

STATE OF MINNESOTA

TENTH JUDICIAL DISTRICT

COUNTY OF ANOKA

CIVIL DIVISION

Case Type: Discrimination/Declaratory
JudgmentJ.H., as parent and natural guardian of
N.H.,Court File No. _____
Judge _____

Plaintiff,

v.

**COMPLAINT AND
DEMAND FOR A JURY TRIAL**ANOKA-HENNEPIN SCHOOL
DISTRICT NO. 11; ANOKA-
HENNEPIN SCHOOL BOARD,

Defendants.

INTRODUCTION

1. N.H. is a transgender teenage boy who transitioned socially prior to high school.

2. N.H.'s gender identity is male and, in the fall of 2015 when he entered his freshman year at Coon Rapids High School ("CRHS"), a high school in the Anoka-Hennepin School District No 11 ("District"), he had begun living all aspects of his life in accordance with his male gender identity.

3. When N.H. started school at CRHS, the staff and students at CRHS appeared welcoming and supportive. N.H. participated on the boys' swim team that year using the boys' locker room along with his teammates.

4. But on February 1, 2016, with three swim meets left in the season, the School Board ("Board") for the District overruled CRHS staff and made the discriminatory decision to prohibit N.H. from using the same changing facilities as other boys. In accordance with the Board's directives, the staff pulled N.H. out of class to inform him that he could no longer use the boys' locker room. While the Board temporarily reversed its decision later that night, they also made clear that after the swim season was over N.H. would not be able to use the boys' locker room. These actions had immediate health consequences for N.H., who was hospitalized because of mental health concerns four days later.

5. When N.H. returned to school, the Board instructed CRHS staff to exclude N.H. from using the same changing facilities as other boys. N.H. was forced to use segregated changing facilities that no other student was required to use. Throughout the remainder of the 2016 school year, and during much of the 2017 school year, this degrading and stigmatizing segregation singled N.H. out as unfit to use the same changing facilities that are available to cis-gender male students.

6. N.H. was hospitalized again following a public debate during which the Board heard testimony from members of the public affiliated with hate groups, and ultimately his parents and care providers determined it was critical that he complete his high school education elsewhere.

7. In the Minneapolis and St. Paul public school systems, and in many other parts of the country, transgender boys and girls are provided equal access to educational programs; services, and facilities consistent with their gender identity, including common

sex-separated facilities, such as restrooms and changing facilities, and sex-separated interscholastic athletic teams in both high school and college. These types of transgender-inclusive policies serve as a vital lifeline for transgender students. These policies are even more critical in light of a 2016 Minnesota Department of Education Study, which found that *more than half* of all Minnesota transgender children have attempted suicide within the previous two years.

8. Ignoring these realities, the Board adhered to its ban, which prohibited the Board's own school staff from allowing N.H. to use the common sex-separated facilities consistent with N.H.'s gender identity that are available to every other boy and girl.

9. N.H. is recognized by his family, his medical providers, and the public at large as a boy. Allowing him to use the same common sex-separated facilities as other boys is the only way to provide him with equal access to educational programming and services without discrimination based on his gender identity.

10. By segregating N.H. from his peers, excluding him from using the same changing facilities that cis-gender boys are allowed to use, and relegating him to separate changing facilities, the Board discriminated against N.H. in violation of the Minnesota Human Rights Act ("MHRA"); Minn. Stat. §§ 363A.01, *et seq*, and the Minnesota Constitution, Article I, §§ 2 and 7. N.H. seeks redress from this Court.

PARTIES

11. Plaintiff J.H. is the mother and natural guardian of N.H. J.H. is a resident and citizen of the state of Minnesota.

12. N.H. is a transgender teenage boy. Although he was designated female at birth, from a very young age, N.H. knew he was a boy. N.H.'s gender identity is male. Like other boys his age, N.H. enjoys playing videogames, skateboarding, and hanging out with his friends. He plays several musical instruments including piano, keyboard and drums, and is an avid nature photographer. He plans to attend college and pursue a career in social work and psychology. N.H. was born in Edina and has lived in the Twin Cities Region his entire life – he is a resident and citizen of the state of Minnesota. N.H. has been diagnosed with Gender Dysphoria, a medical diagnosis for individuals who experience significant distress because their gender identity – their innate sense of being male or female – differs from the sex they were assigned at birth.

13. The District is a public independent school district in the Anoka and Hennepin Counties of Minnesota. CRHS is a school in the District.

14. The Board is a public education corporation governing the District pursuant to the laws of the State of Minnesota. The Board sets policies for schools in the District, including CRHS.

15. The Board and the District have a history of anti-LGBTQ actions, which were linked to a rash of student suicides, including at least four students who were either gay or perceived as gay by other students, and were the subject of a lawsuit filed by the Southern Poverty Law Center and the National Center for Lesbian Rights, alleging that the District's policies toward LGBTQ students was discriminatory and fostered anti-gay bullying. Sabrina Rubin Erdely, *One Town's War on Gay Teens*, Rolling Stone, Feb. 2,

2012, <https://www.rollingstone.com/culture/culture-news/one-towns-war-on-gay-teens-232572/>.

16. J.H. bring this lawsuit, on behalf of her son N.H., pursuant to the MHRA and the Uniform Declaratory Judgment Act (“UDJA”) for discrimination in violation of the MHRA, and due process and equal protection rights under the Minnesota Constitution.

JURISDICTION & VENUE

17. This Court has personal jurisdiction over the District and the Board.

18. The Court has subject matter jurisdiction over the claims in this lawsuit pursuant to Minn. Stat. §§ 363A.33, 484.01, 555.02, and 555.08. This Court also has jurisdiction over Plaintiff’s claims pursuant to Minn. Const. Art. VI §3.

19. Pursuant to Minn. Stat. §§ 542.03 and 542.09, venue is proper in this Court because the causes of action arose in Anoka County and the Defendants are located there.

FACTUAL BACKGROUND

I. Gender Identity

20. Individuals are typically assigned a sex on their birth certificate – either male or female. Additional aspects of determining one’s sex and gender identity are typically not assessed and considered at the time of birth.

21. Everyone has a “gender identity.” A person’s gender identity is their innate sense and deeply held understanding of their own gender, regardless of the sex assigned to them at birth.

22. People who are transgender have a gender identity that differs from the sex they were assigned by others at birth.

23. By contrast, a “cisgender” person has a gender identity that conforms to the sex they were assigned by others at birth.

24. An individual’s “sex” consists of multiple factors, which may not always be in alignment. Among those factors are gender identity, hormones, internal reproductive organs, chromosomes, secondary sexual characteristics (i.e., physical features that develop during puberty), and brain anatomy. Thus, defining sex to exclude gender identity and turn exclusively on anatomy at birth is medically inaccurate.

25. Gender identity is innate, and external efforts to change a person’s gender identity can be harmful to a person’s health and well-being.

26. It has been statistically estimated that 0.6% of adults in the United States, or 1.4 million people, identify as transgender. The same study estimated that in Minnesota, 24,250 adults identify as transgender. Andrew R. Flores, et al., *Williams Institute: How many adults identify as transgender in the U.S.?*, 2016.

II. Gender Dysphoria

27. Transgender people can suffer the debilitating distress of gender dysphoria, a medically recognized condition in which transgender individuals experience persistent and clinically significant distress caused by the incongruence between their gender identity and the sex assigned to them at birth. Although gender dysphoria is a serious medical condition recognized by the American Psychiatric Association’s Diagnostic & Statistical Manual of Mental Disorders (5th ed. 2013), being transgender is not a mental disorder and “implies no impairment in judgment, stability, reliability, or general social or vocational

capabilities.” Am. Psychiatric Ass’n, *Position Statement on Discrimination Against Transgender & Gender Variant Individuals* (2012), <https://goo.gl/iXBM0S>.

28. Gender dysphoria can lead to serious medical problems, including clinically significant psychological distress, dysfunction, debilitating depression, and self-harm.

29. The widely accepted standards of care for treating gender dysphoria are published by the World Professional Association for Transgender Health (“WPATH”).

30. Efforts to treat transgender dysphoria by attempting to bring gender identity into alignment with the sex assigned by others at birth, rather than defining sex by reference to gender identity, causes substantial psychological pain, to the point where such treatment is now considered medically unethical and has been rebuked by the Federal Substance Abuse and Mental Health Services Administration.

31. The medical consensus for treatment of gender dysphoria is for transgender people to socially transition and live in a manner that is consistent with their gender identity. This medical consensus is embraced by major medical and health organizations in the United States, including the American Medical Association, the American Academy of Pediatrics, the American Psychiatric Association, the American Psychological Association, and the National Endocrine Society.

III. Transgender Children

32. According to the most recent scientific research, children as young as three already have a strong sense of their gender identity, regardless of whether they are transgender or cisgender. National Center on Parent, Family and Community Engagement, *Healthy Gender Development and Young Children: A Guide for Early Childhood*

Programs and Professionals, 8, <https://depts.washington.edu/dbpeds/healthy-gender-development.pdf>.

33. In a survey conducted by the Minnesota Department of Education, 36 percent of transgender children in Minnesota schools reported being bullied in the preceding month. Minn. Dep't of Educ., *Results of the 2016 Minnesota Student Survey*, http://mn.gov/gov-stat/pdf/2017_FACTSHEET_transgender_bullying_statistics.pdf.

34. Nationally, studies have found that 77 percent of students who identify as transgender or gender non-conforming reported being harassed at some point between kindergarten and grade 12. Sandy E. James, et al, *The Report of the 2015 U.S. Transgender Survey*, 11 (2016).

35. This targeted bullying has severe consequences for transgender and gender non-conforming children and their families.

36. More than half (55.4 percent) of all Minnesota transgender children have attempted suicide within the previous two years, according to the 2016 Minnesota Student Survey from the Minnesota Department of Education. Minn. Dep't of Educ., *Results of the 2016 Minnesota Student Survey*, http://mn.gov/gov-stat/pdf/2017_FACTSHEET_transgender_bullying_statistics.pdf.

37. Transgender teenagers have high rates of mental health issues such as depression, anxiety and self-harm. Such mental health issues are often attributable to the discrimination, stigma, and social rejection experienced by transgender children. Jason

Rafferty et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142 Am. Acad. Pediatrics 1, 3 (2018).

38. According to major medical and mental health organizations, including the American Medical Association, the American Academy of Pediatrics, the American Psychiatric Association, and the American Psychological Association, excluding transgender students from using sex-separated bathrooms and changing facilities consistent with their gender identity is harmful to their health and well-being, and may cause acute psychological damage because it interferes with medically necessary treatment, and increases the risk of depression, anxiety, trauma, and isolation associated with gender dysphoria.

39. Nationally, research shows that transgender children are at high risk for suicidal thoughts and actions.

40. However, recent scientific studies suggest that this risk is reversed when transgender children are allowed to socially transition and live in a manner that is consistent with their gender identity, with support from their parents and peers.

41. Before puberty, transgender children typically have no need to affirm their gender with medical interventions such as hormones or surgery. Instead, children may socially transition by using the name and pronouns they prefer. They may also wish to present their appearance and otherwise express their gender in ways typically associated with their gender identity. For example, a transgender boy may want to use a traditionally male name, be referred to as “he” or “him,” and wear clothing and engage in activities traditionally associated with boys.

42. Access to sex-separated bathrooms and changing facilities consistent with one's gender identity is an essential part of the social transition.

43. When transgender children are allowed to socially transition before puberty, research shows that these children have essentially the same levels of depression and only marginally higher rates of anxiety than their cisgender siblings and other children their age. Kristina R. Olson et al., *Mental Health of Transgender Children Who Are Supported in Their Identities*, 137 Pediatrics 1 (2016).

IV. Bathroom and Locker Room Access For Transgender Students

44. For most cisgender people, using sex-separated facilities is a private matter that requires little or no thought or advance planning. This is often not the case for the transgender community.

45. When excluded from sex-separated bathrooms and changing facilities, transgender people often avoid using the facilities entirely, either because the separate facilities are too stigmatizing or too difficult to access. They suffer from infections and other negative health consequences as a result of avoiding bathroom use.

46. In a 2017 study regarding access to school restrooms by Minnesota transgender youth, transgender youth reported that forcing them to use enhanced-privacy facilities against their wishes was problematic, traumatizing and negatively impacted their education and social experiences. Conner Suddick with M. Sheridan Embser-Herbert, *"I Just Want to Pee": Minnesota Schools' Restroom Policies and the Impact on Transgender Students*, Diversity Initiatives Research Project, Hamline University (August 2017).

- a. Students without access to a restroom consistent with their gender identity would avoid drinking or eating so that they did not have to use the bathroom, or they would “hold it in” for hours.
- b. Students with access to a bathroom consistent with their gender identity reported less anxiety, better hygiene, and improvement in self-esteem and confidence.
- c. Students reported feeling ostracized or “othered” by being forced to use a transgender specific bathroom and noted benefits to self-esteem when they were able to use the restroom matching their gender identity.
- d. One study participant noted that not having access to facilities consistent with gender identity discouraged transgender students from participating in sports.

47. In a case similar to this one, the Colorado Division of Civil Rights noted its opinion that assigning transgender students to a segregated restroom against their wishes is not a solution. It creates an exclusionary environment, forcing transgender students to disengage from their group of friends. It deprives transgender students of opportunities to bond with classmates, and forces transgender students to explain to friends why they are not permitted to use the same restroom or locker room as everyone else. Determination, Charge No. P20130034X, Colorado Dep't of Regulatory Agencies (June 18, 2013), <https://archive.org/details/716966-pdf-of-coy-mathis-ruling>.

48. The National Association of School Psychologists, the National Association of Secondary School Principals, the National Association of Elementary Principals, and

the American School Counselor Association have all called upon schools to allow transgender students to use sex-separated bathrooms and changing facilities consistent with their gender identity.

49. Following passage of the Safe and Supportive Schools Act (“Safe Schools Act”) in 2014, the Minnesota Department of Education established the School Safety Technical Assistance Council (“Safe School Council”).

50. In September 2017, The Minnesota Department of Education's Safe School Counsel published *A Toolkit for Ensuring Safe and Supportive Schools for Transgender and Gender Nonconforming Students*, which states: “[t]ransgender and gender nonconforming students should be afforded the opportunity to use the restroom of their choice,” and “[c]oaches should consider how they can utilize privacy curtains, restrooms and separate changing schedules to provide privacy for *all* students.” (Emphasis added). Minn. Dep't of Edu., *A Toolkit for Ensuring Safe and Supportive Schools for Transgender and Gender Nonconforming Students*, 10 (Sept. 25, 2017) https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=MDE072543&RevisionSelectionMethod=latestReleased&Rendition=primary

51. The Minnesota State High School League permits transgender students to compete in athletics in a manner consistent with their gender identity.

52. Treating transgender boys as boys and transgender girls as girls is the only way to ensure that they can equally participate in school, work, and society at large.

V. Defendant Anoka-Hennepin School Board

53. As the school board of a public school, the Board is required to comply with all state anti-discrimination laws and the Minnesota constitution.

54. As the governing body for a public school, the Board is the final policy-maker for the District and its decisions constitute official policy for the District.

55. On information and belief, the Board and the District did not have a written policy for working with transgender students before March 22, 2016.

56. The District's General Counsel and Title IX/Equity Coordinator authored a March 22, 2016 Memorandum regarding "School Planning Guide for Working with Transgender and Gender Non-conforming Students" which states the District's schools "have a growing number of students who identify as transgender or gender non-conforming," and that "[m]any questions have arisen regarding how best to support our transgender students with respect to the use of names or pronouns, rest room/locker rooms, and record keeping." (See Exhibit A, Memorandum from Paul H. Cady and Jennifer Cherry, Mar. 22, 2016) (hereinafter, the "Policy")).

57. With regard to use of rest rooms and locker rooms, the guidelines state that the use of restrooms and locker rooms would be determined on a "case-by-case" basis, with a goal to ensure "a safe and respectful learning environment." (Policy at 2, 1.)

58. This Policy reserves for the Board arbitrary power to decide unilaterally, in some cases after lengthy internal debate and delay, which restroom and locker room each transgender student is permitted to access.

59. This Policy also purports to prioritize the comfort of students whose preference (or that of their parents) is that transgender children be segregated. This is despite the fact that, according to the American Academy of Pediatrics and other major medical and mental health organizations, there is no evidence that allowing transgender students to use facilities consistent with their gender identity causes any harm to the physical or mental health of cisgender students.

60. On March 10, 2017, following a Board meeting at which N.H.'s mom gave testimony, the Chair of the Board wrote to her stating "until specific clarification is received under state or federal law, the use of restrooms and locker rooms will be determined on a case – by – case basis. The goal is to ensure that all students feel safe and comfortable." (Exhibit B, Letter from Tom Heidermann to J.H., Mar. 10, 2017.) It further stated that the District "has recommended that [N.H.] use the boy's locker room with enhanced privacy." (*Id.*) The Board decided, after internal debate, N.H. would be segregated from sex-separated changing room facilities consistent with his gender identity.

61. The Board's decision related only to sex-separated changing room facilities and it is unclear whether the Board was also aware that N.H. was using the sex-separated men's restrooms at CRHS.

62. The Board's Policy reserves to it the right to segregate transgender students from sex-separated bathrooms and changing facilities without regard to the preference of students and their parents, and in direct contradiction to the guidance set by the Minnesota Department of Education and the consensus of the medical community.

63. On its face, the Board's Policy allows the Board to make arbitrary and discriminatory decisions regarding the treatment of individual transgender students.

64. The Board's implementation of the Policy discriminates against transgender students by denying them equal access to educational programs and services, including sex-separated bathrooms and changing facilities that are consistent with their gender identity, and by prioritizing the claimed privacy interests of parents of cisgender students who prefer to segregate transgender students.

VI. N.H. Starts School at Coon Rapids High School

65. N.H. came out as transgender to his family and close friends in the spring of 2015. Prior to that time, N.H. suffered significant internal turmoil. As young as age 7, he prayed when he went to sleep at night that he would wake up as a boy. As he grew older, he more fully understood that he is transgender; however, he suppressed his true self out of fear that he would be rejected and ostracized by his family, peers and the broader community.

66. After coming out as transgender, N.H. began counseling and treatment for Gender Dysphoria. Encouraged by his therapist, he began to socially transition, including going by his preferred "he, him, his" pronouns, and his preferred name that aligns with his male gender identity, rather than his legal name. He styled his hair and wore clothing typically associated with boys his age. In short, N.H. started presenting himself to the world as a boy.

67. In the summer of 2015, N.H.'s mother moved the family to Coon Rapids and enrolled N.H. as a freshman in high school at CRHS.

68. Before the school year started, J.H. was in contact with school staff regarding her son's gender identity. J.H. was aware of the lawsuit filed by the Southern Poverty Law Center and the National Center for Lesbian Rights, and had read articles about the climate for LGBTQ students in the District. She asked for assurances that her son would be safe attending CRHS. School staff told her that they made changes as a result of the lawsuit and that N.H. would be safe. The school counselor arranged for N.H.'s chosen name to be included in the school's online system for student names and notified teachers of N.H.'s preferred name and pronouns.

69. J.H. remained in frequent communication with CRHS staff regarding her son's needs throughout his enrollment at CRHS.

70. N.H. was interested in joining swim team and started to inquire about participating. Consistent with the Minnesota State High School League's gender affirming policy, J.H., N.H., and school staff agreed that he should compete on the boys' swim team.

71. In November of 2015, N.H. met the head coach of the boys' swim team.

72. The coach worked with J.H. and N.H. to figure out what swimsuit N.H. would be most comfortable wearing.

73. Just like all the other students on the boys' swim team, N.H. used the boys' locker room.

74. N.H. used the boys' locker room for nearly the entirety of the 2015-16 swim season without incident.

75. The coach and the student athletes on the swim team with N.H. were welcoming to and supportive of N.H.

76. N.H. felt well-liked by teaching staff, administrators, swim coaches and students, and he was doing well academically.

VII. The Board's Actions against N.H.

77. On February 1, 2016, CRHS staff called J.H. at home and informed N.H. and J.H. that the Board had decided to order N.H. to stop using the boys' changing facilities. At the time, there were three swim meets left in the boys' swim team season.

78. Later the same day, J.H. received another communication from CRHS Principal Curtis Wallrath. He informed her that the Board's decision to exclude N.H. from the boy's changing facilities had been reversed, and that N.H. would be permitted to continue to use the boys' locker room for the rest of the swim season.

79. J.H. wrote an email to school staff about this incident. She thanked the Board for reversing the decision, but noted that she did not appreciate N.H. being singled out in the classroom and pulled out of class, and said she wished the board had "thought it through before they interrupted [N.H.] educationally and emotionally." She said that the board did not need to "fix something that's not broken." The Board's actions had the effect of singling out N.H. and caused N.H. to experience emotional distress.

80. Four days later, on February 5, 2016, N.H. was admitted to the hospital due to mental health concerns.

81. On February 17, 2016, while N.H. was still in the hospital, J.H. sent an email to the Chair of the School Board, to express concerns about Defendants' treatment of N.H., J.H., and noted that other schools, including St. Paul Public Schools, had gender inclusion policies in place. She urged the District to do the same. She wrote that CRHS staff and

administrators had been doing their jobs by welcoming N.H., and that the Board had improperly interfered. J.H. noted that N.H. had been hospitalized a few days after the Board's actions, and that she did not want the Board to have any further contact with N.H.

82. N.H. was released from the hospital later that day after being hospitalized for almost two weeks.

83. On February 22, 2016, the Chair of the Board replied to J.H.'s email. He noted that he was "truly sorry to hear of [N.H.]'s recent hospitalization," but that N.H.'s access to restrooms and changing facilities needed to "balance and respect the privacy rights and needs of all students." The Chair of the Board insisted that there should be separate facilities for "transgender and non-transgendered students." In essence, the Chair of the Board favored discriminatory segregation of transgender students.

84. In late February of 2016, J.H. received a notice that there would be a meeting at CRHS on March 3, 2016 to discuss her son's use of sex-separated changing facilities.

85. On March 2, 2016, the day before the scheduled meeting, and less than three weeks after being released from his prior hospitalization, N.H. was again admitted to the hospital to address mental health concerns.

86. In connection with N.H.'s hospitalizations, N.H.'s mother and N.H. began working with a Child Protection Worker. The Child Protection Worker noted that N.H.'s hospitalizations coincided with the Board's discussions to exclude N.H. from sex-separated changing facilities. The Child Protection Worker recommended that J.H. request that N.H.'s participation on the swim team substitute for the school's physical education requirement. The purpose of this recommendation was to allow N.H. to fulfill the physical

education requirement and avoid additional discussions about his use of sex-separated changing facilities.

87. Although neither J.H. nor N.H. wanted to be treated differently than other students, they agreed to follow the recommendation because they felt like they did not have a choice with N.H.'s health at risk. CRHS administrators agreed, and the topic of N.H.'s locker room use was briefly tabled.

88. In the summer of 2016, CRHS remodeled its boys' changing facilities. These modifications included creating new "enhanced privacy" restroom and changing facility. The "enhanced privacy" restroom and changing facility were completely separate from the main boys' changing facility with a separate entrance. It included a separate toilet and changing area with separate stalls, each with its own shower and changing area. Neither J.H. nor N.H. were informed of the "enhanced privacy" restroom and changing facility until early 2017.

89. N.H. planned to take physical education to fulfill the school's graduation requirement during the third trimester of the 2016-2017 school year. He did not want to be treated differently than other students and wanted to fulfill the physical education requirement like any other student.

90. Prior to the start of the third trimester, J.H. and N.H. approached CRHS because they were concerned about continued school board interference in N.H.'s locker room use. J.H. and N.H. had heard nothing from the Board regarding N.H.'s locker room use since the meeting in March 2016.

91. J.H. spoke to Dr. Jennifer Cherry, Director of Student Services and Title IX Equity Coordinator for the Anoka-Hennepin School District. Dr. Cherry told J.H. to encourage N.H. to use the enhanced privacy locker room.

92. On February 27, 2017, J.H. attended another School Board meeting to urge the Defendant School Board to adopt a more inclusive policy for non-discriminatory locker room access for transgender students.

93. The School Board also arranged a closed session during that same meeting to discuss N.H.'s locker room access. J.H. was not permitted to attend the closed session, nor could she send a representative to advocate for her son.

94. On information and belief, behind closed doors School Board members debated which locker rooms N.H. would be allowed to use.

95. After Defendant School Board's meeting, J.H. and N.H. met with Dr. Cherry. Dr. Cherry gave J.H. and N.H. a tour of the enhanced privacy locker room.

96. J.H. and N.H. expressed concerns over the enhanced privacy locker room facilities, including that segregating N.H. from the other students singled him out and could be unsafe for him.

97. Despite J.H.'s and N.H.'s concerns, the Board ordered N.H. to use the enhanced privacy segregated locker room. On March 10, 2017, the Chair of the Board wrote to N.H.'s mother stating "[u]ntil specific clarification is received under state or federal law, the use of restrooms and locker rooms will be determined on a case-by-case basis," and "the [D]istrict has recommended Nick use the boy's locker room with enhanced privacy."

98. On March 20, 2017, N.H. used the main boys' locker room with his friends, as was his preference.

99. After N.H. used the main boys' locker room, a member of the CRHS staff called J.H. at work and informed her that N.H. would be disciplined if he continued to defy the school board's order to use the segregated locker room.

100. During the March 20 phone call, J.H. requested a letter explaining that N.H. had been assigned to the segregated locker room and detailing the consequences of violating such a policy. Neither the Board nor CRHS staff provided J.H. with the requested letter.

101. On March 20, 2017, the Board held a public school board meeting. J.H. again attended the meeting to advocate for her son.

102. On March 21, 2017, Dr. Cherry pulled N.H. out of class and called J.H. at work to discuss N.H.'s locker room use. J.H. again requested a letter explaining that N.H. had been assigned to the segregated locker room and detailing the consequences if he refused to use it.

103. Defendant Board and CRHS never provided J.H. with any such letter but they continued to threaten N.H. with disciplinary action if he used a changing room facility other than the segregated one.

104. Following these discussions, N.H. became concerned about his ability to complete the physical education class graduation requirement. He therefore decided to use the segregated locker room under protest so that he could meet this requirement.

105. On April 10, 2017, N.H. was again hospitalized due to mental health concerns.

106. In response to the mental health concerns that were aggravated by Defendant's discriminatory conduct, J.H. transferred N.H. out of CRHS while he was still hospitalized.

107. Because the Board sets the policies for all schools in the Anoka-Hennepin School District, and J.H. wanted her son to escape its discriminatory treatment, she transferred him to a school outside the district.

108. N.H. continues to live in the District. His younger sibling attends school in the Anoka-Hennepin School District. Despite the fact that there are school events involving his sibling, he does not feel comfortable attending, and has generally avoided, public events at Anoka-Hennepin School District facilities in light of the discrimination he suffered at the hands of the Defendants.

109. On August 31, 2017, J.H. filed a Charge of Discrimination with the Minnesota Department of Human Rights alleging the illegal conduct asserted in this Complaint.

COUNT 1
Minnesota Human Rights Act
Minn. Stat. § 363A.01 et seq.

The allegations in the preceding paragraphs are incorporated by reference.

110. N.H. is a transgender boy, and thus a member of a protected class under the MHRA. N.H. suffered adversely in violation of the MHRA as a result of Defendants' actions, policies, and implementation thereof. Defendants treated N.H. differently than

other similarly situated students because of his gender identity, including prohibiting N.H. from using changing facilities consistent with his gender identity, assigning N.H. to a segregated restroom and changing facility, and removing N.H. from classes to enforce its discriminatory Policy.

111. Cisgender students did not suffer adversely in violation of the MHRA as a result of Defendants' actions, policies, and implementation thereof, because cisgender students were not prohibited from using restrooms and changing facilities consistent with their gender identity, assigned to segregated restrooms and changing facilities, and removed from classes to enforce the discriminatory Policy.

112. As a result of Defendant's discriminatory actions, N.H. was deprived of full and equal access to the public schools. N.H. suffered harm, including denial of educational opportunities and emotional distress.

COUNT 2

Minnesota Constitution, Article 1, §§ 2 and 7

The allegations in the preceding paragraphs are incorporated by reference.

113. The Board is the final policymaker of the Anoka Hennepin School District. The Board has treated N.H. differently from similarly situated students in violation of the Minnesota Constitution, Article I § 2. Defendants, acting under color of state law, deprived N.H. of his right to equal protection under the Minnesota Constitution, in that Defendants, without justification, treated N.H. differently than other similarly situated students because of his gender identity. Minn. Const. art. 1 §2.

114. The Board has discriminated against N.H. on the basis of gender, which is subject to heightened scrutiny under the Minnesota Constitution, Article I, § 2.

115. The Board has discriminated against N.H. on the basis of transgender status, which is subject to heightened scrutiny under the Minnesota Constitution, Article I, § 2 because a classifications based on transgender status are suspect or quasi-suspect under the Minnesota Constitution.

116. The Board has discriminated against N.H. based on invidious stereotypes, moral disapproval, and unfounded fears about people who are different, which is subject to heightened scrutiny under the Minnesota Constitution, Article I, § 2.

117. The right to an adequate education is a fundamental right protected by Article XIII § 1 of the Minnesota Constitution. *Cruz-Guzman v. State*, 916 N.W.2d 1, 11 (Minn. 2018). The Board's discrimination against N.H. interfered with N.H.'s ability to receive an adequate education based on his transgender status in violation of his Minnesota Constitutional right to equal protection and due process.

118. The Board's discrimination against N.H. is not narrowly tailored to advance a compelling government interest.

119. The Board's discrimination against N.H. is not substantially related to any important government interest.

120. The Board's discrimination against N.H. is not rationally related to any legitimate government interest.

121. The Board is liable for violation of N.H.'s rights under the Minnesota Constitution, Article I, §§ 2 and 7.

122. As a result of Defendants' discriminatory actions, N.H. was deprived of full and equal access to the public schools. He suffered harm, including denial of educational opportunities and emotional distress.

PRAYER FOR RELIEF

For the foregoing reasons, Plaintiff J.H. on behalf of N.H. respectfully requests that the Court grant the following relief:

- A. Declare that the Board's Policy violated N.H.'s rights under the MHRA and the Minnesota Constitution, on the day the Board first excluded N.H. from sex-separated changing facilities aligned with his gender identity and throughout his time as a student in the District, and continuing thereafter;
- B. A permanent injunction requiring the Board to amend the Policy consistent with this Court's decision.
- C. Nominal damages under the Remedies Clause of the Minnesota Constitution;
- D. Compensatory damages;
- E. Punitive damages pursuant to the MHRA;
- F. Plaintiffs' reasonable attorneys' fees, costs and disbursements pursuant to state law;
- G. Such other relief as the Court deems just and proper;
- H. Pursuant to Minn. R. Civ. P. 8.01, notice is provided that reasonable damages may be greater than \$50,000.

PLAINTIFF DEMANDS TRIAL BY JURY

Dated: February 25, 2019

/s/ Timothy P. Griffin

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ACKNOWLEDGMENT

Plaintiff, by his attorneys, acknowledges that sanctions may be imposed in this civil action under the terms of Minn. Stat. § 549.211.

Dated: February 25, 2019

/s/ Timothy P. Griffin
Timothy P. Griffin (#0285717)