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July 1, 2010

Kristy L. Bennett CERTIFIED MAIL RECEIPT NO. 7006-3450-0001-4970-0729
1119 Adkins Blvd.
Jackson, MS 39211

Christine P. Sun CERTIFIED MAIL RECEIPT NO. 7006-3450-0001-4970-0712
Senior Counsel
ACLU LGBT Project
125 Broad Street, 18th Floor
New York, New York 10004

RE: Constance McMillen vs. Itawamba School District; Theresa McNeece, in her official capacity as the Superintendent of Itawamba County School District; Trae Wygul, in his official capacity as principal of Itawamba Agricultural High School; and Rick Mitchell, in his official capacity as Assistant Principal of Itawamba Agricultural High School, In the US District Court for the Northern District of Mississippi, Eastern Division; Civil Action No. 1:10-CV-00061-GHD-JAD

Dear Ms. Bennett and Ms. Sun:

Defendants hereby serve upon Plaintiff, Constance McMillen, an Offer of Judgment pursuant to Rule 68 of the *Federal Rules of Civil Procedure*.

The offer is made on behalf of all of the named Defendants: Itawamba School District; Theresa McNeece, in her official capacity as the Superintendent of Itawamba County School District; Trae Wygul, in his official capacity as principal of Itawamba Agricultural High School; and Rick Mitchell, in his official capacity as Assistant Principal of Itawamba Agricultural High School.

Very truly yours,

GRIFFITH & GRIFFITH

By: 

Benjamin E. Griffith

BEG;jl

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

CONSTANCE McMILLEN

PLAINTIFF

VS.

CIVIL ACTION NO. 1:10-cv-00061-GHD-JAD

**ITAWAMBA COUNTY SCHOOL DISTRICT; DEFENDANTS
TERESA McNEECE, in her official capacity
as the Superintendent of Itawamba County
School District; TRAE WIYGUL, in his
official capacity as Principal of Itawamba
Agricultural High School; and RICK MITCHELL,
in his official capacity as Assistant Principal of
Itawamba Agricultural High School**

DEFENDANTS' OFFER OF JUDGMENT TO PLAINTIFF

Pursuant to Rule 68 of the Federal Rules of Civil Procedure, Defendants, ITAWAMBA COUNTY SCHOOL DISTRICT, TERESA McNEECE, in her official capacity as the Superintendent of Itawamba County School District, TRAE WIYGUL, in his official capacity as Principal of Itawamba Agricultural High School; and RICK MITCHELL, in his official capacity as Assistant Principal of Itawamba Agricultural High School, offer to allow the Plaintiff, Constance McMillen, to take a judgment against them in as follows:

- (1) Defendants shall cause to be paid to Plaintiff, Constance McMillen, the Sum of thirty-five thousand and no one hundreds dollars (\$35,000.00), together with reasonable attorneys fees accrued to date under the Civil Rights Attorneys Fees Awards Act, 42 U.S.C. §1988, and costs accrued to date, the amount thereof to be determined by the Court in the manner provided by law.
- (2) Defendants affirm that it is and shall be the policy of Itawamba County School District not to discriminate on the basis of race, age, national origin, ethnicity, sex, sexual

orientation, gender or religion in any of the educational or extracurricular programs, activities, and services offered or otherwise made available by or through Itawamba County School District, and that it is the policy of Itawamba County School District to maintain a learning environment that is free from harassment, bullying, and discrimination. This includes, but is not limited to, harassment, bullying, and discrimination based on an individual's real or perceived race, color, sex, religion, creed, age, national origin, linguistic and language differences, sexual orientation, gender identity and expression, socioeconomic status, or disability. It shall be a violation of this policy for any student, teacher, administrator, or other school personnel to harass, bully, or discriminate against any person based upon any of the differences listed above. It shall also be a violation of this policy for any teacher, administrator or other school personnel to tolerate such harassment, bullying or discrimination of any person by a student, teacher, administrator, other school personnel, or by any third parties subject to supervision and control of Itawamba County School District. Itawamba County School District recognizes the duty to educate students to be successful in and outside of the classroom and that the prohibition on the above listed discrimination is a vital part of that duty.

(3) This offer is conditioned upon its acceptance in writing by Plaintiff.

The above constitutes the entirety of this Offer of Judgment.

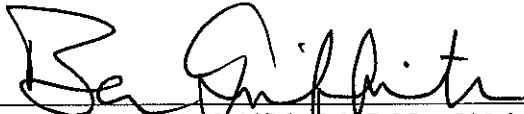
Defendants believe in good faith that the Plaintiff's rights under the United States Constitution have not been violated by any act, omission, policy, custom or practice of Defendants. The monetary portion of this offer set forth in the first numbered paragraph of this Offer of Judgment is being made at the instance of Defendants' insurer based on its exclusive

right which may be exercised by it in its discretion, under Section I, Paragraph A.2 of the applicable liability insurance policy issued to Itawamba County School District, to "settle any claim or suit" within the meaning of such policy. Defendants' insurer has made the decision for this Offer of Judgment, more particularly the monetary portion thereof, to be made in order to reduce the School District's exposure to litigation costs.

Pursuant to Rule 68 of the Federal Rules of Civil Procedure the Plaintiff will be required to pay the costs incurred after the date of this offer, as well as attorney's fees, to the extent the fails to accept the same within ten (10) days of service and a verdict or final judgment against the Defendants, if any, should fail to exceed this offer of judgment.

SUBMITTED this the 1st day of July, 2010.

ITAWAMBA COUNTY SCHOOL DISTRICT; TERESA McNEESE, in her official capacity as the Superintendent of Itawamba County School District; TRAE WIYGUL, in his official capacity as Principal of Itawamba Agricultural High School; and RICK MITCHELL, in his official capacity as Assistant Principal of Itawamba Agricultural High School

By: 
Benjamin E. Griffith, MSB No. 5026
Attorney for Defendants

Of Counsel:

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MICHELE H. FLOYD
Itawamba County School District
605 South Cummings St.

Fulton, MS 38843
Telephone: 662-862-2159

CERTIFICATE OF SERVICE

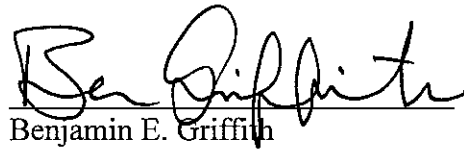
I, Benjamin E. Griffith, attorney of record for Defendants, do hereby certify that I have this day caused a true and correct copy of the above and foregoing Offer of Judgment to be mailed, postage prepaid, and by certified mail, return receipt requested, to:

Kristy L. Bennett (MSB #99525)
American Civil Liberties Union of Mississippi
P. O. Box 2242
Jackson, MS 39225

Christine P. Sun
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004

Norman C. Simon
Joshua Glick
Kramer Levin Naftalis & Frankel, LLP
1177 Avenue of the Americas
New York, NY 10036

DATED, this 1st day of July, 2010.


Benjamin E. Griffith
MSB # 5026