

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

B.E. and S.E., minor children by their)	
mother and next friend, L.E.,)	
)	
Plaintiffs,)	
)	
v.)	No. 2:21-cv-00415-JRS-MG
)	
VIGO COUNTY SCHOOL CORPORATION;)	
PRINCIPAL, TERRE HAUTE NORTH VIGO)	
HIGH SCHOOL, in his official capacity,)	
)	
Defendants.)	

DECLARATION OF L.E.

L.E., being duly sworn upon her oath, says that:

1. I am the mother of the plaintiffs, B.E. and S.E., and I represent them in this action as their mother, next friend, and legal guardian.
2. I reside with my children in Terre Haute, Indiana.
3. Both of my children are currently freshmen at Terre Haute North Vigo High School in the Vigo County School Corporation.
4. They are both boys who are transgender. They were designated female at birth, the gender listed on their birth certificates, but told me when they were in elementary school that they are boys.
5. They have been recognized as boys in our home since they were about 11 years old and have lived as boys ever since. They go by the names that reflect their gender,

use male pronouns, and are masculine in appearance. Like most teenage boys, they wear their hair in masculine styles and wear boys' clothes.

6. Since then, I have asked their schools to refer to them by the names and pronouns that reflect their gender. Most of their teachers and classmates have respected this request. Throughout middle school, all their teachers and classmates used their names and pronouns at my request and the middle school principal's direction.

7. I have seen my sons' emotional and psychological wellbeing improve from being socially recognized as the boys that they are. They are completely accepted by their friends and our family as boys, and many members of our community have only known them as boys.

8. But as they have gotten older, it has become increasingly distressing for them to be viewed by others as girls and to have bodies that do not align with their gender. This distress manifested itself in a number of ways.

9. To address their psychological distress, I sought out health professionals at Riley Children's Hospital to address any transition-related medical or mental health care needs.

10. They have both been diagnosed with gender dysphoria and have begun hormone therapy to bring their bodies into alignment with their gender and to alleviate the distress caused by their gender dysphoria.

11. When they began high school at Terre Haute North, we contacted their new teachers and made the same request as we have of their middle school teachers: that they be referred to with the names and pronouns that reflect their gender.

12. Although we made this request, it is my understanding that substitute teachers continued to call the boys' by their birth names and continued and continued to refer to the boys with female pronouns.

13. Several weeks into the school year, in late September, I received a phone call from the Vice Principal at Terre Haute North requesting that I and my children come into her office for a meeting to discuss my sons' use of the boys' bathrooms at school.

14. At that meeting, I requested that my sons be allowed to use the boys' facilities at school and asked that school employees and students refer to them with the names they go by and male pronouns. I explained that they both receive transition-related care and will begin hormone therapy in November 2021 that will rapidly masculinize their appearance.

15. We were told that my children would not be allowed to use the boys' facilities at school. They were instead directed to use the girls' bathrooms or to use the unisex bathroom in the health office.

16. I then sent school administrators a written request that my sons be treated as boys in all respects at school and explained my understanding that they are legally required to do so.

17. Specifically, I asked that the school direct its employees and students to refer to them by the names that reflect their gender and with male pronouns. I also asked that they be allowed to use the boys' bathrooms and locker rooms and provided legal information that detailed my children's rights at school under federal law and the Constitution.

18. I also provided letters from my children's doctor, Dr. Nomi Sherwin, explaining that they both have medical issues that require them to use the restroom often. Dr. Sherwin's letters requested that my children be excused from class as needed and that they be allowed to use the boys' bathrooms.

19. Attached here as Exhibit 1 is a true and accurate copy of Dr. Sherwin's October 7, 2021 letter regarding my son, B.E., which I sent to the Principal by e-mail on October 7, 2021. I have redacted my son's name from the letter.

20. Attached here as Exhibit 2 is a true and accurate copy of Dr. Sherwin's October 7, 2021 letter regarding my son, S.E., which I sent to the Principal by e-mail on October 7, 2021. I have redacted my son's name from the letter.

21. The Vice Principal responded that my request was being reviewed by executive staff members of the School Corporation.

22. In mid-October, I had another in-person meeting with the Vice Principal and the Principal of Terre Haute North. I was told that after consulting with executive staff members of the School Corporation and its lawyers, the school would continue to refuse

my sons access to the boys' bathrooms or other facilities. While they would be excused from class as needed because of their medical issues, they would only be allowed to use the girls' bathrooms or the unisex bathroom in the health office.

23. I was also told that they would not direct school employees and students to refer to my children by the names and pronouns that reflect their gender. They would instead give teachers the choice whether to use the names they go by and male pronouns or to refer to them with their birth names and female pronouns. My children would also continue to be listed on class rosters and in the school yearbook under their birth names.

24. The school's refusal to treat my sons as boys has been devastating for them and for our family. It undermines all the benefits they have gotten from their social transition, family support, and medical care. It has continued to cause them psychological distress, to put their physical health at risk, and to disrupt their learning.

25. Being unable to use the boys' facilities has been emotionally and physically harmful. They often come home having avoided using the bathrooms at all during school, which is very dangerous because of their medical issues and has impacted their ability to be at school and their desire to participate in school or do their schoolwork.

26. Without the ability to use the easily accessible boys' bathrooms at school, they have at times been unable to avoid having bathroom accidents. This is embarrassing for

them and disruptive because they have to miss class and wait until I can get to school with a change of clothes.

27. Because many of their peers only know them as boys and they are now viewed by others as boys, I was hopeful that they could just be boys in high school and focus on school, friends, and their futures. But the school's refusal to treat them as boys has made this impossible.

28. Many of their classmates have learned that they are transgender because of the school's continued use of their birth names. Some of their peers have started discussing their gender and denying that they are really boys, and some of our family friends have expressed anti-transgender sentiments.

29. These issues are chronically disrupting my children's education and lives. I see them suffer emotionally, psychologically, and physically every day that the school's treatment continues. They dread going to school, are unable to focus there, and come home depressed and humiliated. They are no longer motivated to do schoolwork or participate in extracurriculars because they know that they will not be recognized for who they are.

30. They have now started hormone therapy and are very excited to see its masculinizing effects. But I worry that the school's treatment will undermine their transitions and impact their psychological wellbeing long after high school is over.

31. I have also petitioned on their behalf to legally change their names and gender markers so that their birth certificates can be amended to reflect their masculine names and male gender. This petition has been filed in the Vigo Circuit Court. We have had our hearing and we are awaiting a decision from the judge.

32. I will provide their school with copies of their name and gender marker change orders. I do not know if the school's position on bathroom use will change when their birth certificates are amended to male.

Verification

I verify, under the penalty of perjury, that the forgoing is true and correct.

Executed on: 11-23-21

L. E.
L.E.

Prepared by:

Kathleen Bensberg
No. 35437-49
Indiana Legal Services, Inc.
1200 Madison Ave., Suite 300
Indianapolis, IN 46225



INDIANA UNIVERSITY
DEPARTMENT OF PEDIATRICS
School of Medicine

10/7/2021

RE: [REDACTED]

MR#: [REDACTED]

DOB: [REDACTED]

RE: Medical accommodation request

To Whom It May Concern:

[REDACTED] has a medical condition which requires frequent restroom use. Please allow him to be excused from class as needed to use the restroom. Please allow him to use bathrooms and locker rooms that are congruent with his male gender.

If there are any further questions, please do not hesitate to contact me directly. My telephone number is 317-274-8812.

Respectfully,

A handwritten signature in black ink, appearing to read "Nomi K Sherwin".

NOMI K SHERWIN, MD

Fellow, Department of Adolescent Medicine

Board Certified, Pediatrics

COPY TO: Riley Hospital for Children Medical Chart



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v.)

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VIGO COUNTY SCHOOL CORPORATION;)
PRINCIPAL, TERRE HAUTE NORTH VIGO)
HIGH SCHOOL, in his official capacity,)

Defendants.)

DECLARATION OF B.E.

B.E., being duly sworn upon his oath, says that:

1. I am a plaintiff in this action.
2. I am 15 years old and reside in Terre Haute, Indiana.
3. I am a freshman at Terre Haute North Vigo High School in the Vigo County School Corporation.
4. I was designated female when I was born, but I realized in elementary school that I am a boy. I began to feel uncomfortable when others treated me as a girl. This discomfort has increased as I have gotten older.
5. By the time I was about 11 years old, I told my family that I am a boy and began to live and present myself to the world as a boy.

6. My family and friends began to refer to me by my name that reflects my gender and male pronouns, the name and pronouns I have used ever since. I also began presenting myself as male with masculine clothes and a masculine haircut.

7. My appearance has remained masculine since then. Others now correctly view me as a boy based on my appearance.

8. Beginning in elementary school, some students and teachers began to use the name and pronouns that reflect my gender at my and my mother's request. This is also how I was known throughout middle school.

9. When I began high school at Terre Haute North, I asked my new teachers to use the name and pronouns that reflect my gender, which I have used exclusively for several years.

10. I also used the boys' bathrooms at the beginning of my freshman year because they are the correct and comfortable bathroom for me, like they are for any other boy. The boys' bathrooms in my school have urinals and individual stalls with toilets and are conveniently located throughout the school.

11. My use of the boys' bathrooms did not cause any issues with other students. None of my classmates questioned my presence in the boys' bathrooms.

12. When a school employee noticed that I used the boys' bathroom, I was told to stop. When I used them again, the Vice Principal called my mother and asked her to come in to school with me and my brother for a meeting about our bathroom use.

13. We were told at that meeting that my brother and I are not allowed to use the boys' bathrooms or other boys' facilities.

14. Instead, we were instructed to only use the girls' bathrooms or the unisex bathroom in the health office. We are also not allowed to use the boys' locker room and we must change for gym class and any other activities in the health office bathroom or girls' locker room.

15. After this meeting, my mother had more conversations with school administrators to request that school employees and students refer to me by the name and pronouns that reflect my gender. My mother also asked on my behalf that I be allowed to use the boys' bathrooms and similar facilities at school.

16. Other students at my school are known by their nicknames and are listed in the yearbook by their nicknames.

17. But my school has refused these requests. I am not allowed to use the boys' facilities and my teachers are allowed to choose whether they will use my name and pronouns.

18. Being treated as a boy at school is extremely important for my mental and physical health. It is physically uncomfortable and emotionally difficult to be at school when I cannot be who I am. This causes me anxiety, makes me depressed, and makes me not want to go to school.

19. I see health professionals at Riley Children's Hospital, and I have been diagnosed with gender dysphoria. I have recently started hormone therapy to align my body with my male gender and to alleviate my dysphoria.

20. I have also had gastrointestinal issues my whole life. My medical issues make me need to use the bathroom frequently and urgently.

21. The girls' bathrooms and health office bathroom that I am allowed to use are not suitable alternatives for the boys' facilities that I want to use.

22. I cannot bring myself to use the girls' bathroom because it is too upsetting, makes me extremely anxious, and feels wrong.

23. Using the girls' bathroom would be uncomfortable for me and for female students because I am a boy and I look like a boy. Trying to use the girls' bathroom would cause confusion and force me to explain that I am transgender to students who do not know that I was assigned female at birth.

24. Now that I have started hormone therapy, using the girls' bathroom would be even more uncomfortable for me and others because my appearance will become more masculine. My voice will get deeper, I will start to grow facial hair, and my features will become more masculine.

25. Using the bathroom in the health office is also not a good option.

26. Because the health office is far away from my classes, I am often late for class when I need to use the bathroom between classes. When I need to use the bathroom

during class, I miss more of class than I would if I could use the boys' bathrooms in the hallways outside of my classes.

27. It is also difficult to get to the health office bathroom as quickly as I need to avoid accidents because of my medical issues. Trying to avoid bathroom accidents at school is stressful and causes physical discomfort. Sometimes accidents are unavoidable, which is extremely embarrassing and makes me miss more class.

28. The health office is also locked at unpredictable times. Sometimes I go to the health office to use the bathroom, but it is locked so I have to wait in discomfort until it is opened or have an accident if it is not opened in time. This would not happen if I could use the boys' restrooms that are close to my classes and consistently open.

29. I try to avoid going to the bathroom at all during school because I cannot rely on having one to use. This is very uncomfortable and makes it difficult to concentrate during class.

30. Because I cannot change in the boys' locker room for gym class, I have to change in the health office and arrive to class late and separately from the other students who have come from the locker rooms.

31. Being excluded from the boys' facilities undermines my transition and worsens the anxiety and depression caused by my gender dysphoria. It makes me feel isolated and punished for being who I am. It also tells other students that I am different and should not be treated like other boys.

32. My school's refusal to tell my teachers to use my name and pronouns that reflect my gender is also a constant source of anxiety. Since my school will not do this, I have to explain to my teachers individually that I am transgender and ask them to use my correct name and pronouns. My transition is very personal information. I do not want to tell my teachers that I am transgender, and it makes me anxious to tell this information to adults I do not know.

33. My regular teachers this year are supportive and have tried to address me correctly, but it is very stressful to know that they or teachers in the future can insist on using my birth name and female pronouns. It also makes me worried that teachers will treat me differently because I am transgender. This has already happened with substitute teachers.

34. I have to go through this process every time I have a substitute teacher because my birth name is listed on class rosters. When I walk into class and see a substitute, I know that my birth name will be called and that they might refuse to use my correct name and pronouns, without the school doing anything about it.

35. Some substitute teachers do insist on using my birth name and female pronouns. When this happens, the symptoms of my gender dysphoria worsen, and it is very difficult to be in class.

36. It also discloses to my classmates that I am transgender and causes other students to question my gender.

37. Recently, after a substitute teacher called my birth name, other students told the class that I am transgender and that I am "really" a girl. The substitute used my birth name and female pronouns for the rest of the class and made me participate on the "girls' team" for a class activity.

38. Many of my friends and classmates have only known me as a boy. Some of these classmates have found out that I am transgender because of my birth name getting called in class. I never know if my peers will still accept me after finding out that I am transgender, and I am worried that I will lose friendships because of who I am.

39. I want to go to school, participate in my classes, and use the bathroom like all my classmates. But the School Corporation is forcing me to deny who I am at school, causing me anxiety, depression, and other emotional and psychological harm.

Verification

I verify, under the penalty of perjury, that the forgoing is true and correct.

Executed on: 11-23-21

B. E.

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Prepared by:

Kathleen Bensberg

No. 35437-49

Indiana Legal Services, Inc.

1200 Madison Ave., Suite 300

Indianapolis, IN 46225

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DECLARATION OF S.E.

S.E., being duly sworn upon his oath, says that:

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