

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

A.C., a minor child by his next friend,	)	
mother and legal guardian, M.C.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 1:21-cv-02965-TWP-MPB
	)	
METROPOLITAN SCHOOL DISTRICT	)	
OF MARTINSVILLE; PRINCIPAL,	)	
JOHN R. WOODEN MIDDLE SCHOOL,	)	
in his official capacity,	)	
	)	
Defendants.	)	

**ANSWER**

Defendants, Metropolitan School District of Martinsville, and Principal, John R. Wooden Middle School, in his official capacity (jointly, “Defendants”), by counsel, for their Answer to the Complaint state as follows:

**Introduction**

1. A.C. is a transgender boy who attends John R. Wooden Middle School, one of the schools within the Metropolitan School District of Martinsville. He was diagnosed with gender dysphoria and is receiving treatment aimed at alleviating the distress associated with the incongruence between his male gender identity and his birth-assigned sex. He has filed a court action, which is currently pending in state court, to have the gender marker changed to male and his name formally changed on his birth certificate. He has requested the ability to use the boys’ restrooms at his school as well as asking to participate on the boys’ soccer team as he is male, despite his birth certificate reflecting that his birth-assigned gender was female. Employees of the Metropolitan School District of Martinsville (“School District”) have denied this request. He has also requested that he be addressed in a manner that reflects that he is a boy by referring to

him using male pronouns. A number of staff persons refuse to do so, and the School District has not required it of the staff. Defendants' failure to recognize plaintiff as male, to allow him to use boys' restrooms and facilities at the school, to require that he be addressed by the pronouns consistent with his male gender, and to allow him to participate on the boys' soccer team, violates both Title IX of the Education Amendments Act of 1972, 20 U.S.C. § 1681(a) and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. He is entitled to declaratory and injunctive relief, as well as his damages.

**ANSWER:** Defendants admit that A.C. is a student attending John R. Wooden Middle School, one of the schools within the Metropolitan School District of Martinsville. Defendants lack sufficient knowledge or information to admit or deny whether A.C. has been diagnosed with gender dysphoria and whether A.C. is currently receiving treatment. Defendants lack knowledge or information whether A.C. has filed a court action regarding a gender marker and name change. Defendants admit that A.C. has requested to use the boys' restrooms at the John R. Wooden Middle School, and inquired about participating on the boys' soccer team. Defendants admit that A.C.'s birth certificate reflects a birth-assigned sex of female, and that A.C.'s request to use the boys' restrooms has been denied. Defendants admit that A.C. has requested being addressed using male pronouns. Defendants deny the remainder of the allegations set forth in paragraph 1 of the Complaint.

**Jurisdiction, venue, and cause of action**

2. This Court has jurisdiction of this case pursuant to 28 U.S.C. § 1331.

**ANSWER:** Admit.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

**ANSWER:** Admit.

4. Declaratory relief is authorized by Rule 57 of the Federal Rules of Civil Procedure and by 28 U.S.C. §§ 2201, 2202.

**ANSWER:** Deny.

5. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of right secured by the United States Constitution and as a private cause of action directly pursuant to Title IX as authorized by *Cannon v. University of Chicago*, 441 U.S. 677, 717 (1979).

**ANSWER:** Deny.

### **Parties**

6. A.C. is a minor child who resides in Martinsville, Indiana. He brings this action by his mother as his next friend and legal guardian.

**ANSWER:** Admit.

7. The Metropolitan School District of Martinsville is a public-school corporation providing educational services in Martinsville, Indiana.

**ANSWER:** Admit.

8. The Principal of the John R. Wooden Middle School is the duly appointed principal of the school and is sued in his official capacity.

**ANSWER:** Admit.

### **Factual allegations**

9. A.C. is a 7th grader at the John R. Wooden Middle School, one of the schools within the Metropolitan School District of Martinsville (“School District”).

**ANSWER:** Admit.

10. Although the gender assigned to A.C. at birth was female, he has known himself to be a boy for several years.

**ANSWER:** Defendants admit that the sex assigned to A.C. at birth was female. Defendants lack knowledge or information sufficient to admit or deny the remaining allegations set forth in paragraph 10 of the Complaint.

11. When A.C. was in 5th grade he indicated to his family that he was not female and asked that he be addressed by a male first name and with male pronouns or “they.”

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 11 of the Complaint.

12. Since his time in elementary school, A.C. has been treated as male by his family.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 12 of the Complaint.

13. In 5th grade he was in school in Anderson, and he wore male clothes and cut his hair in a masculine manner.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 13 of the Complaint.

14. School personnel referred to him by his male first name and referred to him by male pronouns.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 14 of the Complaint.

15. When A.C. was in 5th grade he moved with his family to Martinsville where he was enrolled in one of the schools within the School District.

**ANSWER:** Defendants admit that A.C. enrolled in one of the schools within the School District in the fifth grade.

16. The staff at this school did not honor M.C.'s request that A.C. be referred to with male pronouns, instead referring to him using female pronouns.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 16 of the Complaint.

17. However, some students, in addition to referring to him by his male first name, also referred to him using male pronouns.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 17 of the Complaint.

18. By this point, A.C. was acutely uncomfortable using the girls' restrooms as he knew he was not female and did not present as female.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 18 of the Complaint.

19. He knows himself, and continues to know himself, as male.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 19 of the Complaint.

20. A.C. asked if he could use the boys' restroom at the school and was told he had to use either the girls' restrooms or the single-person restroom in the school's health clinic.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 20 of the Complaint.

21. He used the restroom at the health clinic and continued to do so for the remainder of 5th and 6th grades. He did not use the girls' restrooms.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 21 of the Complaint.

22. Using the health clinic restroom was disquieting to him as it made him feel different than the other students and increased the anxiety he was feeling between his sex assigned at birth and his gender.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 22 of the Complaint.

23. For the 2021-2022 school year, A.C. entered 7th grade in the John R. Wooden Middle School, one of the schools in the School District that contains 7th and 8th grades.

**ANSWER:** Admit.

24. He continues to be a student in the John R. Wooden Middle School.

**ANSWER:** Admit.

25. He is male and therefore did not use the girls' restrooms in the school.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 25 of the Complaint.

26. He believed that the only option that he had was to use the single-person restroom in the health clinic.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 26 of the Complaint. Defendants deny that the only option given to A.C. was to use the single-person restroom in the health clinic.

27. Therefore, at the beginning of the school year, he used the single-person restroom in the health clinic.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 27 of the Complaint.

28. Using the health clinic restroom was problematic.

**ANSWER:** Deny.

29. The health clinic in the school is far away from his classes. When he has tried to use the restroom during passing periods between classes it is so far away that he is frequently late for his next class.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 29 of the Complaint.

30. At times he has asked to use the restroom during class periods, and he has been refused.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 30 of the Complaint.

31. Moreover, as he has gotten older and more secure with asserting his identity as a boy, he has become increasingly disturbed about having to use the clinic restroom and not being able to use the boys' restrooms like all the other boys in the school. He feels that he is being singled out and that he is not accepted for who he is.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 31 of the Complaint.

32. This has caused him anxiety and unhappiness.

**ANSWER:** Deny.

33. These feeling are increased by the fact that although he is referred to by his male first name by many of the regular teachers a number of them continue to refer to him by female, not male, pronouns.

**ANSWER:** Deny.

34. Substitute teachers routinely refer to him with female pronouns.

**ANSWER:** Deny.

35. In September of this year, he became a patient at the Gender Health Program at Riley at IU Health in Indianapolis where he is receiving care and treatment for the diagnosed condition of gender dysphoria.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 35 of the Complaint.

36. As part of his treatment for gender dysphoria, A.C. has been prescribed medication to prevent him from having periods. When medically appropriate, A.C. will start masculinizing hormones.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 36 of the Complaint.

37. M.C., on A.C.'s behalf, has petitioned a Morgan County state court for a legal name and gender marker change so that A.C.'s birth certificate can be amended to reflect his male gender and the name he uses that reflects his gender. That matter is currently pending.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 37 of the Complaint.

38. Because of her concerns over the school's refusal to allow her son to live his school life as a boy, M.C. consulted with Gender Nexus, an organization for transgender and nonbinary

persons, a representative of whom emailed the school's principal in the fall of this year, requesting a meeting.

**ANSWER:** Defendants admit that a representative of Gender Nexus emailed the John R. Wooden Middle Schools' principal on October 25, 2021 requesting a team meeting via Zoom. Defendants lack knowledge or information sufficient to admit or deny the remaining allegations set forth in paragraph 38 of the Complaint.

39. On November 3, 2021, A.C., his mother, and representatives of Gender Nexus met with school personnel. The principal was not there, instead a school counselor was present.

**ANSWER:** Admit.

40. At this meeting A.C., his mother, and the advocates indicated that A.C. had the right to use the restroom that aligned with his gender identity. A.C. also asked to participate in boys' soccer in the fall of 2022.

**ANSWER:** Defendants state that at the meeting, participants discussed accommodation requests for use of restrooms and athletics.

41. The counselor indicated that he would have to check with the "higher ups" and would get back to A.C. and his mother.

**ANSWER:** Defendants admit that the school counselor indicated that he would bring these matters to school administrators and follow back up with A.C. and A.C.'s mother.

42. Within an hour and a half, the counselor left a voice mail for M.C. indicating that the information he had received from the principal of the John R. Wooden Middle School was that A.C. would have to continue using the health clinic restroom, although he would be given extended time to do so. The counselor also stated that the school would allow A.C. to be educated at home with on-line schooling. Finally, the counselor stated that the school needed to follow the

IHSAA (Indiana High School Athletic Association) rules concerning athletic participation. Nothing was said about the school requiring staff to refer to A.C. using male pronouns. A.C. and his mother understood that to mean that no such requirement would be issued by the school.

**ANSWER:** Defendants state that the voicemail would speak for itself. By way of further response, Defendants admit that the counselor sought guidance from the school principal following the meeting, and A.C. and A.C.'s mother were advised that A.C. could continue to use the health clinic restroom or the girls' restroom, that A.C. would be allowed extended time to do so, and that A.C. also had the option of on-line school. Defendants admit that the counselor advised that the school would follow the IHSAA rules concerning athletic participation. Defendants admit that nothing was said about the school requiring staff to refer to A.C. using male pronouns. Defendants lack knowledge or sufficient to admit or deny what A.C. or A.C.'s mother's understanding was.

43. Following the November 3, 2021, meeting, and despite the counselor's voice mail, A.C. began to use the boys' restrooms at the school.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 43 of the Complaint.

44. The urinals in the restrooms have partitions between them and the toilet stalls all have doors.

**ANSWER:** Admit.

45. When using the boys' restrooms he received no adverse reactions from other students, and he found this acceptance comforting.

**ANSWER:** Defendants lack knowledge or information sufficient to admit or deny the allegations set forth in paragraph 45 of the Complaint.

46. However, on November 22, 2021, a teacher saw him using the boys' restroom and the teacher sent A.C. to the office where he met with administrative staff who admonished A.C. and instructed him that he could not use the boys' restroom. They threatened him with punishment if he used the boys' restroom.

**ANSWER:** Defendants admit that in late November 2021, a teacher saw A.C. in the boys' restroom but deny that the teacher sent A.C. to the office. Defendants state that A.C. was called to the office by the school social worker, who told A.C. not to use the boys' restroom. Defendants deny that A.C. was threatened with punishment.

47. During his time in the office, A.C. called his stepfather, who spoke to the administrators. During the conversation an administrator repeatedly misgendered A.C., referring to him as a girl.

**ANSWER:** Defendants admit that A.C. asked to call his stepfather while in the office. Defendants state that A.C.'s stepfather spoke with the school social worker and a substitute teacher on that call. Defendants deny that an administrator repeatedly misgendered A.C. The substitute teacher referred to A.C. with A.C.'s birth gender during that call and apologized for the same during the call.

48. The school's refusal to accept A.C. as a boy and being disciplined for using the male restroom was extremely upsetting to A.C. and he stayed home from school the next day.

**ANSWER:** Defendants admit that A.C. was not in attendance in school on November 23, 2021. Defendants deny that A.C. was disciplined for using the male restroom. Defendants lack knowledge or information sufficient to admit or deny the remaining allegations set forth in paragraph 48 of the Complaint.

49. On November 29, 2021, the principal of John R. Wooden Middle School called A.C. into his office and instructed him that he was not to use the boys' restroom and that other parents and the community had a voice in what restrooms A.C. used.

**ANSWER:** Defendants admit that the school principal met with A.C. on November 29, 2021, and told A.C. to use the nurse's office restroom and that A.C. would be provided with extra time if needed. Defendants deny the remaining allegations set forth in paragraph 49 of the Complaint.

50. A.C. called his mother on his phone while in the office and the principal told W.C. that A.C. would have to use the girls' restroom or the restroom in the health clinic, that the community had taken a vote on it, and that she should express her opinions at the School Board.

**ANSWER:** Defendants admit that the school principal advised A.C. and A.C.'s mother that A.C. would need to use the girls' restroom or the restroom in the health clinic. Defendants deny the remaining allegations set forth in paragraph 50 of the Complaint.

51. Certain staff persons have continued to refuse to refer to A.C. with male pronouns.

**ANSWER:** Deny.

52. Although the IHSAA has a formal policy governing athletic participation by transgender students, it only applies to athletes in the 9th-12th grades and makes no mention of younger students. *See* Purpose of the IHSAA, <https://www.ihsaa.org/About-IHSAA/Current-Information/Purpose> (last visited Nov. 26, 2021).

**ANSWER:** Defendants admit that the IHSAA guidelines do not govern middle school sports, but state that they are considered to be the best and safest practices. Defendants state that the IHSAA policies speak for themselves.

53. A.C. is being caused psychological stress and injury by the actions of the defendants in that they serve to reemphasize the disconnect between his sex assigned at birth and gender identity and cause him continuing depression, anxiety, mental distress, and other injuries.

**ANSWER:** Deny.

54. A.C. is being caused irreparable harm for which there is no adequate remedy at law.

**ANSWER:** Deny.

55. The Metropolitan School District of Martinsville is a recipient of federal funding and is an entity covered by Title IX.

**ANSWER:** Admit.

56. At all times defendants have acted and have failed to act under color of state law.

**ANSWER:** Defendants admit that their actions have been taken under color of state law.

57. The actions and inactions of defendants represent intentional discrimination and have damaged plaintiff.

**ANSWER:** Deny.

#### **Legal claims**

58. The failure to allow A.C. to use male restrooms at John R. Wooden Middle School and to require that he be referred to as a male, using pronouns consistent with his gender identity, and allowing him to participate in soccer with the boys' team, represents unlawful discrimination because of sex in violation of Title IX, 20 U.S.C. § 1681(a), for which the Metropolitan School District of Martinsville is liable.

**ANSWER:** Deny.

59. The failure to allow A.C. to use male restrooms at John R. Wooden Middle School and to require that he be referred to as a male, using pronouns consistent with his gender identity, and allowing him to participate in soccer with the boys' team, violates the Equal Protection Clause of the Fourteenth Amendment, for which the Principal of the John R. Wooden School, in his official capacity, is liable.

**ANSWER:** Deny.

### **UNANSWERED ALLEGATIONS**

Each and every allegation contained in the Complaint which is not specifically admitted or denied herein is generally denied.

### **ADDITIONAL DEFENSES**

1. The Complaint fails, in whole or in part, to state a claim upon which relief may be granted.
2. Plaintiffs' claims are premature.
3. Plaintiffs have failed to mitigate their alleged damages.
4. Pursuant to Title IX's implementing regulations, institutions "may provide separate toilet, locker room, and shower facilities on the basis of sex." 34 C.F.R. § 106.33.
5. Plaintiffs' claims under *Monell*, if any, are barred to the extent they have failed to properly state a claim.
6. Plaintiffs' claims under *Monell* against an employee in the employee's official capacity are redundant.
7. Defendants acted in good faith at all times, and had reasonable grounds for believing that any act(s) they took did not violate any applicable federal or state laws.

8. Plaintiffs have failed to describe the claims made against Defendants with sufficient particularity to enable them to determine what additional defenses they may have in response to the purported claims. Defendants therefore reserve the right to assert all defenses which may be pertinent to Plaintiffs' alleged claims once the precise nature of those claims is ascertained through discovery.

WHEREFORE, Defendants, by counsel, respectfully requests that the Court enter judgment in their favor and against Plaintiffs, on their Complaint; that Plaintiffs take nothing by way of their Complaint; and that the Court award all other appropriate relief.

**JURY DEMAND**

Defendants demand a jury on all issues so triable.

Respectfully submitted,

/s/ Philip R. Zimmerly

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 25, 2022, a copy of the foregoing “Answer” was filed electronically. Notice of this filing will be sent to the following counsel by operation of the Court’s electronic filing system. Parties may access this filing through the Court’s system.

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*/s/ Philip R. Zimmerly*  
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Philip R. Zimmerly

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