

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Privacy Matters, et al.

Case No. 16-CV-3015 (WMW/LIB)

Plaintiffs,

**DECLARATION OF PRINCIPAL  
LISA PERKOVICH**

vs.

United States Department of Education,  
et al.

Defendants.

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I, Lisa Perkovich, declare and state as follows:

1. I am the Principal of the Virginia High School in Independent School District No. 706, Virginia Public Schools (the “District”), and have held that position since the beginning of the 2015-2016 school year.

2. I am competent to testify to the matters stated in this declaration and have personal knowledge of the facts and statements set forth herein. I make this declaration in support of the District’s Memorandum of Law in Opposition to the Plaintiff’s Motion for Preliminary Injunction.

3. The mission statement of our District is: “A source of community strength and pride, the Virginia Public Schools work in partnership with families and the local community to educate and engage our students and prepare them to be productive and responsible citizens.”

4. The District’s adopted “Vision of Success” states that: “The Virginia Public School District envisions an environment where every child matters and strong

community roots foster success. Young adults emerging from our schools will be well-rounded in their experiences and knowledge from academics, to the arts, to athletics. This range of opportunities will allow individuals to explore and discover their talents and interests, eventually helping them to determine a career path and lifetime pursuits. Alignment of coursework with their individual career choice will fully prepare students for whichever post-secondary path they want to follow, understanding that all these choices have value. Every student will be supported to graduate from high school, and will do so knowing the next steps they will take toward achieving their future goals. No matter their direction, all students will possess basic life skills, be financially literate, and have the ability to use 21<sup>st</sup> century technology. They will be critical thinkers and creative problem solvers who love learning and are motivated to continue gaining knowledge throughout their lives. They will know how to think for themselves while working towards a common goal with a diverse group of people. They will be kind and respectful young adults with the interpersonal skills that allow them to function well in society. They will possess inner strength and confidence, and will have developed the resilience and coping skills needed to face life's challenges. They will be physically and mentally healthy and take responsibility for leading healthy lifestyles. Students will leave our school with a sense of belonging and pride in the community they come from, be able to think beyond themselves, and have a desire to give back.”

5. Our District's organizational values include:

- a. “**Respect** – Our District upholds the concept of equality and practices mutual respect for individual differences at every level of

school interaction. We want all students to feel they belong, are included, and have the opportunity to learn in a safe environment.”

- b. **“The Whole Child** – We embrace a comprehensive approach to education that ensures each student is healthy, safe, engaged, supported, and challenged. Our definition of success is focused on the balanced development of children in addition to academic achievement.”
- c. **“Highest Quality** – Our District values a culture of continuous improvement, seeking out best practices and regularly assessing our results in order to maximize individual student potential.”
- d. **“Community Engagement** – We address the comprehensive needs of students through a shared responsibility and mutual partnership between students, families, school and community.”
- e. **“Stewardship** – As a public school, we are dedicated to utilizing the community’s educational assets in an accountable, cost-effective way, keeping the collective needs of students as our top priority.”

6. The District’s current enrollment is around 1,819 students across grades Kindergarten through twelve. The High School includes roughly 699 students in grades seven through twelve.

7. The District receives federal funding for its educational programs.

8. The High School is housed in a four-story building that was originally built in 1917, and is also connected to the Roosevelt Elementary School. I understand that the building has undergone numerous renovations over the years.

9. The building housing the schools creates unique issues for students moving throughout the building, including potentially having to travel a great distance and up or down several flights of stairs in order to move between classes during the school day. Due to numerous construction projects over the years, there are also some different levels on each floor that further require students to go up or down additional stairs to access classrooms or locker rooms. This layout can be confusing and often presents problems for students who need to use the restroom in between classes, both for students who use the single-stall restrooms and for those who use the girls' and boys' restrooms. Teachers remind students at the beginning of the school year that if they are not able to use the restroom in between classes, they should go to their classroom to put down their books, and let the teacher know that they are going to use the restroom. Students who do this will not get in trouble or be counted as tardy, and our teachers are aware of this practice.

10. To my knowledge, no students were disciplined or given a tardy to class due to their need to use the restroom during the 2015-2016 school year.

11. There are numerous boys' and girls' bathrooms throughout the school building. Each of these bathrooms has stalls with locking doors that protect students who are using a toilet from being seen by others in the bathroom. All multi-occupant girls' bathrooms have all toilets located within individual locking stalls; multi-occupant boys'

bathrooms contain both individual locking stalls and urinals located outside locking stalls.

12. There is a centrally-located, single-stall bathroom by the lunchroom on the first floor of the High School, on the second floor by the classrooms, and on the third floor by the classrooms. The third floor single-stall bathroom is located by the stairs that take students to the fourth floor classrooms, and is easily accessible from the fourth floor. From numerous locations on the fourth floor, the third floor single-stall bathroom would be as close, if not closer, than the boys' and girls' bathrooms on the fourth floor.

13. There are three gymnasiums in the school building where physical education classes and sports practices are held. The older gyms that are used for physical education classes and some non-varsity sports are called the Tech gyms, and the main High School gym is where most sports practice and the remainder of the physical education classes are held.

14. Alternative locker room facilities are available at all gyms and during sports practices for students who request additional privacy.

15. At the Tech gyms, there are boys' and girls' locker rooms that contain showers and a bathroom. There are also alternative changing locations available in the auditorium dressing room, which is right next to the gyms, or students would also be allowed to use alternative facilities by the High School gym. They may also use the nurse's office, Indian Education bathrooms, or the main bathrooms, based on student preference.

16. At the High School gym, there are four locker rooms, as well as boys' and girls' pool locker rooms and a team room. There are thus numerous locations for changing and showering for students who request additional privacy, and these accommodations were granted to all students who requested them during the 2015-2016 school year.

17. Independent of questions of gender identity, my experience with high school-aged students is that many of them are uncomfortable changing in locker rooms and would prefer not to change in an open locker room setting. Many students do not shower at school after physical education classes or sports practices, opting instead to shower at home. Many students wear their physical education clothes to school, or change at home before sports practices.

18. I am also aware that prior to sports practices, many teams choose to play music in the locker rooms, and numerous students dance in the locker rooms to the music while they are preparing for practice. This is not a violation of any school rules, and such music and dancing are allowed at the discretion of the coaches. I understand that the Senior players generally choose the music for the teams to listen to. If students are uncomfortable with the music that the team is playing or would otherwise like additional privacy, they may use the alternative facilities that are provided. The District received one complaint from a parent about the music that was being played and the dancing of numerous girls in the locker room prior to track practice during the 2015-2016 school year, and we offered that student alternative facilities. Administrators talked to the

Coach about having the students turn the volume of the music down, and asked the Coach to increase supervision in the locker room.

19. The District has undergone a \$250,000 renovation to its varsity locker rooms to install private, single-stall changing areas and private showers. Both the girls' and boys' locker rooms have undergone these changes. There are twelve individual changing stalls that have doors that close and lock to provide students with privacy. Each stall is roughly a 3 foot by 4 foot square, with a seat and a hook for bags. The locker rooms also each have four private, individual shower stalls with locking doors, as well as one handicapped-accessible shower stall with a locking door. The renovation of the locker rooms should be complete within the next couple weeks, and the locker rooms will be available for student use immediately. The new individual changing stalls will provide full privacy for all students who wish to use them.

20. To my knowledge, no student has been disciplined or received a tardy for being late to physical education class or athletic practice because they sought a private location to change. If such a matter were brought to my attention, I would direct the teacher or coach not to impose consequences if the student's reason for being delayed was for the purpose of seeking additional privacy to change.

21. During the 2015-2016 school year, the Superintendent of the District was Deron Stender. Beginning with the 2016-2017 school year, the District's Superintendent is Dr. Noel Schmidt.

22. The District has no written policy on the accommodation of transgender students, but relies on its policies prohibiting discrimination and harassment when

making accommodation decisions. The practice of the District regarding the accommodation of transgender students is to allow those students access to the locker rooms and bathrooms that are associated with their gender identity. This practice was in place during the 2015-2016 school year, and remains in place for the 2016-2017 school year.

23. I worked closely with Superintendent Stender during the 2015-2016 school year on the issues that are involved in the current case, including the accommodation requests of students. We worked together on fielding and responding to parent complaints or questions.

24. During the 2015-2016 school year, I do not recall the District receiving any complaints directly from any student about transgender students being allowed in the restroom or locker room that corresponded with their gender identity. The District received approximately three requests directly from students for additional privacy in locker rooms or restrooms, which were accommodated.

25. However, during the 2015-2016 school year, the District received complaints or objections to the practice of accommodating transgender students from around ten or so parents, as well as about as many positive comments and remarks from parents or community members. With each of the parents who complained, alternative facilities for additional privacy were offered for the students. With several of these parents, we provided tours of the facilities.

26. During the 2015-2016 school year, I do not recall the District receiving any complaints of sexual harassment from any students due to transgender students being allowed in the restroom or locker room that corresponded with their gender identity.

27. As a District, it was and is our goal to do everything we could to ensure that all of our students are treated with respect, and that their rights, views, and desire for privacy are respected. We strive to provide a safe and welcoming space for all students and staff.

28. No students were denied access to locker rooms or restrooms, nor were any students denied educational or athletic opportunities during the 2015-2016 school year on the basis of the District's stance regarding the accommodation of transgender students. Similarly, no students will be denied access or educational and athletic opportunities for the 2016-2017 school year on the basis of this policy.

29. At no time during the 2015-2016 school year did I receive any parental complaints with any specific details about any students being bullied for seeking private locker room or bathroom facilities. Several parents made a vague reference to the possibility of bullying, but no specific allegations of bullying were ever presented to the Administration to my knowledge.

30. The child who is identified by the Plaintiffs in this case as Student X has presented a consistent gender identity as a female since at least the spring of the 2014-2015 school year. She has used a consistent female name, female pronouns, and has a traditionally female hair style, clothing style, and overall appearance. She went through the stringent Minnesota State High School League appeal procedures to gain athletic

eligibility for the girls' sports teams, and was granted such eligibility for all girls' sports that are sponsored by the MSHSL for the remainder of her high school athletic career.

The MSHSL notified the District that it was their position that we had to grant her access to the girls' locker rooms.

31. I am concerned about the effect that this proposed injunction would have on Student X and other transgender students in the District if it is granted.

**I declare under penalty of perjury that everything I have stated in this document is true and correct. This declaration was executed on October 12, 2016, in the County of St. Louis, State of Minnesota.**

/s/Lisa Perkovich  
Lisa Perkovich