

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

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

No. 3:21-CV-00835

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

Pursuant to L.R. 56.01(b), Plaintiff L.E., by his next friends and parents Shelley Esquivel and Mario Esquivel, responds as follows to Knox County Board of Education Jon Rysewyk’s Statement of Undisputed Material Facts in Support of the Motion for Summary Judgment.

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

**RESPONSE:** Admitted.

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

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

**RESPONSE:** Admitted.

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

**RESPONSE:** Admitted.

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

**RESPONSE:** L.E. admits that KCBOE amended its interscholastic sports policy in response to Tenn. Code. Ann. §49-6-310. L.E. denies that KCBOE was required to amend its interscholastic sports policy in a manner that would preclude transgender student-athletes from participating on teams consistent with their gender identity even if the state law imposing such a requirement was no longer operative. *See* Dkt. 52 ¶82 (KCBOE’s revised I-171 Policy will remain operative unless affirmatively repealed, even if the underlying state law is no longer operative).

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

**RESPONSE:** L.E. admits, for purposes of summary judgment, that KCBOE claims that its purpose in amending the policy was to comply with state law.

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

**RESPONSE:** L.E. admits, for purposes of summary judgment, that KCBOE had no role in drafting, advocating, or passing Tennessee Code Annotated §49-6-310. L.E. denies that this fact is material.

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

**RESPONSE:** Admitted.

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

**RESPONSE:** Admitted.

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

**RESPONSE:** Admitted.

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

**RESPONSE:** Admitted.

11. Plaintiff alleges that he is a transgender boy<sup>1</sup> and desires to play golf on the Farragut High School boys' golf team. [*Id.*, ¶ 81].

**RESPONSE:** Admitted.

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

**RESPONSE:** Admitted.

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

**RESPONSE:** L.E. admits that he has never tried out for any golf team at Farragut High School. L.E. denies that this fact is material. *See Mays v. LaRose*, 951 F.3d 775, 782 (6th Cir. 2020) (“When doing so would be futile, Article III does not require plaintiffs to take actions simply to establish standing.”).

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

**RESPONSE:** L.E. admits that he himself has never discussed playing golf for the FHS boys' team with the FHS boys' golf coach, athletic director, principal, or other KCBOE staff member. L.E. denies that this fact is material.

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

Dated: November 4, 2022

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

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

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

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

Respectfully submitted,

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

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

Jennifer Milici (*pro hac vice*)  
Emily L. Stark (*pro hac vice*)  
Samuel M. Strongin (*pro hac vice*)  
John W. O'Toole (*pro hac vice*)  
Britany Riley-Swanbeck (*pro hac vice*)  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
1875 Pennsylvania Ave. NW  
Washington, DC 20006  
Tel: (202) 663-6000  
jennifer.milici@wilmerhale.com  
emily.stark@wilmerhale.com  
samuel.strongin@wilmerhale.com  
john.o'toole@wilmerhale.com  
britany.riley-swanbeck@wilmerhale.com

***Attorneys for Plaintiff L.E., by his next  
friends and parents, Shelley Esquivel and  
Mario Esquivel***

**CERTIFICATE OF SERVICE**

I hereby certify that on November 4, 2022, a true and correct copy of the foregoing was served on the below counsel for Defendants, via the Court's ECF/CM system.

Stephanie A. Bergmeyer  
Senior Assistant Attorney General  
Office of Tennessee Attorney General  
P.O. Box 20207  
Nashville, Tennessee 37202  
Stephanie.Bergmeyer@ag.tn.gov  
(615) 741-6828

Clark L. Hildabrand  
Assistant Solicitor General  
Office of Tennessee Attorney General and  
Reporter  
P.O. Box 20207  
Nashville, Tennessee 37202  
Clark.Hildabrand@ag.tn.gov  
(615) 253-5642

David M. Sanders  
Senior Deputy Law Director, Knox County  
Suite 612, City-County Building  
400 Main Street  
Knoxville, TN 37902  
David.Sanders@knoxcounty.org  
(865) 215-2327

Jessica Jernigan-Johnson  
Deputy Law Director, Knox County  
Suite 612, City-County Building  
400 Main Street  
Knoxville, TN 37902  
Jessica.Johnson@knoxcounty.org  
(865) 215-2327

/s/ Alan Schoenfeld  
Alan Schoenfeld