.
A. Uh-huh.
Q. Then here I think you mention that: However, professionals may hesitate to step into the role of patient advocate for a variety of reasons, including a lack of awareness about appropriate resources for SGN patients and fear of overstepping their boundaries as a provider or operating outside the bounds of their competence, even if they feel strongly about the cost. Is that what the authors wrote here?

A. Yes. That's in the text.
Q. Is this a valid concern for health professionals to be hesitant about engaging in advocacy?
MS. BROWN: Object to form.
THE WITNESS: I'm not sure what is meant by valid concerns.
BY MR. HILDABRAND:
Q. Is it acceptable for health professionals to hesitate or not step into the role of patient advocate?
MS. BROWN: Same objection.
THE WITNESS: Acceptable would be a matter of personal preference and attitude.
BY MR. HILDABRAND:
Q. So some health professionals may have personal preferences not to step into the role of patient advocate; is that correct?
MS. BROWN: Same objection.
THE WITNESS: Some professionals may hesitate for various reasons to step into a role of advocate for their patient.
BY MR. HILDABRAND:
Q. Is it unprofessional for a health professional to decide not to step into the role of

a patient advocate?

MS. BROWN: Objection to form.

THE WITNESS: I think we would need to define what patient advocate means or what the term "advocate" means.

BY MR. HILDABRAND:

Q. How did you understand the term "patient advocate" as it's used here?

A. Uh-huh. So my impression of the term "patient advocate", as represented in this article, would be professional who is acting or seeking in the best interest of their patient and seeking to ensure that their patient is getting the care that they need.

Q. Does that include speaking to individuals other than the patient?

MS. BROWN: Objection to form.

THE WITNESS: In what way?

BY MR. HILDABRAND:

Q. Would that include speaking to elected officials?

MS. BROWN: Objection the form.

THE WITNESS: It would be a question of what role that professional was playing in various behaviors.

BY MR. HILDABRAND:
Q. Is it normal for psychologists to discuss transgender medicine with elected officials?
MS. BROWN: Objection to form.
THE WITNESS: Define what you mean by normal.
BY MR. HILDABRAND:
Q. In your professional expertise and experience, is it often the case that psychologists are expected as part of being a psychologist to discuss transgender medicine issues with elected officials?
MS. BROWN: Same objection.
THE WITNESS: So the American Psychological Association, for example, has information about professional roles and responsibilities and would be perhaps one governing body that might be able to answer the question related to the role of a psychologist in this manner.
BY MR. HILDABRAND:
Q. Is it an appropriate role of psychologists to tell politicians what laws to pass or not to pass?
MS. BROWN: Objection to form.
THE WITNESS: It would be an appropriate

role for a psychologist or mental health professional to have conversations and to provide information that may inform practices that I would say, that impact truly their patient population.

BY MR. HILDABRAND:

Q. Do you consider that provision of information to elected officials advocacy?

MS. BROWN: Objection to form.

THE WITNESS: It would, again, be a question of the definition of advocacy.

BY MR. HILDABRAND:

Q. Would that be part of your definition of advocacy is the question, the provision of information to elected officials on transgender medicine?

MS. BROWN: Objection to form.

THE WITNESS: I think there are many possible definitions and as we said advocacy may take shape.

BY MR. HILDABRAND:

Q. Would you understand that under your definition of advocacy to include discussing laws relating to transgender medicine with elected officials? Is that according to your definition of advocacy, advocacy?

MS. BROWN: Same objection.

THE WITNESS: Informing legislation that benefit or harm an individual and the patient population may be a role of a psychologist in terms of protecting the wellbeing of their patient population and advocating or truly supporting rather than advocating the needs and wellbeing of their patients.

BY MR. HILDABRAND:

Q. Let's turn to the upper right-hand column in the first full paragraph here.

Do you see where it says: For example, imagine you are working with a student who identifies as nonbinary and is repeatedly misgendered with consistent incorrect pronoun usage by one of their teachers. As the provider, you offer to reach out to their teacher to express your concerns and request they change their classroom behavior to become more affirming but the patient declines and indicates they would like to talk with their teacher independently first.

Is a psychologist talking with a patient's teacher advocacy?

MS. BROWN: Objection to form.

/ /

BY MR. HILDABRAND:
Q. Sorry. To clarify, is a psychologist talking with a patient's teacher about the usage of pronouns advocacy?
MS. BROWN: Same objection.
THE WITNESS: I think the psychologist talking with a patient's teacher about any of their mental health needs, including about the possibility and importance of using that individual's pronouns, is within the role of a psychologist to speak to the wellbeing and needs of their client.
BY MR. HILDABRAND:
Q. Including if the psychologist feels it necessary, the teacher's use of what the psychologist used as incorrect pronouns, correct?
A. The use of incorrect pronouns has been widely established in the literature as a harmful, destructing experience for transgender individuals. And so as a psychologist and mental health provider, it might be important to collaborate with a patient around their needs in the school setting and then to discuss what would be supportive of their mental health and reducing or eliminating their distress at school.
BY MR. HILDABRAND:

Q. What are the correct pronouns to use for a nonbinary student?

MS. BROWN: Objection to form.

THE WITNESS: Pronouns vary by individuals. It would be important to collaborate and discuss with each individual what were their pronouns.

BY MR. HILDABRAND:

Q. Could they include pronouns other than he/him or she/her?

A. They could.

Q. Could they include pronoun such as they/them to refer to an individual student?

A. It might, yes.

Q. Could they include pronouns other than the ones we just discussed to refer to that student?

A. Yes, it could.

Q. What should a psychologist do if the teacher says that she does not want to use what she used as biologically inaccurate pronouns?

MS. BROWN: Object to form. Sorry.

BY MR. HILDABRAND:

Q. Should the teacher -- should the psychologist still recommend that the teacher use the pronouns the teacher views as biologically inaccurate?

MS. BROWN: Same objection.

THE WITNESS: I don't understand what's meant by biologically accurate or inaccurate pronouns.

BY MR. HILDABRAND:

Q. Sure. I'll explain. So imagine that there were a child whose sex assigned at birth is female but the child identifies as nonbinary and prefers the pronouns they/them. If the teacher says that she will only use she/her pronouns to refer to the student, is that incorrect of a teacher to do so?

MS. BROWN: Object to form.

THE WITNESS: For an individual who has expressed that they do they/them pronouns, those would ideally be the pronouns that are used for that individual across settings. Use of other pronouns, and particularly use of pronouns consistent with their sex assigned at birth, have been demonstrated to be damaging to that individual's mental health and may worsen experiences of gender dysphoria.

BY MR. HILDABRAND:

Q. Could it damage the mental health of the teacher if she were forced to use the they/them pronouns in that scenario?

MS. BROWN: Object to form. And scope.

THE WITNESS: I would be curious what you mean by damage the teacher's mental health.
BY MR. HILDABRAND:
Q. So you said it can be hurtful to the student for the teacher to fail to use the pronouns the student prefers. But what about the teacher? Could it be harmful to a teacher to be forced to use pronouns that do not match the child's sex assigned at birth?
MS. BROWN: Same objection. Scope.
THE WITNESS: So my practice tends to focus on children and adolescents and young adults. I have not evaluated teachers in this particular instance who may have this experience.
BY MR. HILDABRAND:
Q. So you would not be able to offer an expert opinion about the mental health of the teachers?
MS. BROWN: Objection to form.
THE WITNESS: It is not within the scope of the expert report I offered.
BY MR. HILDABRAND:
Q. Thank you. Also on here it describes role-playing sessions with nonbinary or transgender students to prepare for having those discussions with teachers.

Have you engaged in role-playing sessions with nonbinary or transgender patients before they discuss the issue of the use of pronouns with teachers or family?

MS. BROWN: Objection to form.

THE WITNESS: Can you repeat the specific question for me?

BY MR. HILDABRAND:

Q. Have you engaged in role-playing sessions of the sort described here in the right column that you recommend for psychologists to do? Have you engaged in such role-playing discussions with students about playing through the student, the transgender and nonbinary student, discussing with the teacher or a parent the pronouns that the student prefers?

A. The use of role play is a common activity in child and adolescent mental health and I -- from what I can recall, I have engaged in role play with transgender or nonbinary individuals.

BY MR. HILDABRAND:

Q. Is that something that insurance companies would reimburse your time for?

MS. BROWN: Objection to form, and objection to scope.

THE WITNESS: So I do not know the ins

and outs of billing. But, yes, my understanding is that that is a common and respected practice in psychotherapy to engage in interpersonal role play, and I have no evidence to suggest that it is not reimbursable.

BY MR. HILDABRAND:

Q. I won't go into billing practices, but are any of your patients on Medicaid?

MS. BROWN: Objection to scope. This is like nothing that -- like at all relevant.

MR. HILDABRAND: Again, if you have an objection, you can note objection to form, objection to scope, but not speaking objections.

BY MR. HILDABRAND:

Q. Can you please answer my question?

MS. BROWN: I'm going to be very clear that it's my right and I will speak and so I would appreciate if you didn't say that again. I'm not going to go back and forth with you but it's the right under the case law and the rules. So, again, the objection stands. You can continue to ask your question.

MR. HILDABRAND: Yes. And also in the case law not to give speaking objections.

/ /

BY MR. HILDABRAND:
Q. Can you please answer the question. Are any of your patients on Medicaid?
MS. BROWN: Same objection. Scope. Relevance.
THE WITNESS: Many of my psychotherapy clients have commercial insurance. Patients in the VPATH Clinic have TennCare, which I believe would be consistent with medicaid.
BY MR. HILDABRAND:
Q. All right. Thank you. Now, let's go to PDF page two. This is page 243 in the article, left column. Can you see the paragraph that starts, for example?
A. I believe so, yes.
Q. And so it says here: For example, consider the case of a transgender adolescent male who is forbidden by his high school to participate in extracurricular activities in his affirmed gender.
Was that a case that one of the authors of this article encountered?
A. We have many cases of individuals who may be forbidden from participating in activities in their affirmed gender. And as far as this scenario was based on a particular case, yes.

Q. Was it based on one of your patient's case or if you can remember?
A. I would need to review the example to be certain.
Q. So it goes on to say: Therefore, upon obtaining consent from a patient, his healthcare provider advocated directly on his behalf by expressing concern to school administrators in a letter of support.
If you can remember, who was the healthcare provider who advocated directly?
A. Review of the additional context in this paragraph, the information above that sentence, I believe this particular paragraph is about a patient of mine, although many of the providers in our Interdisciplinary Clinic also write letters of support.
Q. So is that patient at a school in Tennessee?
A. I'm trying to recall which patient this may have been specifically. Many of my patients are in Tennessee. Clinic also supports patients in other surrounding states as well.
Q. And if you can't remember, that's fine, and we can move on. But do you recall at this point in time?

A. I -- I think I am remembering the patient. And, yes, it was a student in Tennessee.
Q. All right. Continuing in the middle column here.
A. Uh-huh.
Q. Do you see where: As is to be expected, sociopolitical factors often dictate the extent to which the school system may be able to accommodate requests and adapt their policies? It goes on, and feel free to read the rest of the sentence if you want to.
But what did you mean here by sociopolitical factors?
A. My interpretation of sociopolitical factors in this context in this paragraph and in the article could be referring to a number of things, but would include correct legislation.
Q. What sort of legislation? Is that what you said?
A. Uh-huh.
Q. Do you mean like the legislation in this case or is there other legislation that you have in mind?
MS. BROWN: Objection to form.
THE WITNESS: It may be legislation such as in this case or legislation pertaining to other

transgender-related concerns.
BY MR. HILDABRAND:
Q. So the sentence goes on to say: However, it has been our experience that educational staff members will hear and respond to individual requests to the extent possible.
Has that been your experience here in Tennessee?
A. I have experienced many educators to be responsive and kind but not all.
Q. Going down this column, it describes -- and feel free to read it if you want to. Going down the column and on to the right-hand side here, that column, it describes compromises that are sometimes reached with other members of the extracurricular activities. For example, I believe here the school district may agree that an individual youth can be offered the opportunity to participate in extracurricular activities in their affirmed gender if the parents of other team members agree and offer a statement of support.
Is that a compromise that you have been aware has been reached here in Tennessee at any point in time?
MS. BROWN: Object to the form.

THE WITNESS: What would be the specific compromise in question, again?

BY MR. HILDABRAND:

Q. Asking other parents if they'd consent to having the transgender individual play on the sports team that he or she prefers?

MS. BROWN: Object to form.

THE WITNESS: I'm sorry, I think I got lost. So a question about asking other parents -- can you repeat it one more time for me? I'm so sorry.

BY MR. HILDABRAND:

Q. No. It's been a long day. So this describes a compromise where other parents on the team are asked whether or not they would consent to an individual who wants to play on the team that matches their gender identity would consent to that individual playing on the team. Is that a compromise that you are aware any team in Tennessee has reached in the past few years?

A. So if I am reading correctly, I'm not seeing specifically related to this instance of a team, although it may be reflective of an athletic policy and submitting that language in the report, but that -- let's see. I'm reading again.

Q. I guess it refers to extracurricular activity. Is that the language that it uses?
A. Yes. Extracurricular activities in their affirmed gender. And then I could see if other team members. Uh-huh.
Q. Is there a compromise that you're aware has been reached at any point in Tennessee?
A. I am not aware of that particular compromise being reached in Tennessee. I think the case in question, if I'm recalling correctly, was about an individual who wished to go on an overnight band trip.
Q. Thank you. All right. Let's turn to page three in the PDF, page 244 in the Journal. I'll go to the top left column.
A. Page three of the PDF, top left. Okay.
Q. And then let's go to the first full paragraph. Do you see where it says: Consider the case of?
A. Yes.
Q. So it says: Consider the case of the TGD adolescent who experienced bullying when using the restroom associated with their affirmed gender at school. Is that what the first line here says?
A. Yes.

Q. And feel free to read through silently if you want to the rest of the paragraph. But does it say at the end that -- just one second. Sorry. The next paragraph begins: The school system was initially frustrated and resisting to making such accommodations as they believe they had already provided reasonable accommodation. However, they were ultimately swayed by persistent advocacy and articulation of the patient's need in a sensitive matter. Do you see that?

A. I see that statement, yes.

Q. Does this describe a case where you advocated on behalf of the patient or one of the other authors advocated on behalf of the patient?

A. I'm not certain. I'm not recalling this particular case in my own practice.

Q. Then about midway down through that paragraph, do you see where it says: Although the provider was singularly focused in advocating for the youth's right and need to feel comfortable and safe using the restroom of their choosing. He goes on to describe the presentation of this information was balanced and validated the school's concerns.

Is it appropriate for a professional to be singularly focused only on the individual patient's

rights when doing this sort of advocacy?

MS. BROWN: Objection to form.

THE WITNESS: I'm not sure what you mean. Can you restate the question, please?

BY MR. HILDABRAND:

Q. So when a provider is doing advocacy about bathroom use for transgender or nonbinary youth, is it acceptable, professionally acceptable for the provider to be singularly focused only on the patient's interest?

MS. BROWN: Objection to form, scope, and relevance.

THE WITNESS: I think it can be very important for a healthcare professional to be focused in what are the needs of their patient that would support their health and wellbeing.

BY MR. HILDABRAND:

Q. Is that the only interest a psychologist should consider?

MS. BROWN: Object to the form.

THE WITNESS: What other interests would we be considering?

BY MR. HILDABRAND:

Q. That's my question. What other interests should the psychologist consider?

MS. BROWN: Same objection.

THE WITNESS: So the question is what are other interests a psychologist should consider?

BY MR. HILDABRAND:

Q. Before engaging in this advocacy, are there any other interests the psychologist should consider?

MS. BROWN: Same objection.

THE WITNESS: I think it would be appropriate for a psychologist, mental health provider or other healthcare professional, to be focused on their patient's needs and what supports their health and wellbeing.

BY MR. HILDABRAND:

Q. Anything else that they should be focused on?

MS. BROWN: Same objection.

THE WITNESS: I think it would depend and there are probably lots of other things that providers could focus on. But that is an organizing principle in much of the work that we do is to promote health and wellbeing in our patients.

BY MR. HILDABRAND:

Q. All right. Turn to the right column. Do you see the paragraph that begins, data are lacking?

A. Toward the bottom of the page? Yes, I am

seeing that.
Q. So does it read: Data are lacking but anecdotally parental responses to their SGM youth are often affected by factors such as culture, socioeconomic status, and religious beliefs? Has that been your experience and practice?
A. My experience has been that parental responses vary and can be influenced by a variety of factors, including but not limited to those that are listed.
Q. How should a psychologist respond when the child expresses a gender identity inconsistent with the child's sex assigned at birth but the parents disagree and say that the child is not transgender? What should a psychologist do?
MS. BROWN: Objection to form.
THE WITNESS: The question is about an individual child or adolescent who has a gender identity incongruent with their sex assigned at birth and the parents are not supportive? Is that right?
BY MR. HILDABRAND:
Q. And the parents do not agree that the child is transgender, should the child still be treated as transgender?

MS. BROWN: Same objection.
THE WITNESS: So in the psychologist's practice, we would really look to the best practice guidelines, including the WPATH and the Endocrine Society to help us navigate complex individualized patient situations. We would collaborate with the youth and their caregiver to determine an appropriate course of action that really promotes the health and wellbeing of that individual patient.
BY MR. HILDABRAND:
Q. Have you ever treated a patient as transgender where the parents disagree about whether the child is transgender?
MS. BROWN: Objection to form.
THE WITNESS: I have worked with individuals who identified as transgender and parents were not supportive of their child's gender identity.
BY MR. HILDABRAND:
Q. When you say not supportive, do you mean that the parents do not agree that the child was transgender?
MS. BROWN: Object to the form.
THE WITNESS: I am not sure about parents' agreement with whether the child is

transgender or not. But I do recall consents where their caregivers were not supportive of their identity and exhibited behaviors accordingly, including not using their child's name and pronoun, which has been largely demonstrated in the literature as important to the health and wellbeing of the transgender individual.

BY MR. HILDABRAND:

Q. So was it psychologically -- in your opinion, in those cases where the parents refused to use the child's preferred pronoun, did that cause psychological harm to the patient?

MS. BROWN: Object to form.

THE WITNESS: I think the term "psychological harm" would be complicated and we would want to break that down further. It is very potentially damaging and distracting to an individual child when their parents and others do not use their name and pronouns.

BY MR. HILDABRAND:

Q. So in your experience as a psychologist, it can be damaging to the child if the parent declines to use the child's preferred pronouns?

A. Yes.

Q. Should parents make the final decision about

how to treat children in adolescence who have expressed a transgender gender identity?

MS. BROWN: Object to form.

BY MR. HILDABRAND:

Q. Let me rephrase. Should parents make the final decision about how to treat children in adolescence who have expressed that their gender identity is inconsistent with their sex assigned at birth?

MS. BROWN: Same objection.

THE WITNESS: I think the decisions about how to treat the child who has expressed their gender identity is different from or incongruent with their sex assigned at birth, decisions about how to move forward are -- that information is really informed by the guidelines, such as in the WPATH, in which we are striving to work together and that a mental health provider, for example, would be collaborating with that patient and their caregiver to develop a treatment plan and to work towards what would promote health and resiliency for that individual.

BY MR. HILDABRAND:

Q. I understand it would be complex. You might want to discuss -- provide your opinion and discuss

that with the patient and the parents. But at the end of the day, who makes the final decision about how to treat a minor child? Is it the patient child? Is it the psychologist or other health provider? Or is it the parents?

MS. BROWN: Again, objection to form.

THE WITNESS: I think in the field of child development and for the cisgender and gender diverse individuals, for all people and all children, right, but ideally the treatment of the child is made collaboratively with that child's wishes and voice as a part of the discussion.

BY MR. HILDABRAND:

Q. So is it your opinion that even in situations where laws do not dictate a treatment one way or the other, parents are not the final decision maker for health decisions for minor transgender children and adolescents?

MS. BROWN: Objection to form.

THE WITNESS: Is the question about who makes medical decisions?

BY MR. HILDABRAND:

Q. Who is the final decision maker? Is it the parents?

A. I'm not sure what final decision maker means.

In our practice and my clinical experience, those decisions around patient care are made collaboratively between the patient, their legal guardian, and their treatment team.

Q. Okay. So to give an example, if you recommend that a patient start hormone therapy, the patient/minor child would like to start hormone therapy but the parents say no. Do the parents get to make that decision and not start hormone therapy for their minor child?

MS. BROWN: Object to form.

THE WITNESS: In our practice, legal guardian consent is required to begin a course of treatment.

BY MR. HILDABRAND:

Q. So VPATH would not start a course of treatment like that without receiving parental or other legal guardian permission, correct?

A. What treatment specifically?

Q. Hormone therapy is the example we were using in our discussion, I think.

A. Thanks for the reminder. I appreciate it. VPATH would not initiate hormone therapy without legal guardian consent.

Q. On PDF page four, Journal page 260 -- or 245,

let's turn there. It mentions the Trans Buddy Program down here in the right column, the bottom right of the column, around the middle of the page.

A. Yes, I see it.

Q. Can you describe what the Trans Buddy Program is?

A. Sure. So I am not affiliated with that program. I'll do my best to describe what I understand it to be. The Trans Buddy Program is a part of the program for LGBTQ Health at Vanderbilt University Medical Center. And the trans study program includes a trained volunteer who can serve as a patient and guardian's request for a variety of reasons, from initiating appointments at the medical center, all the way through conclusion of the visits and receiving support thereafter.

Q. Do any of your patients have a trans buddy assigned to them?

A. I don't know that trans buddies are assigned, per se, to follow an individual over time. Patients in my clinic in VPATH have relied on support from a trans buddy in the past.

Q. Other than cases such as child abuse by a parent, are parents given access to all of their minor children's medical information at Vanderbilt

University Medical Center that you're aware of?

MS. BROWN: Object to form.

THE WITNESS: So I'm not sure of all the ins and outs of when parents are given access to the records for children and adolescents. They are, I believe, provided the option and information about the pathways to receive all of that information.

BY MR. HILDABRAND:

Q. Have you heard the phrase -- do you know what My Health at Vanderbilt is, or MHAV?

A. I do.

Q. What a My Health at Vanderbilt account would be?

A. Yes. Sorry to interrupt.

Q. Sorry to interrupt you as well. Can you just explain what your understanding of that would be?

A. Uh-huh. My Health at Vanderbilt is a patient portal consistent with my chart, which is a common practice for medical systems across the country. And it allows access to communicate with your provider, to schedule appointments, to pay your bill, to navigate all of your experiences in the Medical Center.

MR. HILDABRAND: Travis, can you circulate what I believe is Document J, VUMC Website

Parental Access.

THE WITNESS: I think it might be in the chat. And if we could take a break in a few minutes, that might be great.

MR. HILDABRAND: If you want to take a break, now is fine with me if you want to take a break. Would you like --

MS. BROWN: Sure. Let's say ten minutes.

THE WITNESS: Thank you.

(Recess observed.)

MR. HILDABRAND: Let's go back on the record. I have four hours and five minutes is what we have spent on the record so far.

BY MR. HILDABRAND:

Q. So let's go back to the document circulated as Doc J, which we will enter as Exhibit 9.

(WHEREUPON, a document was marked as Exhibit Number 9.)

BY MR. HILDABRAND:

Q. Dr. Cyperski, does this appear to be a screen capture from a Vanderbilt University Medical Center website?

A. It looks consistent with the website, yes.

Q. So going down to the bottom of PDF page one,

sorry -- going down to -- going down to page -- PDF page two, do you see where it says, Children age 13 to 17?

A. Yes, I see that.

Q. So does it say there: If your child is between the ages of 13 to 17 and you need to obtain My Health at Vanderbilt access follow these steps. If you are the biological parent, you can complete the application at the child's next appointment or download and complete the form below. My Health at Vanderbilt Account Access for Children 13 to 17. Bring it with you to the child's next appointment or visit the nearest Vanderbilt walk-in clinic as your government issued photo ID has to be verified. Ensure your child signs the application as well. Did I read that accurately?

A. Yes.

Q. And then does it say: Access to My Health at Vanderbilt can be granted within the clinic once the application is turned into the clinic staff? Did I read that accurately?

A. That's what it says.

Q. Has one of your patients or their parents ever provided to you with this form?

A. I have not received this form. This type of

administrative work is often handled at the front desk.

Q. Does it appear from this website that without this form parents would not have access to a child age 13 to 17 to their data on My Health at Vanderbilt?

MS. BROWN: Objection to form. Objection to scope. Objection to relevance.

THE WITNESS: It appears as though this website is describing how parents can gain access to My Health at Vanderbilt for children 13 to 17.

MR. HILDABRAND: Travis, can you circulate Doc I. So this would be Exhibit 10.

(WHEREUPON, a document was marked as Exhibit Number 10.)

BY MR. HILDABRAND:

Q. Dr. Cyperski, can you read to me, at the top of this, does it say: Vanderbilt University Medical Center Parental Access to the My Health at Vanderbilt, MHAV, account of a teen 13 to 17 years old? Is that what it says at the top of the first page?

A. It does say that.

Q. And turn to page two of this document. Do you see about a little less than midway down, where

it says: I understand that I may revoke this access at any time by asking my doctor to do so? Is that what it says here?
A. I see that in the text, yes.
Q. And a few lines above, does it say: Teen's agreement?
A. Yes.
Q. Have you ever seen this form before or a completed version of this form before?
A. I have not.
Q. For any of the patients that you treat, are legal guardian parents not granted access to their My Health at Vanderbilt accounts?
MS. BROWN: Objection to form. Objection to relevance. Objection to scope.
THE WITNESS: For the patients in my practice, I am not aware of patients who do not have parents or legal guardian access to My Health at Vanderbilt unless they are adults.
MR. HILDABRAND: Let's return to -- before I return, though, for opposing counsel, objection to form, relevance, and scope, do you understand relevance and scope to be outside of objection to form?
MS. BROWN: I am preserving the

objections that I want to preserve. And yes, I do understand this to be outside of the objection to form.

MR. HILDABRAND: So unless you say relevance and scope, you have not objected to relevance and scope? Is that your understanding?

MS. BROWN: Again, I'm going to make the objections I'm going to make and that's all that I can -- I can say any further, Clark.

MR. HILDABRAND: I understand. But if you're -- please keep your objections short. If you don't think that form covers relevance and scope, of course do so. It's common practice for form to cover both of those. So by using additional language beyond that, my concern is that you are coaching the witness. And so if you really think that those are outside of objection to form then of course you can use those. But if you think those are covered by objection to form, then please leave your objection to objection to form.

MS. BROWN: Again, I'm going to make the objections I'm going to make. As an attorney I would never coach my client and, again, I understand them to be especially in this context of this case and this witness, to be exactly the objections that

I have made. But I have noted your concerns and they are on the record. Thank you.

MR. HILDABRAND: Thank you. I'll understand that there are additionals there.

BY MR. HILDABRAND:

Q. All right. Let's go back to the Journal, PDF page five, Journal page 246. And just to clarify, I think this was Document H. Do you see in the bottom left column where it says: Providers who are interested in offering high quality care to TGD youth are encouraged to be aware that they will be called to go above and beyond for their patients by promoting wellness and supporting collaboration, coordination, or continuity of care outside the standard appointment time. Is that what it says there?

A. It does, yes.

Q. So is it common for psychologists to treat their patients outside the standard appointment time?

A. It was standard practice. There are a variety of activities that require completion outside of the standard appointment time.

Q. And top of the middle column, do you see the sentence that says: Therefore, providers can play

an important role in advocating at the state and federal level for legislation that honors, protects, and serves the SGM community? Is that what you wrote?

A. I see that statement, yes.

Q. Do you offer any expert testimony about what legislation that honors, protects, and serves the SGM community is?

MS. BROWN: Objection to form.

THE WITNESS: Testimony in what context?

BY MR. HILDABRAND:

Q. In this case, in your report?

MS. BROWN: Same objection.

THE WITNESS: Can you repeat the question for me?

BY MR. HILDABRAND:

Q. Yes. So you used the phrase in this article, advocating at the state and federal level for legislation that honors, protects, and serves the SGM community. Do you provide --

A. Uh-huh.

Q. Do you provide any expert testimony about what such legislation is or is not?

MS. BROWN: Objection to form.

THE WITNESS: I provide an opinion and

information in the report around the legislation in question in this case and practices that honor, protect, and serve the SGM community, which would include transgender individuals.

BY MR. HILDABRAND:

Q. So in the next paragraph, middle column, I believe you -- do you specifically cite legislation proposed by the Tennessee State Legislature in 2020? Do you see that?

A. I do.

Q. And you say that these healthcare professionals collaborated with community agencies, legal experts, and lobbyists to draft expert testimony to be presented to legislators; is that correct?

A. I see that healthcare professionals collaborated with community agencies, legal experts, and lobbyists, yes.

Q. Did you draft expert testimony to present to legislators regarding this 2020 legislation?

MS. BROWN: Object to form.

THE WITNESS: I drafted expert testimony.

BY MR. HILDABRAND:

Q. What expert testimony -- what legislation was

that expert testimony about?
A. I did not end up providing expert testimony in 2020 but my colleagues in the Interdisciplinary Clinic have.
Q. So you yourself did not draft expert testimony about 2020 legislation; is that correct?
A. I drafted testimony.
Q. Yes. So what legislation did you draft testimony about?
A. I drafted testimony about the legislation that would prevent prescribing hormones to prepubertal children. I am forgetting the specific number to the legislation.
BY MR. HILDABRAND:
Q. Was your draft for or against the legislation?
A. It was against the legislation.
Q. Did you send this draft to anyone?
A. I do not recall specifically, although it is possible we were collaborating with lobbyists and experts at Vanderbilt Medical Center. And so it is possible that I shared a draft with them.
Q. Which lobbyists were you collaborating with?
A. Forgive me, I'm trying to recall. So we partnered with professionals at Vanderbilt

University Medical Center, as well as lobbyists with Emap, whose name I believe was Jim Schmidt (phonetic) and his company.

Q. And have they requested that you draft this or is that something you just decided to do yourself?

A. I don't recall the specifics.

Q. Did that legislation that you had drafted, a document in opposition to, did it pass the Tennessee Legislature?

A. It did.

Q. Have you pinned any op ed pieces opposing pieces of Tennessee legislation?

MS. BROWN: Object to form.

THE WITNESS: I have not.

BY MR. HILDABRAND:

Q. Have you posted commentaries on social media about Tennessee legislation?

MS. BROWN: Object to form. And objection to scope.

THE WITNESS: Not that I recall.

BY MR. HILDABRAND:

Q. Have you signed any petitions about Tennessee legislation?

MS. BROWN: Same objections.

THE WITNESS: I do not recall about Tennessee specific legislation.

BY MR. HILDABRAND:

Q. Did you advocate for or against the legislation challenged in this case before its passage?

MS. BROWN: Object to the form.

THE WITNESS: I do not recall.

BY MR. HILDABRAND:

Q. Are there any other legislation in Tennessee or outside of Tennessee that you have advocated for or against because you are a psychologist?

MS. BROWN: Objection to form. Objection to scope. And objection to relevance.

THE WITNESS: I along with members of the medical community may have signed petitions that were not in support of legislation that targeted the transgender community.

BY MR. HILDABRAND:

Q. Targeted the transgender community in what ways, if you can remember?

A. I suspect that there may have been petitions against healthcare bills that would be banning affirmative care for transgender individuals --

/ /

BY MR. HILDABRAND:
Q. What sorts of care --
A. -- or other --
Q. Sorry.
A. No. Or other concerns may also have been represented. I'm not sure.
Q. What sorts of affirmative care are you talking, just because that can mean a broad category? Do you mean hormone therapy?
A. Affirmative care -- uh-huh. I'm sorry?
Q. Would hormone therapy be included in the category of affirmative care you mentioned?
A. Hormone therapy is one of many components of affirmative care.
Q. Are you concerned that it might weaken societal respect for psychologists or other mental health providers if they engaged in such advocacy?
MS. BROWN: Objection to form.
THE WITNESS: The question is about weakening public respect?
BY MR. HILDABRAND:
Q. Yes.
A. Okay. No, I'm not concerned that -- that psychologists speaking on behalf of their patient means would generate disrespect for mental health

professionals.
Q. Do you have any other concerns about psychologists engaging in that sort of advocacy?
MS. BROWN: Objection to form.
THE WITNESS: There are other concerns about engaging in speaking on behalf of patients, including fear potentially of being targeted or harassed by the public.
BY MR. HILDABRAND:
Q. So the concerns are more about the public targeting or harassing psychologists; is that correct?
MR. HILDABRAND: Objection to form.
THE WITNESS: Yes. I believe there is fear in the community of mental health providers and other healthcare providers about the repercussions from the community.
BY MR. HILDABRAND:
Q. On the right column of this PDF page five, Journal page 246, do you see where it describes establishing affirmative schools? Healthcare professionals can work with educational personnel to establish affirmative schools. Do you see that?
A. Which page is that on? I'm sorry.
Q. PDF page five, 246 in the Journal pagination.

The right column, kind of upper right.
A. I don't think I'm seeing the sentence or statement that you are looking for. Can you say it again, please?
Q. Of course. Do you see: In the community in settings where youth interact frequently, healthcare professionals can work with educational personnel to establish affirmative schools and spaces that provide a safe place for TGD patients?
A. Yes. I have located that.
Q. Can you explain for me what an affirmative school is as you used that phrase here?
A. So we likely used the term "affirmative school" to represent schools that engage in affirmative practices that have been well established in support of transgender students.
Q. Are you an expert in educational practices?
MS. BROWN: Objection to form.
THE WITNESS: I am not an educator or an expert in educational practices.
BY MR. HILDABRAND:
Q. All right. So that's -- those are all the questions about that article. But before we leave this document, can you turn to PDF page six, Journal page 247.

What is the title of the article that followed the one that you co-authored?
A. It says: Advocacy Opportunities from Academics Community Partnership. Three Examples from Transcollaboration.
Q. Are articles about advocacy the sorts of articles that often appear in this sort of journal?
MR. HILDABRAND: Objection to form.
THE WITNESS: I believe this journal called The Behavior Therapist is a part of professional organizations of psychologists and mental health professionals and this particular journal had a call for submission related to supporting special patient population.
BY MR. HILDABRAND:
Q. So they specifically requested articles about supporting patient populations such as transgender children and adolescents?
A. I believe that's true. Yes.
Q. Okay. Let's go back to your expert report. This is Exhibit 1, Doc A. And we're going to go to footnote eight, which is on page five of the report.
A. Okay. We're there.
Q. Do you see where you cited an article by Rafferty, J.?

A. Yes.
Q. Insuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents; is that the title of the article it appears?
A. Yes.
MR. HILDABRAND: All right. Travis, can you circulate Document R. We'll mark this as Exhibit 11, I believe is the number we're on.
(WHEREUPON, a document was marked as Exhibit Number 11.)
BY MR. HILDABRAND:
Q. Dr. Cyperski, is this the article by Jason Rafferty that you cited in your expert report?
A. It appears so, yes.
Q. Now, was this article, I believe it has a date down at the bottom of the page of October 2018; is that correct?
A. Yes.
Q. So this is published less than four years ago from today; is that correct?
A. If the math is right, yes.
Q. Is this an article from the American Academy of Pediatrics? Is that what it says in the bottom right?

A. It does.
Q. Are you a pediatrician?
A. I am not.
Q. Is this the sort of article that you would rely upon, though, as a psychologist?
A. I'm not sure that I would rely on this article and it was cited in context of the report and we could consider it in that context.
Q. Fair enough. Let's turn to -- it's Table 1 but it's on page two of the PDF.
A. Table 1, yes, we're there.
Q. Do you see it says: Relevant terms and definitions related to gender care?
A. Uh-huh.
Q. What is the first term?
A. The first term is sex.
Q. Can you read the definition of sex in Table 1?
A. Sure. It says: An assignment that is made at birth, usually male or female, typically on the basis of external genital anatomy but sometimes on the basis of internal gonads, chromosomes, or hormone levels.
Q. Do you agree with this definition of sex or is there an alternative definition that you provide?

Just let me know if you would tweak it in any way or provide a different definition.

MS. BROWN: Objection to form.

THE WITNESS: This appears to be an acceptable definition.

BY MR. HILDABRAND:

Q. Does this table define the term "gender" by itself?

A. I am not seeing that.

Q. Can you look at the term at the definition of agender about halfway down through the table and can you read that definition for us?

A. Uh-huh. Agender: A term used to describe a person who does not identify as having a particular gender.

Q. All right. In your professional experience, would you agree that some people do not have a particular gender?

MS. BROWN: Object to form.

THE WITNESS: In my experience an individual may identify as agender.

BY MR. HILDABRAND:

Q. In your experience, would someone identify as not having a particular gender?

A. I have not heard someone use the terms of "I

don't have a particular gender". I have heard people use the gender identity label of agender.

Q. Do any of your patients use that label to describe themselves?

A. I do not believe so.

Q. Let's go down to page three, under where it says, Mental Health Implications.

A. Okay. We are there.

Q. Do you see where it says: Evidence suggests that an identity of TGD has an increased prevalence among individuals with autism spectrum disorder but this association is not yet well understood? Would you agree with that sentence, or are there any parts of that sentence that you disagree with?

MS. BROWN: Object to form.

THE WITNESS: If this is one statement within some broader context, I don't see a reason to object with this statement.

BY MR. HILDABRAND:

Q. All right. Do you see farther down in this column where it says: Some youth who identify as TGD also experience gender dysphoria. Are there some youth who identify as transgender or gender diverse who do not experience gender dysphoria?

A. Some individuals of transgender identity or a

gender diverse identity do not experience gender dysphoria.

Q. Would it be acceptable in the standards of care to provide puberty blockers to a transgender individual who does not experience gender dysphoria?

MS. BROWN: Objection to form.

THE WITNESS: My interpretation of the practice guidelines suggests that yes, it may be appropriate.

BY MR. HILDABRAND:

Q. Would it also be appropriate to provide hormone therapy to a transgender individual who does not have gender dysphoria?

MS. BROWN: Objection to form.

THE WITNESS: So the decision about whether to pursue hormone therapy would be made between the patient and their legal guardians and their treatment team and the guidelines would support and inform the treatment plan.

BY MR. HILDABRAND:

Q. So a treatment plan might include hormone therapy for a transgender individual who does not have gender dysphoria if in those individual circumstances the patient health provider and legal guardian or parent decide on that course of action?

MS. BROWN: Object to form.

THE WITNESS: So the treatment plan for gender incongruence and what would be specifically required by the individual in question, that would be decided upon -- the treatment plan, to be clear, would be decided upon in collaboration and through an evaluation of the patient in collaboration with their legal guardian, and with their treating provider.

BY MR. HILDABRAND:

Q. And so yes or no? It might include hormone therapy even if the individual does not have gender dysphoria?

MS. BROWN: Same objection.

THE WITNESS: Yes. The treatment plan may include hormones for an individual with gender incongruence.

BY MR. HILDABRAND:

Q. So you're using a different term here. For an individual who does not have gender dysphoria, yes or no, could you answer that question not using the term "gender incongruence"?

MS. BROWN: Same objection.

THE WITNESS: Can you repeat the question for me then?

BY MR. HILDABRAND:
Q. Yes. For a transgender individual who does not have gender dysphoria -- we can have the conversation about gender incongruence in a minute. But for a transgender individual who does not have gender dysphoria, might it be acceptable for that individual or might their treatment plan include hormones? Yes or no? And then provide any additional explanation you'd like.

MS. BROWN: Same objection.

THE WITNESS: Yes. A treatment plan for a transgender individual with or without gender dysphoria may include the use of gender-affirming hormones as, again, would be decided upon after careful and thoughtful evaluation, collaboration among all the parties we've discussed before -- the patient, particularly in adolescence, their legal guardian, and their treatment team.

BY MR. HILDABRAND:
Q. And might a treatment plan for a transgender individual who does not have gender dysphoria also include surgery? Yes or no? And then any further explanation.

MS. BROWN: Same objection.

THE WITNESS: We would look to the

guidelines to support decisions about treatment planning. But it is possible that an individual who identifies as transgender or gender diverse may not experience gender dysphoria and could decide or move forward with gender-affirming surgery.

BY MR. HILDABRAND:

Q. All right. So you mentioned the term "gender incongruence". What does that mean?

A. Uh-huh. So gender incongruence would be similar to what we've discussed before around gender identity, in which an individual's gender identity would be incongruent or does not match or is not aligned with the sex they were assigned at birth.

BY MR. HILDABRAND:

Q. Is that a mental health condition to be gender incongruent?

MS. BROWN: Objection to form.

THE WITNESS: It is not a mental health condition and is not considered to be pathological to have a transgender identity or experience gender incongruence.

MR. HILDABRAND: Thank you. All right. Travis, turn to page five in this document. It's page five in the PDF and that's also the page that is here. Make our life real easy. Go to where you

can see pubertal suppression.

MS. BROWN: Sorry. Give us one moment. The mouse went out.

MR. HILDABRAND: Of course, yes.

BY MR. HILDABRAND:

Q. Can you read the first sentence under pubertal suppression?

A. Just so I remember, this is the AAP publication; is that right?

Q. Yes. It's --

A. Okay.

Q. -- the American Academy of Pediatrics.

A. Okay. Thank you. Under pubertal suppression, it says: Gonadotrophin-releasing hormones have been used to delayed puberty since the 1980s for central precocious puberty.

Q. Thanks.

A. Do you want me to keep going?

Q. No, that's fine. Is that your understanding as well that these have been used since around the 1980s?

A. That would be a great question for an endocrinologist. However, that's my understanding.

Q. Would these gonadotrophin-releasing hormones, are these often referred to as puberty blockers or

puberty suppressors?
A. Yes.
Q. Are some of your patients on puberty blockers or puberty suppressors? And feel free to tell me which term you prefer to refer to them.
A. Sure. In my mental health practice, I do not believe I have patients that are currently on puberty-blocking medications. So there are patients in the VPATH Clinic who are on pubertal blockers.
MR. SANDERS: Clark, can I interrupt for a second?
MR. HILDABRAND: Yes.
MR. SANDERS: This is David Sanders, Madam Court Reporter. I'm going to log off at this point. Jessica Jernigan Johnson in my office has logged on. She's already counsel of record in the case so she's just in for me.
MR. HILDABRAND: Sounds good. Thanks, David.
MR. SANDERS: See you-all tomorrow.
MR. HILDABRAND: See you tomorrow.
BY MR. HILDABRAND:
Q. On the right-hand column --
A. Uh-huh.
Q. -- do you see about halfway down the page

where it says pubertal suppression is not without risk?
A. Yes.
Q. Do you agree with that statement or is that something that we should ask somebody else?
MS. BROWN: Objection to form.
THE WITNESS: Discussing the risks and benefits of pubertal suppression is within the specialty of endocrinology. So it may be a good question for them.
BY MR. HILDABRAND:
Q. That's fair. Thank you. So turning to page six in the PDF. When you get there, do you see a Table 2, the process of gender affirmation may include greater than or equal to one of the following components?
A. Yes, I do.
Q. Do you see that table?
A. Yes, I do.
Q. Thank you. And is the first component social affirmation?
A. That's what I'm seeing, yes.
Q. As a psychologist, is that something that you can understand that component and speak about as an expert?

A. Yes.
Q. The second one, is that puberty blockers?
A. Yes.
Q. Is that something that you can speak to as an expert?
MS. BROWN: Objection to form.
THE WITNESS: I would be curious about what speak to refers to and what questions you may ask specifically.
BY MR. HILDABRAND:
Q. Are you offering any expert testimony about puberty blockers?
MS. BROWN: Objection to form.
BY MR. HILDABRAND:
Q. Or do you have sufficient experience and knowledge to offer expert testimony about puberty blockers?
MS. BROWN: Objection to form.
THE WITNESS: I think it would depend on the particular questions and context related to pubertal blockers. We work within an Interdisciplinary Clinic so often I myself need to consult with the endocrinologist about some of these terms and practices.
/ /

BY MR. HILDABRAND:
Q. So you yourself don't prescribe the puberty blockers; is that correct?
A. That's correct.
Q. And so the next component listed cross-sex hormone therapy. And, again, you yourself do not prescribe cross-sex hormones; is that correct?
A. That's correct.
Q. Is the phrase "cross-sex hormone" or "cross-sex hormone therapy", are those phrases that you have heard in your practice, though?
A. I have heard those terms. We now prefer the term "gender-affirming hormones."
Q. About when in your practice did that preference change?
MS. BROWN: Object to form.
THE WITNESS: Uh-huh. I'm not sure of the specific time line. Again, the terminology and practices are updating all the time. But I would say within the past couple of years.
BY MR. HILDABRAND:
Q. Thank you. That's helpful. And then gender-affirming surgeries, you don't perform yourself gender-affirming surgeries; is that correct?

A. I do not.
Q. Are you aware of what gender-affirming surgeries might entail for your patients, though?
A. Yes.
Q. What sort of surgeries would you consider gender-affirming surgeries?
A. Uh-huh. The table provides a pretty good definition. So top surgery, which might include creating a male typical chest shape (inaudible) --
(Court Reporter interrupts for clarity.
THE WITNESS: I'm reading from the table. But top surgery, which would be to create a male-typical chest shape or enhanced breasts. Then there would be bottom surgery, which would be surgery on genitals or reproductive organs. And there may be surgeries such as facial feminization or other procedures, including various other procedures.
BY MR. HILDABRAND:
Q. For top surgery, you described creating a male-typical chest shape or enhanced breasts?
A. Uh-huh.
Q. For someone born with a sex assigned at birth of female, would that involve mastectomies?
A. Often I think this would be discussed between

an individual patient and their surgeon. But yes, often there is a -- my understanding is there is a double mastectomy and then re-creation of affirmative chest.

Q. And for bottom surgery, I think it's described as surgery on genitals or reproductive organs. For those natal boys or individuals born with the sex assigned at birth of male, would that involve removing their penis and using it to construct the vagina?

MS. BROWN: Object to form.

THE WITNESS: So for an individual assigned male at birth, there may be a variety of surgeries that they determine to be medically necessary for each individual. And just remind everyone that moving through gender-affirming surgery or receiving gender-affirming surgery and the treatment plans here are individualized to each patient. So not all patients seek surgery to begin with.

BY MR. HILDABRAND:

Q. But is that a surgery that some patients may receive?

A. Which surgery is that?

Q. The removing -- cutting off their penis and

using that to shape an artificial vagina, is that a bottom surgery that some natal boys may receive?

MS. BROWN: Object to form.

THE WITNESS: So I'm not sure as to the details of how the surgeries are performed. That would be a great question for a plastic surgeon. But some individuals who may seek bottom surgery may experience changes to their genitalia and creation of genitalia that would be more consistent with their gender identity.

BY MR. HILDABRAND:

Q. Have any of your patients received top surgery?

MS. BROWN: Objection to form.

THE WITNESS: I have had patients who have received top surgery, yes.

BY MR. HILDABRAND:

Q. What is the youngest age of a patient of yours who has received top surgery?

A. This is a bit of a complex question and nuanced about the way they practice. So I'm thinking about patients in my mental healthcare practice and I think the youngest I have worked with them in my mental healthcare practice would be 18, I believe.

Q. Eighteen at the time of the surgery; is that correct?
A. Yes. Many are older and college aged.
Q. And what is the youngest age you can recall for one of your patients receiving bottom surgery?
MS. BROWN: Objection to form.
THE WITNESS: I am not aware of that bottom surgery performed on individuals younger than 18.
BY MR. HILDABRAND:
Q. So the same age for top surgery?
MS. BROWN: Object to form.
THE WITNESS: Can you repeat the question for me?
BY MR. HILDABRAND:
Q. That's okay. We can -- we can move on. That's all right. All right.
On PDF page eight, can you go there?
A. Page eight. Give us a minute.
Q. And the quotation will extend from the bottom of page eight to page nine, if that's helpful for what you're pulling up.
A. Okay. I think we're there.
Q. Thanks. Do you see the sentence that says: Youth who identify as TGD are becoming more visible

because gender-diverse expression is increasingly admissible in the media, on social media, and in schools and communities.

Do you agree with this statement? And let me know if there are any parts that you would disagree with.

A. I think I would need some more information about what the authors mean by admissible, a word I'm not understanding in the context, I don't think.

Q. So other than the increase in admissible, would you agree that youth who identified as TGD are becoming more visible in the media, on social media, and in schools and communities?

A. Yes, there is increased visibility of the transgender community, although it is still quite limited.

Q. All right. We're going to put this article to the side and go back to your expert report.

A. Okay.

Q. It's Exhibit 1. We are just going back to footnote eight here on page five.

A. Okay. We are there.

Q. Do you see where you cite the 2015 article from the American Psychological Association, Guidelines for Psychological Practice of Transgender

and Gender-Nonconforming People?

MR. HILDABRAND: Can y'all hear us? Let's go off the record for a second while they reestablish audio if that's all right.

(Recess observed.)

MR. HILDABRAND: Before we go back to questions, I have that we are at four hours and 57 minutes on the record. Is that what opposing counsel has as well?

MS. BROWN: That sounds accurate. We'll trust you.

MR. HILDABRAND: All right.

MS. BORELLI: Are you tracking, Ms. Honeycutt?

(Off-the-record discussion.)

MR. HILDABRAND: I hope we don't have to use down to the last minute but we'll see. All right.

BY MR. HILDABRAND:

Q. So going back, you saw where you cited the 2015 American Psychological Association article, correct?

A. In footnote eight. Yes, I'm with you.

MR. HILDABRAND: Great. Travis, can you circulate Doc M. And we'll mark this as Exhibit 12.

(WHEREUPON, a document was marked as Exhibit Number 12.)

BY MR. HILDABRAND:

Q. Does this appear to be the article that you cited in your expert report?

A. It does.

Q. Let's go to the second page in the PDF, Journal page 833.

A. Okay.

Q. Do you see at the first full paragraph where it says: Given the added complexity of working with TGNC and gender-questioning youth and the limitations of available research, the guidelines focus primarily, though not exclusively, on TGNC adults? Is that what the article says?

A. I see that text, yes.

Q. Do you agree that there is added complexity with working with transgender and gender-questioning youth?

MS. BROWN: Object to form.

THE WITNESS: The mental health field in general, I believe that there is added complexity working with children and adolescents of all gender identity. That includes cisgender children and adolescents.

BY MR. HILDABRAND:
Q. And are there any limitations to the available research regarding transgender and gender-questioning youth?
MS. BROWN: Objection to form.
THE WITNESS: There are limitations in every field of research and particular to each article they may have their own limitations.
BY MR. HILDABRAND:
Q. Are there any limitations particular to research regarding transgender and gender-questioning youth?
MS. BROWN: Same objection.
THE WITNESS: Particular in what way?
BY MR. HILDABRAND:
Q. So you mention that all fields can have limitations. Are there any limitations that you can think of specifically for research regarding transgender and gender-questioning youth?
MS. BROWN: Same objection.
THE WITNESS: No.
BY MR. HILDABRAND:
Q. So these are just limitations that any field of research would have?
MS. BROWN: Objection to form.

THE WITNESS: There may be limitations present in all fields of study, and I cannot think of unique limitations in this field of study.

BY MR. HILDABRAND:

Q. Do you use these guidelines in this article during your practice as a psychologist?

MS. BROWN: Objection to form.

THE WITNESS: I have reviewed these guidelines. We primarily rely on the Endocrine Society and the WPATH.

BY MR. HILDABRAND:

Q. So these guidelines are -- you might consider these guidelines, but these are not guidelines that you would rely upon as much as the WPATH Standards of Care or the Endocrine Guidelines; is that correct?

MS. BROWN: Objection to form.

THE WITNESS: These are guidelines I have reviewed and considered. And the standards of care from the WPATH and the Endocrine Society Guidelines are the primary sources in our field.

BY MR. HILDABRAND:

Q. Thank you. Do these guidelines in this article focus primarily on adults?

MS. BROWN: Objection to form.

THE WITNESS: I would need to re-review this particular article.

BY MR. HILDABRAND:

Q. So you're not aware off the top of your head if this article focuses primarily on adults?

MS. BROWN: Same objection.

THE WITNESS: Off of the top of my head, I recall this article references both youth and adults.

BY MR. HILDABRAND:

Q. That's fair. On the right-hand side, do you see where it says distinction between standards and guidelines?

A. I do.

Q. Can you read the sentence under that heading?

A. Sure. So it says: When using these guidelines, psychologists should be aware that APA has made an important distinction between standards and guidelines. Should I keep going?

Q. Yes. If you want to keep going for the next sentence.

A. All right. The standards are mandates to which all psychologists must adhere, e.g., the ethical principles, a psychologist, and code of conduct, whereas guidelines are aspirational.

Q. Do you agree that guidelines are aspirational?

MS. BROWN: Objection to form.

THE WITNESS: I think guidelines are guidelines that can inform in a very important way treatment plans and best practice.

BY MR. HILDABRAND:

Q. Do you view there as being a distinction between guidelines and standards of care?

MS. BROWN: Same objection.

THE WITNESS: In this context, as referenced in this article, I understand the distinction that they're making between standards and guidelines.

BY MR. HILDABRAND:

Q. Is that a distinction you make in your practice as a psychologist?

MS. BROWN: Objection to form.

THE WITNESS: I am not sure I have really thought in depth about the definition between standards and guidelines.

BY MR. HILDABRAND:

Q. All right. Now let's look at page three in the PDF. Do you see it says foundational knowledge and awareness?

A. Yes.
Q. And it says: Guideline one: Psychologists understand that is gender is a nonbinary construct that allows for a range of gender identities and that a person's gender identity may not align with sex assigned at birth?
A. Yes. Uh-huh.
Q. Do you agree with the statements in that guideline or are there any that you disagree with?
A. I can agree with that statement.
Q. For the first sentence that says rationale, can you read the first sentence there?
A. Yes. It says: Gender identity is defined as a person's deeply felt, inherent sense of being a girl, woman, or female, a boy, a man, or male, a blend of male or female, or an alternative gender.
Q. Do you agree with that statement or are there any components of it that you disagree with?
A. So this is one particular statement in what I believe is an older document, if I remember correctly, and is in process of being updated. I think it could be stated better and more precisely in a future iteration.
Q. And this was published, I think at the bottom it says December 2015; is that what it says?

A. Yes.
Q. It's already outdated less than seven years later; is that correct?
MS. BROWN: Object to form.
THE WITNESS: So seven years can be a long time in scientific literature. There may be many advances in that time. It's likely that when these guidelines and papers such as these are developed that they are in the works for many years and in committee for many years prior to their publication date.
BY MR. HILDABRAND:
Q. Do you agree that gender identity can be a blend of male or female?
A. Yes, I think gender identity could be a blend.
Q. All right. Let's go forward to page 11 in the PDF. This is Journal page 842. Do you see the paragraph that begins: A clear distinction between care of TGNC and gender-questioning children and adolescents exists in the literature?
A. Yes, I see that paragraph.
Q. Can you read the next sentence there?
A. Sure. I'm going to read the first sentence again just so I'm in the right place. Sorry. A

clear distinction between care of TGNC and gender-questioning children and adolescents exists in the literature due to the evidence that not all children persist in a TGNC identity into adolescence or adulthood and because no approach to working with TGNC children has been adequately empirically validated consensus does not exist regarding best practice with prepubertal children.

Q. Do you agree that reasonable psychologists can differ about the proper treatment of transgender youth?

MS. BROWN: Objection to form.

THE WITNESS: And what do you mean by a reasonable psychologist?

BY MR. HILDABRAND:

Q. You tell me. Is that something that a psychologist who you could respect could disagree with how you approach treating a transgender child?

MS. BROWN: Same objection.

THE WITNESS: Professionals do sometimes differ in their approach to treatment plans or treatment strategies for children and all kinds of conditions.

BY MR. HILDABRAND:

Q. Let's go to the next paragraph. Do you see

where it says: One approach encouragings an affirmation and acceptance of children's expressed gender identity?
A. Yes, I see that paragraph.
Q. In your practice, is that more -- is that similar to the approach that you try to take of affirming the child's expressed gender identity?
MS. BROWN: Objection to form.
THE WITNESS: In my practice, I work closely and intentionally with each patient and their caregiver to assess their gender identity and to collaborate on an appropriate treatment plan.
BY MR. HILDABRAND:
Q. And so then the next paragraph begins: In the second approach, children are encouraged to embrace their given bodies and to align with their assigned gender roles. Is that what the article says?
A. I think in that paragraph I'm going to repeat it back just to be sure. In the second approach, children are encouraged to embrace their given bodies and to align with their assigned gender roles. That's what this text states.
Q. Is that second approach consistent with your practice?

MS. BROWN: Objection to form.

THE WITNESS: The approach that's described in this statement I would need more information around. At first blush, it sounds like a practice that is no longer supported in the literature.

BY MR. HILDABRAND:

Q. So then the next sentence says: This includes endorsing and supporting behavior and attitudes that align with the child's sex assigned at birth prior to the onset of puberty. Is that an approach that psychologists no longer take?

MS. BROWN: Objection to form.

THE WITNESS: So the statement -- this includes endorsing and supporting behaviors and attitudes that align with the child's sex assigned at birth prior to onset of puberty. I think it would be important to assess each individual child and their needs. However, encouraging a transgender child or gender incongruence to identify and behave as their sex assigned at birth could be consistent with something called conversion therapy.

Q. So do you view this second approach as conversion therapy?

MS. BROWN: Objection to form.

THE WITNESS: I would need more information about what the authors were intending and maybe to read some additional context.

BY MR. HILDABRAND:

Q. Feel free to read the rest of the paragraph if you want to but --

A. Sure.

Q. Do you want to do that? Then I'll return to the question in a second?

A. Okay. That would be great. Thank you so much. Okay. I finished reading that paragraph.

Q. Is conversion therapy -- before we get back to this, is conversion therapy an acceptable or unacceptable choice of therapy for a psychologist?

MS. BROWN: Objection to form.

THE WITNESS: Conversion therapy is unacceptable and unethical. It's been found to be harmful to patients.

BY MR. HILDABRAND:

Q. Based on what this second approach is described as here, would you view this as conversion therapy?

MS. BROWN: Objection to form.

THE WITNESS: Again, I would need some more information. But it sounds consistent with

conversion therapy and I appreciate the context later in the paragraph, that when addressing psychological interventions for children and adolescents, the WPATH standards of care identify interventions "aimed at trying to change gender identity and expression to become more congruent with the sex assigned at birth as unethical, with hopes that future research will offer improved guidance in this area of practice".

BY MR. HILDABRAND:

Q. So based on what you see here, you would agree with WPATH that this second approach would be unethical?

MS. BROWN: Objection to form.

THE WITNESS: I would agree that conversion therapy is unethical. And indeed the American Psychological Association has also posted statements in support of this belief as well since the time that these guidelines came out.

BY MR. HILDABRAND:

Q. You mentioned at the time these guidelines came out. Has this approach ever been viewed as more acceptable amongst psychologists?

MS. BROWN: Objection to form.

THE WITNESS: Many years ago people were

practicing conversion therapy but it's very important to note that this has been widely identified and clearly articulated by mental and medical health professionals and inappropriate, unethical, and harmful --

BY MR. HILDABRAND:

Q. Just to be --

A. -- and no longer practiced.

Q. Just to be clear about many years, is that ten years ago or longer?

A. I don't know the specifics of folks who practice conversion therapy or have practiced conversion therapy in the past.

Q. All right. So in the upper right column, do you see where it says consensus does not exist regarding whether this approach may provide benefits or may cause harm or lead to psychosocial adversities?

A. I see that statement listed here.

Q. Do you think that there is now consensus?

A. I do believe that is there is consensus now that conversion therapy is harmful.

Q. Farther down the right column on page 11, do you see -- it's about halfway down in the first full paragraph?

A. Uh-huh.
Q. Do you see where it says: Complicating their clinical presentation, many gender-questioning adolescents also present with co-occurring psychological concerns, such as suicidal ideation, self-injurious behaviors, drug and alcohol use, and autism spectrum disorders? Is that what the article says with additional in-line citations?
A. I see that in the article, yes.
Q. Do you agree with that statement? Are there any components of it that you disagree with?
A. There are many possible co-occurring conditions and it's very common in child adolescent mental health broadly for there to be co-occurring diagnoses or conditions.
Q. Do you see where it says: Additionally, adolescents can become intensely focused on their immediate desires?
A. I see that, yes.
Q. Is that something you observed about adolescents in your practice?
MS. BROWN: Objection to form.
THE WITNESS: So questions about adolescents who may become intensely focused on immediate desires, I believe this is regarded as an

experience of adolescence, where they may be focused on what brings them pleasure or are unable to delay gratification for some individuals.

BY MR. HILDABRAND:

Q. Now I want to move forward to page 29 in the PDF. It's page 860 in the Journal. Do you see where its says Appendix A definitions?

A. Yes, I see Appendix A.

Q. Do you see the sentence: Terminology within the healthcare field in transgender and gender non-conforming TGNC communities is constantly evolving?

A. Yes.

Q. Do you agree that this terminology is constantly evolving?

A. I agree it is often evolving. Constantly is a very specific frequency.

Q. Thanks for clarifying.

A. Sorry.

Q. The second sentence says: The evolution of terminology has been especially rapid in the last decade as the profession's awareness of gender diversity has increased as more literature and research in this area has been published and as voices of the TGNC community have strengthened? Do

you agree with this statement?
A. I think there has been increased proliferation of research and awareness of gender diversity in the past decade, yes.
Q. Given the change that's occurred in the past decade, as a psychologist, do you think that the field of psychology should slow down a little bit or take a more conservative approach to this change in terminology?
MS. BROWN: Objection to form.
THE WITNESS: In best practices in the mental health field, it has been well established that using terminology consistent with our patients' understanding of their culture and their identity is important to delivering culturally competent care. And in the fact that terminology may be changing and evolving, it would be important to remain updated on that terminology and to continue to meet our patients where they're at, again, as consistent with culturally competent care.
BY MR. HILDABRAND:
Q. So now I'm going to ask to scroll through the definitions, specifically, since they go in alphabetical order, pages 30 and 31, in the PDF pages 861, 862 in the document. And let me know if

you see a definition of the word "gender" standing by itself?
A. We are scrolling. I did not see a definition on page 861. We've made it to the alphabetical section of H and did not see a specific definition for the term "gender".
Q. Thank you. On page 862, do you see a definition of sex?
A. I see sex or sex assigned at birth.
Q. And is the first sentence there: Sex is typically assigned at birth or before during ultrasound based on the appearance of external genitalia?
A. Yes, I see that.
Q. And feel free to read the additional context they provide there in that definition. But once you've done so, can you let me know if you agree with the definition here or if they're related how you would change it?
A. I've read the definition. I think the current definition of sex and how sex is assigned, including the many factors of informed sex, like internal genitalia, chromosomal and hormonal sex, that those would be considered for all individuals and not just when external genitalia are ambiguous.

MR. HILDABRAND: Thank you for clarifying. I believe we have entered this already as Exhibit 12; is that correct?

COURT REPORTER: Yes, sir.

MR. HILDABRAND: Great. Thank you. I just wanted to make sure before we moved on. All right.

BY MR. HILDABRAND:

Q. Let's go back to Exhibit 1, your expert report.

A. Okay.

Q. And we're still on for there page five, but now we are going to turn to footnote nine.

A. I see footnote nine.

Q. Do you cite a state advocacy update there?

A. From the American Medical Association, yes.

MR. HILDABRAND: Travis, can you circulate Doc N. And we will mark this as Exhibit 13.

(WHEREUPON, a document was marked as Exhibit Number 13.)

BY MR. HILDABRAND:

Q. Dr. Cyperski, does this appear to be the March 26, 2021, state advocacy update from the AMA that you've cited?

A. Yes.
Q. Are state advocacy updates the source or sources that psychologists usually rely on in forming their opinions?
MS. BROWN: Object to form.
THE WITNESS: This document deals within the scope of the opinions that I provided.
BY MR. HILDABRAND:
Q. So would it be the sort -- so is it a document you relied upon in forming your expert opinion?
A. Yes.
Q. So you see where it says, AMA fights to protect healthcare for transgender patients?
A. Yes.
Q. Is it normal for medical associations to fight political battles?
MS. BROWN: Object to form.
THE WITNESS: Normally the specific term, it is very common for professional organizations to make policy statements or updates such as this.
BY MR. HILDABRAND:
Q. Then in the last -- do you see the sentence, before criminalizing healthcare for transgender

minors that says: The AMA state advocacy resource center remains actively engaged in defeating legislation that would harm transgender patients?
A. Yes, I see that statement.
Q. Are you aware that the AMA has an advocacy resource center?
A. I am not familiar with the AMA organizational structure but it is listed in this document that they have an advocacy resource center.
Q. Is it customary for the AMA to actively attempt to defeat legislation?
MS. BROWN: Objection to form.
THE WITNESS: Again, I'm not familiar with the particulars of the AMA and their activities within the organization. I think it makes sense that physicians and professionals would work to protect their patients and to defeat things including legislation that would harm their patients.
BY MR. HILDABRAND:
Q. Do you see farther down where it says: The AMA used these bills as a dangerous legislative intrusion into the practice of medicine and has been working closely with state medical associations to vigorously oppose them.

A. I see that statement, yes.
Q. Is it dangerous for state legislatures to intrude into the practice of medicine?
MS. BROWN: Objection to form.
THE WITNESS: I think it would be important to define the word "dangerous".
BY MR. HILDABRAND:
Q. So you cited this article to support your expert report. How do you understand the word "dangerous" as it is used here?
A. Uh-huh. So defining in context, might be AMA used these bills as a harmful endeavor and dangerous legislative intrusion into the practice of medicine and working closely with state medical associations to vigorously oppose them.
Q. So is some legislative intrusion into the practice of medicine acceptable?
MS. BROWN: Object to form.
BY MR. HILDABRAND:
Q. Or not dangerous?
MS. BROWN: Same objection.
THE WITNESS: It's my experience that the practice of medicine should be guided by best practice guidelines and by the current state of the literature and the science that guides their

practice.
BY MR. HILDABRAND:
Q. Not guided by the decisions of elected officials?
MS. BROWN: Objection to form.
THE WITNESS: I am not aware of the fact that elected officials are trained medical professionals, although some of them may be. And to the extent to which they are current and up to date in the scientific literature about the practices of medicine.
BY MR. HILDABRAND:
Q. So is it your position that only medical professionals should decide how to limit the practice of medicine?
MS. BROWN: Objection to form.
THE WITNESS: I believe the practice of medicine should be informed by the current state of the science, as well as by the patients that are served by the medicine and populations of individuals who are impacted by them and by many other factors as well.
BY MR. HILDABRAND:
Q. So to give a yes or no, is it -- to yes or no, should the practice of medicine only be

restricted by medical professionals? And then feel free to explain.

MS. BROWN: Same objection.

THE WITNESS: It's very difficult to answer any question when posed with an always or an only or an absolute, and we often must consider the complexities, particularly when it comes to the health and wellbeing of people.

BY MR. HILDABRAND:

Q. All right. Now let's turn to page two of the PDF. Do you see under where it says, excluding transgender youth from athletics, where it says: Another concerning trend are bills that would prohibit transgender women and girls from participating in school athletics consistent with their gender identity?

A. I see the statement, yes.

Q. So do you understand the AMA to take the position that these bills are a concerning trend?

A. Yes, that's my understanding.

Q. Are you concerned that the AMA is taking a position on a political question?

MR. HILDABRAND: Objection to form.

THE WITNESS: Can you restate that, or repeat the question for me, please?

BY MR. HILDABRAND:
Q. Yes. Is it a concern for you as a psychologist that the AMA is picking sides in political debates?
MS. BROWN: Same objection.
THE WITNESS: I'm not sure they are picking sides in political debates and instead are offering an opinion about what would promote health and wellbeing and resiliency in a particular patient population that they serve.
BY MR. HILDABRAND:
Q. All right. Move down to where it says: In 2020, Idaho became the first-ever state to enact a ban on transgender minors' participation in youth athletics. The law was challenged and blocked by a federal court in August 2020. The AMA, along with the American Academy of Pediatrics and other healthcare organizations, submitted a Friend of the Court brief with the Ninth Circuit Court of Appeals noting that the law undermines the accepted approach for treating gender dysphoria.
So is it your understanding that the AMA and the American Academy of Pediatrics have taken a side against the Idaho legislation?
A. Based on what's written in this document, it

appears as though the AMA and the AAP and other healthcare organizations submitted a brief noting that the law undermines the accepted approach for treating gender dysphoria.

Q. So do you view the AMA as an impartial source of information on the appropriateness of the law challenged in this case?

MS. BROWN: Objection to form.

THE WITNESS: I believe the AMA is taking a stance about what promotes wellbeing and resiliency in patients that they treat, including individuals with gender dysphoria, and seeking to promote health and wellbeing for individuals with gender dysphoria.

BY MR. HILDABRAND:

Q. So yes or no? Do you view them as impartial on the Tennessee law challenged in this case? And feel free to explain more.

MS. BROWN: Same objection.

THE WITNESS: I'm not sure how to answer that question. I'm so sorry.

BY MR. HILDABRAND:

Q. If you're not sure that's fine. We'll move on from that. Let's go back to your report, page five, again, footnote nine.

A. Okay. Footnote nine.
Q. And then do you see the last citation on that page to an AACAP 2019 article?
A. Yes.
MR. HILDABRAND: Travis, can you circulate Doc O. Dr. Cyperski, we'll mark this as Exhibit 14.
THE WITNESS: I have it open.
(WHEREUPON, a document was marked as Exhibit Number 14.)
BY MR. HILDABRAND:
Q. Dr. Cyperski, does this appear to be the AACAP statement that you cited in your expert report?
A. Yes.
Q. Looking down at the third paragraph, do you see the second sentence that reads: Blocking access to timely care has been shown to increase youths' risk for suicidal ideation and other negative mental health outcomes?
A. I'm not seeing that yet.
MS. BROWN: There's a lag in my scrolling. So if you can repeat it again.
BY MR. HILDABRAND:
Q. No problem.

A. What statement are we looking for?
Q. Sorry. The sentence is: AACAP strongly opposes any efforts, legal, legislative, and otherwise, to block access to these recognized interventions.
A. I see that statement.
Q. So is the AACAP taking a side in debate about legislation regarding transgender children and adolescents?

MS. BROWN: Objection to form.

THE WITNESS: I am not sure AACAP is taking a side so much as they are making a statement that the types of legal and legislative acts are incongruent with the current evidence-based clinical care that is important to those promoting the health and wellbeing of children and adolescents.

BY MR. HILDABRAND:

Q. So is the AACAP discouraging the passage of this sort of legislation?

MS. BROWN: Same objection.

THE WITNESS: Their statement states: AACAP opposed any efforts, legal, legislative, and otherwise, to block access to these recognized interventions.

/ /

BY MR. HILDABRAND:
Q. So do you view AACAP as an impartial organization when it comes to a law like the one challenged in this case?
MS. BROWN: Objection to form.
THE WITNESS: I am not familiar enough with AACAP and their organization in particular to determine if they are impartial or not.
BY MR. HILDABRAND:
Q. Going back down to the first paragraph, do you see the second sentence in that paragraph that says: Health promotion for all youth encourages open exploration of all identity issues, including sexual orientation, gender identity, and/or gender expression according to recognized practice guidelines? Do you agree with this statement about what health promotion involves?
A. Health promotion involves many various components of lots of different practices, one of which would be exploration of all aspects of identity.
BY MR. HILDABRAND:
Q. Thank you. Let's put this to the side and go back to your expert report. And we'll stay with your expert report for a little bit longer this

time.
A. Okay.
Q. So look at paragraph 19, also on page five.
A. Paragraph 19, I see that.
Q. So you mention the widely accepted guidelines. Are those the Endocrine Society Guidelines and the WPATH Standards of Care?
A. Yes.
Q. Let's turn now to paragraph 20, which is on page six. Can you read the first sentence there for me?
A. Sure. The treatment for gender dysphoria is to reduce or eliminate the individual's clinically significant distress or impairments in functioning, which includes helping the patient to live in accordance with their gender identity.
Q. Is this the goal of treatment for gender dysphoria?
A. Yes, though there may be others well.
Q. Is a goal for treatment of gender dysphoria to help the child or adolescent become comfortable in the body he or she was born with?
MS. BROWN: Object to the form.
THE WITNESS: A goal of treatment for individuals with gender dysphoria would be to reduce

the distress or impairments that they feel and to help them live in accordance with their gender identity. That would be to decrease discomfort.

BY MR. HILDABRAND:

Q. But not to make them comfortable with their sex assigned at birth; is that correct? Is it to make them comfortable with their gender identity rather than their sex assigned at birth; is that correct?

MS. BROWN: Same objection.

THE WITNESS: I think this is a complicated and nuanced issue that's hard to answer distinctly and specifically and that the individual treatment plan for a particular patient would identify treatment goals for that individual.

BY MR. HILDABRAND:

Q. When you are creating patient treatment plans, is it more important when you're creating those for the individual to be comfortable with their gender identity or to be comfortable with their sex assigned at birth?

MS. BROWN: Objection to form.

THE WITNESS: Treatment plans often are aimed at reducing distress and impairment and improving positive psychology and functioning that

is often going to focus on supporting their gender identity and helping them seek congruence in their gender identity.

BY MR. HILDABRAND:

Q. For some patients, would it be more helpful -- I understand that is how several patients might be helped. But for some patients is it more helpful to encourage them to be comfortable in their sex assigned at birth rather than their gender identity?

MS. BROWN: Objection to form.

THE WITNESS: I would need more information about what you mean and what that treatment would look like. Again, in the description it sounds like the unethical practice of conversion therapy.

BY MR. HILDABRAND:

Q. So going down -- so in the second sentence here, you used the phrase "gender-affirming care". Is that a commonly used phrased among psychologists?

A. Among psychologists in the field, yes.

Q. And the same for gender transition?

A. We in the field tend to use gender-affirming care. Other terms like gender transition or transition-related care may also fall in this realm.

Q. Would other care providers understand what you mean when you use those terms?

MS. BROWN: Objection to form.

BY MR. HILDABRAND:

Q. Or do you understand what other healthcare providers mean when they use those terms?

MS. BROWN: Objection to form.

THE WITNESS: I believe there is consensus around gender-affirming care and would understand what an individual was referring to, though there's always room for further discussion and collaboration with the provider about the specific treatment that they're referencing.

BY MR. HILDABRAND:

Q. Moving down to paragraph 22. You say that -- we are talking about prepubertal children here. And the second sentence says: For these patients, social transition, living in accordance with one's gender identity may be appropriate. Is that what you said here?

A. Yes.

Q. And do you agree with that statement today?

A. That's correct.

Q. Might it also not be appropriate for some prepubertal children who have gender dysphoria for

them to socially transition?

MS. BROWN: Objection to form.

THE WITNESS: So can you repeat the question for me?

BY MR. HILDABRAND:

Q. Yes. So here it says: Social transition for prepubertal children may be appropriate. Is it always appropriate or are there scenarios where social transitions to prepubertal children with gender dysphoria is not appropriate?

MS. BROWN: Same objection.

THE WITNESS: I think there's two distinctions here that are important. There's the definition and practice of a social transition and then there is gender dysphoria. And those two are related and may inform one another but speak to the complexities of developing a treatment plan and when it may be appropriate to engage in which practice.

Q. So you say may be appropriate. So it may not be appropriate in some treatment plans for prepubertal children with gender dysphoria to socially transition; is that correct?

A. For prepubertal children with gender dysphoria specifically as a clinical diagnosis, it's likely that a social transition is appropriate for

the majority of those patients.
BY MR. HILDABRAND:
Q. So for the majority of those patients, are there some patients, even if they're minority, whom social transition would not be an appropriate treatment for gender dysphoria?
A. There are individual considerations for every child and family. And in the majority of cases, if a child has gender dysphoria, a social transition is an important part of their treatment plan that would promote health and wellbeing and resiliency.
Q. So percentage-wise when you say the majority, you mean greater than 50 percent but less than 100 percent; is that correct?
A. In which patient population are we talking about?
Q. So for prepubertal children with gender dysphoria, you say it may be appropriate in some situations. And then we discussed a little further and you said a majority of prepubertal children with gender dysphoria this would be appropriate. And I'm sorry to talk quickly there.
But when you use the word majority, do you mean greater than 50 percent but less than 100 percent?

A. In my personal practice, the individuals that I have met that have a diagnosis of gender dysphoria, it is often appropriate for them to initiate a social transition and they have initiated a social transition prior to arriving at my practice.
Q. But give me the yes or no format and then feel free to explain. Is it always appropriate for a prepubertal child with gender dysphoria to socially transition? Please give a yes or no and then you can continue if you need to.
A. I really can't give a yes or no because using terms like always, which are very complicated, always, no. There are individual nuances and circumstances that must be considered with every patient. For the majority of individuals, a social transition is appropriate.
Q. Thank you. So then I think it goes on to say that: After an individual begins puberty, medical intervention may be indicated, including puberty delaying medications and/or hormone therapy to initiate puberty consistent with one's gender identity. Individuals who receive hormone therapy develop secondary sex characteristics consistent with their gender identity.

What are sex characteristics consistent with their gender identity? And if you need to give an example, feel free to give examples for children based on what their sex assigned at birth would be.

MS. BROWN: Objection to form.

THE WITNESS: I'm happy to provide examples from my understanding and then some of the specifics may be more appropriate for a medical provider, an endocrinologist, or a primary care physician to address.

But, for example, a child who was assigned male at birth and identifies as a female and begins estrogen, for example, as an adolescent, they may start to develop some breasts and develop their chest that would be consistent with their gender identity.

For individuals who are assigned female at birth and have a transgender identity or identify as male and in adolescence initiate a course of testosterone treatments, they may develop characteristics consistent with clitoral enlargement, or facial hair, more body hair, things like that.

BY MR. HILDABRAND:

Q. Thank you. Let's turn now to paragraph 24.

This is on page seven of your report.
A. Okay.
Q. And there you mention typically male names, correct?
A. I see in the second sentence that there are transgender boys who have typically male names. Is that what you're referring to?
Q. Yes.
A. Okay.
Q. In your experience, do parents usually put a lot of effort into choosing a child's name?
MS. BROWN: Objection to form.
THE WITNESS: Some parents may put effort into choosing a name.
BY MR. HILDABRAND:
Q. And do some childrens' names carry deep significance to a family?
MS. BROWN: Objection to form.
THE WITNESS: Do some parents use family names for childrens' first names?
MS. BROWN: Same objection. And objection as to relevance.
THE WITNESS: Some parents use meaningful names or family names when assigning a name to their child.

BY MR. HILDABRAND:
Q. What if a child expresses a transgender identity and wishes to change a family name that their parents gave them; what should a parent do if the parent does not want to refer to their transgender child by a new name?
MS. BROWN: Objection to form.
THE WITNESS: In that hypothetical situation, it would be really important for the individual and their family to collaborate with a mental health provider. The research is very clear that using an individual's chosen name and pronoun is important and promotes their wellbeing in the short and long term.
BY MR. HILDABRAND:
Q. Is it always harmful to use a transgender child's pronouns that match their sex assigned at birth rather than their preferred pronouns?
MS. BROWN: Objection to form.
THE WITNESS: Typically it is harmful for an individual who has declared their gender identity and their pronouns to continue to be referred to by the pronouns of their sex assigned at birth.
/ /

BY MR. HILDABRAND:

Q. Was it harmful for parents to use pronouns consistent with the child's sex assigned at birth a year or two before the child expressed a transgender identity?

MR. HILDABRAND: Objection to form.

THE WITNESS: Is the question about whether it is appropriate for an individual to use pronouns consistent with sex assigned at birth when an individual has a cisgender identity consistent with their sex assigned at birth?

BY MR. HILDABRAND:

Q. So my question would be, so say you have a 12-year-old who tells the parents that the child is -- and we'll assume for this example that the child was assigned a sex of female at birth and the child tells the parents that the child is really a boy.

At that point on, you would advise the parents to use the male pronouns to refer to the child if that's what the child prefers, correct?

MS. BROWN: Objection to form.

THE WITNESS: It is important to use an individual's pronouns.

/ /

BY MR. HILDABRAND:
Q. So it would be harmful to then call the transgender boy by female pronouns; is that correct?
MS. BROWN: Same objection.
THE WITNESS: It is often harmful to use incorrect pronouns or misgender an individual.
BY MR. HILDABRAND:
Q. Was it harmful two years before the child expressed that the child was a transgender boy in that example?
MS. BROWN: Same objection.
THE WITNESS: I'm not sure I understand. So is it harmful when the child has a cisgender identity?
BY MR. HILDABRAND:
Q. So would you agree in that hypothetical that the child has a cisgender identity before expressing a transgender identity?
A. You'd have to repeat all of the specifics for me, I'm really sorry, in the hypothetical situation. But when an individual identifies as cisgender, it would be appropriate to use pronouns consistent with their cisgender identity. When an individual identifies as transgender, made a declaration about their pronouns, it is appropriate and supportive of

their mental health to use those pronouns. Does that -- sorry.

Q. I know it's hypothetical. Thank you for answering it as best you could.

MR. HILDABRAND: I think this is a good point for a break, if y'all would like to take a short break.

MS. BROWN: Ms. Honeycutt, during the break could you give us a time check if you have time and can add up what you've been recording on the record? I would really appreciate it. And, yes, we would like to take a ten-minute break. Thanks, Clark.

MR. HILDABRAND: Thanks.

(Recess observed.)

BY MR. HILDABRAND:

Q. Let's go back onto the record then. So in paragraph 24, do you see where it says: For some transgender adolescents, particularly those who have changed schools after initiating medical transition, their peers may not be aware that they are transgender; is that correct?

A. Yes.

Q. So this concern is particularly troubling for those who have changed schools after initiating

medical transition?

MS. BROWN: Objection to form.

THE WITNESS: I'm not sure what concern you're speaking of.

BY MR. HILDABRAND:

Q. The concern expressed in paragraph 24 of your report.

A. I'm going to need to review for context to be clear in what concern we are talking about.

Q. That's fine. We can move on then. Is it psychologically harmful to have separate teams for boys and girls?

MS. BROWN: Objection to form.

THE WITNESS: What would be meant by psychological harm?

BY MR. HILDABRAND:

Q. I believe you used the term "harm" in your report. So as you understand in your report, would it be harmful to have separate teams for boys and girls?

MS. BROWN: Same objection.

THE WITNESS: It is not necessarily harmful to have separate teams for girls and boys.

BY MR. HILDABRAND:

Q. Should teams be separated on the basis of

gender identity or on the basis of sex in your opinion as a psychologist?

MS. BROWN: Objection to form.

THE WITNESS: I am not an expert in designing team structure. I think the question is whether an individual should participate on a team based on their gender identity.

BY MR. HILDABRAND:

Q. Which team should nonbinary students play on if their gender identity is neither male or female?

MS. BROWN: Objection to form.

THE WITNESS: It would be important to collaborate closely with the nonbinary individual to determine a course of action and plan that was most appropriate to them in promoting their wellbeing.

BY MR. HILDABRAND:

Q. So we would ask the nonbinary individual which team they would prefer to play on?

MS. BROWN: Objection to form.

THE WITNESS: We would collaborate with the nonbinary individual to determine which team was appropriate for them.

BY MR. HILDABRAND:

Q. Should transgender students participating in athletic activities dress according to their sex or

according to their gender identity?

MS. BROWN: Objection to form.

THE WITNESS: It would be important for many transgender individuals to dress and participate in a manner consistent with their gender identity.

BY MR. HILDABRAND:

Q. So if a transgender boy found it important to the transgender boy's gender identity to dress like a boy, should that transgender boy dress like a boy while playing on boys' teams?

MS. BROWN: Objection to form.

THE WITNESS: It would be important for a transgender male who has engaged in a social transition to dress and appear in a manner consistent with the gender identity, in this case male.

BY MR. HILDABRAND:

Q. So if you had a 16-year-old transgender boy who found it important to dress like a boy, who was on a boys' swim team, should the transgender boy wear a swimsuit -- a boy's swimsuit?

MS. BROWN: Objection to form.

THE WITNESS: In that hypothetical scenario, I think it would be important to

collaborate with the individual about the uniform and dress that would be comfortable and safe for them to participate.

BY MR. HILDABRAND:

Q. If the individual insisted that -- if the transgender boy insisted that the transgender boy wanted to wear a boy's swimsuit, is that the correct swimsuit for the boy to wear?

MR. HILDABRAND: Objection to form.

THE WITNESS: In my clinical experience, I have not encountered that hypothetical scenario in which an individual would only want to wear a male swimsuit. It would be up to that individual to determine what was appropriate for them.

BY MR. HILDABRAND:

Q. So we discussed earlier how most transgender adolescents have not gone through surgery before they turn 18; is that correct?

A. Correct.

Q. Would it psychologically harm a cisgender girl to have to change in front of a transgender boy who still has a penis?

MS. BROWN: Objection to form. Irrelevant.

THE WITNESS: The question is about a

cisgender girl and locker room policies; is that right? Can you repeat the question?

BY MR. HILDABRAND:

Q. Yes. Would it harm a cisgender girl to have to change in front of a transgender girl who still has a penis?

MS. BROWN: Same objection.

THE WITNESS: I think it would be important to explore the risks and benefits. And the important issue is around the individual with their gender identity being permitted to participate in activities in the full scope that's consistent with their gender identity, and that would mean developing an individualized plan for what that would involve for that individual.

BY MR. HILDABRAND:

Q. So you cannot categorically say that it is inappropriate for a transgender girl who still has a penis to change in front of a cisgender girl; is that correct?

MS. BROWN: Same objection.

BY MR. HILDABRAND:

Q. Yes or no, and then please answer further if you need.

A. No. I think many cisgender and transgender

individuals are -- can be uncomfortable in locker rooms. So if uncomfortable is a question of harm, then we could delve into harm more specifically.

BY MR. HILDABRAND:

Q. So there might be some scenarios where it would be harmful?

MS. BROWN: Same objection.

THE WITNESS: I am not aware of specific harms in that scenario.

BY MR. HILDABRAND:

Q. Going to -- so in this section in your report, the impact of SB 228 on transgender students, from paragraphs 24 through 30, do you cite only two studies? And feel free to scroll through that to confirm.

A. You can scroll down. Keep scrolling. In this section, I see two cited studies, and additional information in the section was drafted based on my professional and personal experience.

Q. Turning to paragraph 30 on page nine, do you conclude by saying: By making it impossible for many transgender students to participate in interscholastic athletics, SB 228 denies transgender youth the opportunity to engage in positive experiences that can protect and enhance their

mental health? Is that what it says there?
A. Yes.
Q. Do you understand the law to make it impossible for all transgender students to participate in interscholastic athletics or only many transgender students?
A. I would need to review the law again specifically.
Q. Off the top of your head, you couldn't say if it's all transgender students or many transgender students?
MS. BROWN: Objection to form.
THE WITNESS: My impression is that the law restricts all transgender youth from participating in interscholastic athletics.
BY MR. HILDABRAND:
Q. Thank you. Are there other activities that could provide, besides interscholastic athletics, that students could participate at school to receive similar mental health benefits?
MS. BROWN: Objection to form.
THE WITNESS: Within a school there are many available extracurricular activities. Athletics may be a very important part of someone's experience and identity, however.

BY MR. HILDABRAND:
Q. Would it harm a cisgender girl if she did not receive All State honors because a transgender girl bumped her out of that position of earning All State honors?
MS. BROWN: Objection to form, relevance, and scope.
THE WITNESS: No, I don't believe that would harm her.
BY MR. HILDABRAND:
Q. Would it harm a natal girl or a cisgender girl if a transgender girl beat her and every other cisgender girl in the competition?
MS. BROWN: Same three objections.
THE WITNESS: No, I do not believe that's a circumstance of harm.
BY MR. HILDABRAND:
Q. Would it harm a cisgender girl if she were injured playing girls' basketball against a transgender girl?
MS. BROWN: Object to the form.
THE WITNESS: Risk of injury is present in participating in sports for people regardless of their gender identity.
/ /

BY MR. HILDABRAND:
Q. So yes or no? Do you view that as a harm?
MS. BROWN: Objection to form.
THE WITNESS: In what manner?
BY MR. HILDABRAND:
Q. Is it a harm for a cisgender girl to be injured playing girls' basketball against a transgender girl?
MS. BROWN: Same objection.
BY MR. HILDABRAND:
Q. Or is that simply a risk that comes with playing basketball?
A. I think that's a risk that comes with playing basketball.
Q. Let's turn ahead to -- you cite your current WPATH Standards of Care and we discussed those today, correct?
A. Correct.
Q. To the best of your understanding, do the current standards of care take a position on whether social transition is appropriate for prepubertal children?
A. The standards of care is a lengthy document. And from my recollection, I believe they address complexities and nuances in making decisions about

treatment planning, including a social transition.

MR. HILDABRAND: Opposing counsel, when is the end time that you have?

MS. BROWN: We're at 12 minutes and 36 seconds. Ten minutes.

MR. HILDABRAND: Ten minutes, okay. All right. Travis, can you circulate Doc R.

THE WITNESS: Do you think we can open that? Yes.

MR. HILDABRAND: And we are going to mark this as Exhibit 15.

(WHEREUPON, a document was marked as Exhibit Number 15.)

BY MR. HILDABRAND:

Q. Does this appear to be the seventh edition of the standards of care?

A. It does.

Q. Is that the current version of the standards of care?

A. It is. Standards of care eight is in development and hope to be released soon.

Q. When it's released, will you begin to consider version eight once it's released and use that in your practice?

A. I will review standards of care eight when

it's released.
Q. Let's turn for this to I think it's page 17 in the standards of care's page numbering but it's page 23 of the PDF. It's the page that says: Social transition in early childhood.
A. Okay. 23, we're there.
Q. Can you read the first paragraph, starting at the line -- let's see. Just one second. Do you see where it says: Social transitions in early childhood do occur within some families with early success? This is a controversial issue and divergent views are held by health professionals. The current evidence base is insufficient to predict the long-term outcomes of competing a gender role transition during early childhood. Outcomes research with children who completed early social transition would greatly inform future clinical recommendations. Do you agree or disagree with these sentences, and are there any parts of it that you would change?
A. I agree a social transition is a complex issue and is often navigated with success.
Q. All right. Are you aware of any new chapters that will be added to the WPATH Standards of Care in version eight?

A. My impression is that the standards of care eight will include informed updates around the treatment of nonbinary and gender-diverse individuals. They may also include some updates in mental health considerations for children as well.

MR. HILDABRAND: Travis, can you circulate doc -- actually, no.

BY MR. HILDABRAND:

Q. Are you aware that there is a draft chapter on eunuchs in version eight?

MS. BROWN: Objection to form.

THE WITNESS: I was not aware of that.

BY MR. HILDABRAND:

Q. All right. Do you view eunuchism as a gender identity?

MS. BROWN: Objection to form.

THE WITNESS: I am not aware of anyone with the identity eunuchism.

BY MR. HILDABRAND:

Q. If WPATH published a standard of care chapter on eunuchism and said that eunuchism is a gender identity, would that be something that you would follow in your practice?

MS. BROWN: Objection to form.

THE WITNESS: I would need to review the

standards of care and make a decision about how that would influence my practice.
BY MR. HILDABRAND:
Q. While you're not a pediatrician or an endocrinologist, are you aware that the FDA recently placed additional warnings on the use of puberty blockers?
A. I was not aware.
MR. HILDABRAND: Travis, can you circulate Doc W. And we'll enter this as Exhibit 16.
(WHEREUPON, a document was marked as Exhibit Number 16.)
BY MR. HILDABRAND:
Q. Is this titled, Risk of Pseudotumor Therapy Added to Labeling for Gonadotrophin-Releasing Hormone Agonists? Is that the title of the document?
A. Yes.
Q. And does it say from the Food and Drug Administration?
A. I see that, yes.
Q. Would you consider FDA warnings if you were aware that are one of your patients were on puberty blockers?

MS. BROWN: Objection to form and scope.
THE WITNESS: I am not a prescriber and so do not follow closely FDA warnings.
BY MR. HILDABRAND:
Q. So you have not advised any patients about any new FDA warnings about puberty blockers; is that correct?
MS. BROWN: Same objection.
THE WITNESS: I am not aware of these until this exhibit was presented.
BY MR. HILDABRAND:
Q. Are you aware that the United Kingdom's National Health Service recently closed the Tavistock Gender Identity Disorder Clinic?
MS. BROWN: Same objection and objection to relevance.
THE WITNESS: Yes, I'm aware.
BY MR. HILDABRAND:
Q. What is your understanding of why it was closed?
MS. BROWN: Same objection.
THE WITNESS: My impression is that clinics have been closing due to significant backlash and discrimination against providers and an inability to provide care for the patients that they

serve.
BY MR. HILDABRAND:
Q. Given that clinics such as Tavistock have been closing recently, does that give you any concern or doubt about your current approach to the practice of psychology?
MS. BROWN: Same objection.
THE WITNESS: I continue to practice in a way that is consistent with best practice guidelines and the guidelines we've discussed today. Any concern in my practice would be related to fear of response in the community and harassment from others who are not affirming of a transgender or gender-diverse identity.
BY MR. HILDABRAND:
Q. Are there generally many more individuals identifying as transgender or nonbinary in the past few years than there were, say, ten years ago in your experience?
MS. BROWN: Objection to form.
THE WITNESS: In the past ten years, more individuals have come forward as identifying as gender diverse or transgender and this is true of many psychological conditions as well, that our prevalence rates have increased for depression and

autism spectrum disorder and other conditions as well.

BY MR. HILDABRAND:

Q. Just to wrap up, have you understood the questions that I have asked today and answered to the best of your ability?

A. Yes, I have or sought clarification when needed. Thank you.

MR. HILDABRAND: Of course. Thank you. That is all that I have. Thank y'all for going through this. Does Jessica, I guess, do you have any questions?

MS. JERNIGAN-JOHNSON: I do not. Thank you.

MS. BROWN: Okay. If you could give us --

MR. HILDABRAND: If you need a few minutes before coming back, that's fine with me.

MS. BROWN: No. We don't have any redirect or questions for this witness.

THE REPORTER: Mr. Hildabrand, would you like to order this transcribed?

MR. HILDABRAND: Yes. Thank you.

THE REPORTER: Ms. Brown, would you like to order a copy?

MS. BROWN: Yes, we would.

MR. HILDABRAND: Before we wrap up, did we enter the FDA risk article as an exhibit?

THE REPORTER: Document W, Exhibit 16, yes, sir.

MR. HILDABRAND: We did, okay. Great. Just wanted to make sure. All right.

MS. BROWN: And, Ms. Honeycutt, we'll read and sign instead of waiving.

FURTHER DEPONENT SAITH NOT

(Proceedings concluded at 5:57 p.m.)

E R R A T A P A G E

I, MELISSA A. CYPERSKI, Ph.D., having read the foregoing videoconference deposition, pages 1 through 257, do hereby certify said testimony is a true and accurate transcript, with the following changes (if any):

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Notary Public

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I, Deborah H. Honeycutt, Licensed Court Reporter, with offices in Hermitage, Tennessee, hereby certify that I reported the foregoing videoconference deposition of MELISSA A. CYPERSKI, Ph.D., by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me. I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

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Exhibits

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