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Attorneys for Defendant Thomas C. Horne

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

**Jane Doe, by her next friends and parents
Helen Doe and James Doe; and Megan Roe,
by her next friends and parents, Kate Roe
and Robert Roe,**

Plaintiffs,

v.

**Thomas C. Horne, in his official capacity as
State Superintendent of Public Instruction;
Laura Toenjes, in her official capacity as
Superintendent of the Kyrene School
District; Kyrene school District; the Gregory
School; and Arizona Interscholastic
Association, Inc.,**

Defendants.

Case No. 4:23-cv-00185-JGZ

DEFENDANT HORNE'S ANSWER

1 For his Answer to Plaintiffs' Complaint, Defendant Thomas C. Horne in his official
2 capacity as State Superintendent of Public Instructions ("Superintendent Horne") admits, denies,
3 and affirmatively alleges as follows:

4 **INTRODUCTION**

- 5 1. Admit.
6 2. Deny.
7 3. Deny.
8 4. Deny.
9 5. Deny.
10 6. Deny.

11 **PARTIES**

12 7. Defendant lacks knowledge or information sufficient to form a belief as to the truth
13 of the allegations and therefore denies them.

14 8. Defendant lacks knowledge or information sufficient to form a belief as to the truth
15 of the allegations and therefore denies them.

- 16 9. Admit.
17 10. Admit.
18 11. Admit.

19 12. Defendant lacks knowledge or information sufficient to form a belief as to the truth
20 of the allegations and therefore denies them.

21 13. Defendant lacks knowledge or information sufficient to form a belief as to the truth
22 of the allegations and therefore denies them.

23 **JURISDICTION AND VENUE**

- 24 14. Admit.
25 15. Admit.



1 16. Deny. Superintendent Horne has filed a Motion to Transfer this action to the
2 Phoenix Division of the Arizona District Court.

3 17. Admit.

4 18. Admit.

5 **FACTUAL ALLEGATIONS**

6
7 19. Deny.

8 20. Deny.

9 21. Deny.

10 22. Deny.

11 23. Deny.

12 24. Deny.

13 25. Admit.

14 26. Admit.

15 27. Admit.

16 28. Admit.

17 29. Deny.

18 30. Deny.

19 31. Deny.

20 32. Deny.

21 33. Deny.

22 34. Deny.

23 35. Deny.

24 36. Deny.

25 37. Deny.

26 38. Admit. Defendants further assert that if Plaintiffs are successful, all these benefits
27 would be denied to a much larger population of female athletes than biological males/transgender
28 females.

1 39. Admit. Defendants further assert that if Plaintiffs are successful, all these benefits
2 would be denied to a much larger population of female athletes than biological
3 males/transgender females.

4 40. Admit. Defendants further assert that if Plaintiffs are successful, all these benefits
5 would be denied to a much larger population of female athletes than biological
6 males/transgender females.

7 41. Admit. Defendants further assert that if Plaintiffs are successful, all these benefits
8 would be denied to a much larger population of female athletes than biological
9 males/transgender females.

10 42. Admit. Defendants further assert that if Plaintiffs are successful, all these benefits
11 would be denied to a much larger population of female athletes than biological
12 males/transgender females.

13 43. Admit. Defendants further assert that if Plaintiffs are successful, all these benefits
14 would be denied to a much larger population of female athletes than biological
15 males/transgender females.

16 44. Defendant lacks knowledge or information sufficient to form a belief as to the truth
17 of the allegations and therefore denies them.

18 45. Defendant lacks knowledge or information sufficient to form a belief as to the truth
19 of the allegations and therefore denies them.

20 46. Defendant lacks knowledge or information sufficient to form a belief as to the truth
21 of the allegations and therefore denies them.

22 47. Defendant lacks knowledge or information sufficient to form a belief as to the truth
23 of the allegations and therefore denies them.

24 48. Defendant lacks knowledge or information sufficient to form a belief as to the truth
25 of the allegations and therefore denies them.

26 49. Defendant lacks knowledge or information sufficient to form a belief as to the truth
27 of the allegations and therefore denies them.
28

1
2
3 50. Defendant lacks knowledge or information sufficient to form a belief as to the truth
4 of the allegations and therefore denies them.

5 51. Deny. Defendant further asserts that the alleged medically prescribed treatments
6 are very damaging. After experiencing the negative impacts of puberty blockers on minors,
7 Sweden banned the treatment. . **Ex. A** (*Sweden puts brakes on treatments for trans minors*,
8 france24.com (February 8, 2023) <https://www.france24.com/en/live-news/20230208-sweden-puts-brakes-on-treatments-for-trans-minors>).
9

10 52. Deny. Defendant further asserts that if pre-pubescent biological males/transgender
11 females have no advantage over females then there should be a coed team. In that circumstance,
12 there is no reason to have separate teams for boys and girls. Defendant further asserts that the
13 alleged medically prescribed treatments are very damaging. After experiencing the negative
14 impacts of puberty blockers on minors, Sweden banned the treatment. Ex. A.

15 53. Deny. Defendant further asserts that if pre-pubescent biological males/transgender
16 females have no advantage over females then there should be a coed team. In that circumstance,
17 there is no reason to have separate teams for boys and girls.

18 54. Admit.

19 55. Deny. Defendant further asserts the alleged medically prescribed treatments are
20 very damaging. After experiencing the negative impacts of puberty blockers on minors, Sweden
21 banned the treatment. Ex. A.

22 56. Defendant lacks knowledge or information sufficient to form a belief as to the truth
23 of the allegations and therefore denies them.

24 57. Defendant lacks knowledge or information sufficient to form a belief as to the truth
25 of the allegations and therefore denies them.

26 58. Defendant lacks knowledge or information sufficient to form a belief as to the truth
27 of the allegations and therefore denies them.
28

1 59. Defendant lacks knowledge or information sufficient to form a belief as to the truth
2 of the allegations in the first sentence and therefore denies them. Defendant denies the remaining
3 allegations.

4 60. Deny.

5 61. Defendant lacks knowledge or information sufficient to form a belief as to the truth
6 of the allegations and therefore denies them.

7 62. Defendant lacks knowledge or information sufficient to form a belief as to the truth
8 of the allegations and therefore denies them.

9 63. Defendant lacks knowledge or information sufficient to form a belief as to the truth
10 of the allegations and therefore denies them.

11 64. Defendant lacks knowledge or information sufficient to form a belief as to the truth
12 of the allegations and therefore denies them.

13 65. Deny that competing on a boys' volleyball team is not an option for Megan.
14 Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
15 allegations and therefore denies them.

16 66. Deny.

17 67. Deny.

18 **CLAIMS FOR RELIEF**

19 **COUNT I**

20 Deprivation of Equal Protection
21 U.S. Const. Amend. XIV

22 68. Defendant incorporates by reference all prior admissions, denials, and affirmative
23 allegations made hereinabove as though fully set forth herein.

24 69. Admit.

25 70. Admit.

26 71. Deny.

27 72. Deny.

28 73. Deny.



COUNT II

Violation of Title IX
20 U.S.C. § 1681 *et seq.*

1
2
3 74. Defendant incorporates by reference all prior admissions, denials, and affirmative
4 allegations made hereinabove as though fully set forth herein.

5 75. Admit.

6 76. Admit.

7 77. Deny.

8 78. Deny.

9 79. Deny.

10 80. Deny.

COUNT III

11 Discrimination On Basis of Disability
12 Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*
13 Section 504 of the Rehabilitation Act, 29 U.S.C. § 794

14 81. Defendant incorporates by reference all prior admissions, denials, and affirmative
15 allegations made hereinabove as though fully set forth herein.

16 82. Admit the cited statutes include the quoted language. Affirmatively allege the
17 allegation is an incomplete summary of the relevant provisions of the ADA.

18 83. Admit.

19 84. Deny.

20 85. Deny.

AFFIRMATIVE DEFENSES

21 Defendant affirmatively incorporates all defenses available under the Federal Rules of Civil
22 Procedure, Rule 8, as well as all defenses that may be found and revealed by further discovery;

23
24 **WHEREFORE DEFENDANT** prays for judgment as follows:

25 A. That Plaintiff's complaint be dismissed, and that Plaintiff take nothing thereby;

26
27 B. Awarding Defendant his costs, expenses, and reasonable attorney's fees pursuant to 42
28 U.S.C. § 1988 and other applicable laws;

1 C. Such other and further relief as to the Court appears just and proper.

2 **RESPECTFULLY SUBMITTED** on May 18, 2023.

3 **WILENCHIK & BARTNESS, P.C.**

4 /s/ Dennis I. Wilenchik

5 Dennis I. Wilenchik, Esq.

6 Karl Worthington, Esq.

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11 *Attorneys for Defendant Thomas C. Horne*

12 /s/ Maria Syms, Esq.

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18 *Attorneys for Defendant Thomas C. Horne*

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2023, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrant:

By: /s/ Hilary Myers



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Sweden puts brakes on treatments for trans minors



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🕒 4 min

Stockholm (AFP) – Sweden, the first country to introduce legal gender reassignment, has begun restricting gender reassignment hormone treatments for minors, as it, like many Western countries, grapples with the highly-sensitive issue.

With the number of diagnoses soaring, the medical community faces the dilemma of weighing precaution against the risks associated with not offering treatment to those suffering from "gender dysphoria".

Sweden decided in February 2022 to halt hormone therapy for minors except in very rare cases, and in December, the National Board of Health and Welfare said mastectomies for teenage girls wanting to transition should be limited to a research setting.

"The uncertain state of knowledge calls for caution," Board department head Thomas Linden said in a statement in December.

So-called puberty blockers have been used in young teens contemplating gender transition to delay the onset of unwanted physical changes.



Like many other countries, Sweden has seen a sharp rise in cases of gender dysphoria, a condition where a person may experience distress as a result of a mismatch between their biological sex and the gender they identify as.

According to the Board of Health and Welfare, approximately 8,900 people were diagnosed with gender dysphoria in Sweden between 1998 and 2021, in a country of around 10 million.

In 2021 alone, about 820 new cases were registered.

The rising trend in gender dysphoria cases is particularly visible among 13- to 17-year-olds born female. © Jonathan NACKSTRAND / AFP

The trend is particularly visible among 13- to 17-year-olds born female, with an increase of 1,500 percent since 2008.

"It used to be a male phenomenon and now there is a strong female over-representation," psychiatrist Mikael Landen, chief physician at Sahlgrenska University Hospital in Gothenburg, told AFP.

Landen, who contributed to the scientific study on which the Board of Health based its decision, said the reasons for this increase remain largely a "mystery".

"Tolerance has been high in Sweden for at least the last 25 years, so you can't say it has changed," he said when asked if it was simply a result of a more accepting society.

Western debate

The profile of those diagnosed is often complex, according to Linden, as gender dysphoria often occurs in those also suffering from other diagnoses, such as attention deficit and eating disorders or autism.

In May 2021 – before the Swedish authorities' decision to restrict gender reassignment hormone treatments – the prestigious Karolinska Hospital in Stockholm chose to restrict such hormone treatments to research projects only.



The prestigious Karolinska University Hospital near Stockholm began restricting gender reassignment hormone treatments before the government chose to do so © Jonathan NACKSTRAND / AFP

Other countries are weighing the same questions.

Neighbouring Finland took a similar decision in 2020, while France has called for "the utmost reserve" on hormone treatments for young people.

The UK meanwhile saw a high-profile court case in 2020.

Keira Bell, who regretted her transition from female to male, filed a complaint against the public body responsible for gender dysphoria treatments, claiming she had been too young at age 16 to consent to the treatments.

She ultimately lost her case.

Sweden's recent rollback is all the more notable as it was first in the world to authorise legal gender transition in 1972, paving the way for sex reassignment surgery to be covered by its universal healthcare system.

Rights groups have expressed concern.

Elias Fjellander, president of the youth branch of RFSL, the country's main organisation championing LGBTQ rights, says Sweden's decision risks leading to increased suffering.

"These people might need more care and invasive procedures in the future, because the decision could not be made earlier, even though the medical need was there," he said.

Twenty-year-old Antonia Lindholm, a trans woman who began her transition as a teenager, agreed.

"I think hormones save a lot of people," she told AFP.

"If I were 13 today, I wouldn't have a chance" of getting this treatment, Lindholm added.

Regret

But others who have had hormone treatment support the Swedish position.

Mikael Kruse, 36, changed his gender in his late 20s but had a change of heart and finally "detransitioned".

"I think it's good to take a break to understand what's going on," he told AFP.

For seven years, the Swede lived as a woman, but that never resolved his discomfort.

A new diagnosis revealed he had Asperger's Syndrome as well as Attention Deficit Disorder, and the suffering he thought was related to his gender was due to different factors.

"All the pieces of the puzzle fell into place," Kruse said.

For Carolina Jemsby, co-director of the Swedish documentary *The Trans Train* which brought the care of adolescents into the limelight in 2019, the current debate shows it is 'more complex than the healthcare system and society had hoped'.

"One aspect of this dilemma is that it has become a political issue," she told AFP.

"It does a disservice to this group who need scientifically proven medical care to help them and give them a better life, and a better ability to live who they are."

In 1972 Sweden introduced an act to allow people to legally change their gender thus becoming, according to the government, "the first country in the world to introduce a formal option in law to be assigned with a new legal gender".

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