

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

JASPER WISECARVER,)	
)	
Plaintiff,)	
)	
v.)	No. 2:22-cv-30
)	
VALPARAISO COMMUNITY SCHOOLS;)	
PRINCIPAL, VALPARAISO HIGH SCHOOL,)	
in her official capacity,)	
)	
Defendants.)	

Complaint for Declaratory and Injunctive Relief and Damages

Introduction

1. Jasper Wisecarver is an eighteen-year-old transgender man who attends Valparaiso High School, the high school within Valparaiso Community Schools. He has been diagnosed with gender dysphoria and is receiving treatment, including masculinizing hormone replacement therapy, aimed at alleviating the distress associated with the incongruence between his male gender identity and his birth-assigned sex. He has requested the ability to use the men’s restrooms and locker room at Valparaiso High School. Employees of Valparaiso Community Schools have denied this request, and have threatened him with discipline if he does so. He has also requested that he be addressed in a manner that reflects that he is a man by referring to him using male pronouns and his preferred male name. School employees have refused to implement administrative

measures that would ensure this occurs, and as a result, he is frequently misgendered by substitute teachers. Defendants' failures to recognize plaintiff as male, to allow him to use men's restrooms and facilities at the school, and to ensure that school personnel refer to him using his male name and pronouns consistent with his male gender, violate both Title IX of the Education Amendments Act of 1972, 20 U.S.C. § 1681(a) and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. He is entitled to declaratory and injunctive relief, as well as his damages.

Jurisdiction, venue, and cause of action

2. This Court has jurisdiction of this case pursuant to 28 U.S.C. § 1331.
3. Venue is proper in this district pursuant to 28 U.S.C. § 1391.
4. Declaratory relief is authorized by Rule 57 of the Federal Rules of Civil Procedure and by 28 U.S.C. §§ 2201, 2202.
5. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the United States Constitution and as a private cause of action directly pursuant to Title IX as authorized by *Cannon v. University of Chicago*, 441 U.S. 677, 717 (1979).

Parties

6. Jasper Wisecarver is an 18-year-old high school student who resides in Valparaiso, Indiana.
7. Valparaiso Community Schools is a public school corporation providing

educational services in Valparaiso, Indiana.

8. The principal of Valparaiso High School is the duly appointed principal of the school and is sued in her official capacity.

Factual allegations

9. Jasper Wisecarver is a senior at Valparaiso High School, the high school within Valparaiso Community Schools.

10. Although the gender assigned to Jasper at birth was female, he has known that he was not female since at least middle school.

11. For several years, he questioned his gender identity, and explored the possibility that he may be non-binary. During this period of time, he often used they/them pronouns.

12. When Jasper was approximately seventeen years old, he began physically presenting in a more masculine manner.

13. Late in 2020, he was diagnosed by his therapist with gender dysphoria and began to recognize himself as male.

14. During that time, he indicated to his friends and family that he was male and asked that he be addressed by male pronouns and his current male first name.

15. Since then, he has worn male clothes, cut his hair in a masculine manner, and has generally physically presented as male, and he has been treated as male by his family and friends.

16. In late-2020, while a junior at Valparaiso High School, he met with his guidance counselor to discuss which restrooms he could use, as he did not feel comfortable using women's restrooms.

17. He was told at that time that school policy prohibited transgender students from using the restrooms of their gender identities, and that students were required instead to use the restroom of the sex they were assigned at birth. This policy remains in effect today.

18. Jasper does not feel comfortable using women's restrooms, as he is a man.

19. His guidance counselor informed him that he could elect instead to use the single-occupancy restroom in the nurse's office. This remains the only option for him, aside from using women's restrooms.

20. The nurse's office restroom is far from many of Jasper's classes, and using it has caused him to be late to class. He accumulated a number of "tardies" as a result of this.

21. Using the nurse's office restroom also makes him feel singled out as transgender and contributes to feelings of anxiety and isolation stemming from his gender dysphoria.

22. He has often avoided using the restroom altogether, which results in discomfort and risks to his health.

23. The nurse's office is locked after school hours, so its restroom is not available when Jasper stays after school for club meetings or other extracurricular activities, which he often does. Under these circumstances, in order to use the restroom he must either break

school rules by using the men's restroom or forego using the restroom at all.

24. In the fall of 2021, Jasper began treatment for his gender dysphoria in the Gender Health Program at Riley Children's Health.

25. As part of this treatment, he began masculinizing hormone replacement therapy in October 2021.

26. This therapy has resulted in a number of changes to his physical appearance, which continue to progress, including changing the appearance of his jawline and face and deepening his voice, and he no longer has a menstrual cycle.

27. As these hormonal and physical changes have progressed, and as Jasper has gotten more confident in asserting his identity as a man, he has become increasingly disturbed about having to use the nurse's restroom and not being able to use the men's restrooms like all the other boys and men in the school. He feels that he is being singled out and that he is not accepted for who he is.

28. This has caused him anxiety and unhappiness.

29. Each of the men's restrooms have at least one stall with a door, although school officials have removed the doors on some of the stalls.

30. None of the doors have been removed from stalls in the women's restrooms.

31. Jasper is enrolled in an advanced physical education class, for which he receives credit and a grade, that meets during the first period of every school day.

32. Individuals enrolled in that gym class are required to wear a school-issued t-shirt

and must wear their own leggings or sweat pants, or school-issued gym shorts.

33. Students in that gym class are assigned lockers in the locker rooms near the gym within which to store their gym clothes, and also within which to store their belongings while they are participating in gym class.

34. Students typically leave their gym clothes in those lockers during the week, and take the clothes home to launder on weekends. The school launders school-issued clothing once per week.

35. When the class began this semester, Jasper used the men's locker room to change into his gym clothes and to use the lockers, as the other male students in the class did.

36. The men's locker room includes one restroom stall that has a door, and another stall from which school officials have removed the door.

37. The locker room includes showers, which are in a separate portion of the locker room, not visible from the area where lockers are located and where students change clothes.

38. Approximately a week after the class began, Jasper was called in by his guidance counselor to attend a meeting. The counselor informed him that by school policy he was not permitted to access the men's locker room, and that he was required to change either in the women's locker room or in the single-occupancy restroom in the nurse's office.

39. Jasper is a man and desires to change clothes in the men's locker room.

40. Jasper believed that this restriction was unlawful, and he continued to change in

the men's locker room without any negative response or issue from other students, who perceived him to be a man.

41. Approximately one week later, Jasper was called again to the guidance office to meet with another school official, who again told him that he could not access the men's locker room. She threatened him with discipline as a result of continuing to access the locker room, and suggested that this official discipline could impact his likelihood of being accepted to college.

42. She informed him that he had three options in order to attend gym class.

43. The first option was that he could use the nurse's office to change in and out of his gym clothes.

44. The second option was that Jasper come to school in his gym clothes, and then use the nurse's office to change after gym.

45. And the third option was that the school was willing to waive the requirement that Jasper wear the gym uniform, and that he could wear the clothes he wore for gym throughout the rest of the school day.

46. None of these options are acceptable, and they all serve to single out Jasper and provide him with unequal treatment.

47. Following the second guidance counselor meeting, Jasper began changing clothes in the nurse's office.

48. The nurse's office is a long distance away from the gym, and on a different floor,

and travelling to and from the nurse's office takes a considerable amount of time.

49. This resulted in him frequently being late to gym class, due to the time required to travel to and from the nurse's office.

50. On February 1, 2022, Jasper was called to the assistant principal's office as a result of receiving multiple tardies to gym class. The assistant principal asked Jasper why he had accumulated those tardies, and when Jasper indicated that they were the result of having to travel to and from the nurse's office to change, the assistant principal indicated that Jasper should have chosen to use the women's locker room to change.

51. The assistant principal then told Jasper that in order to have the time to travel to and from the nurse's office, he should arrive to school earlier and start the process of changing clothes before the school day actually begins. All other students are permitted to change during class time, after the bell rings to signal the start of first period.

52. The assistant principal informed Jasper that, following this "warning," any further tardies to any class will result in him receiving progressive discipline. This was especially upsetting to Jasper, as he intends to go to college, and any disciplinary infraction may negatively impact his admission.

53. Following him being prohibited from entering the men's locker room, students who only knew him as a man learned that Jasper is transgender. This has resulted in some of them intentionally misgendering him and using his former female or "dead" name.

54. Jasper still desires to use the men's locker room to change, and is currently under the threat of discipline for any further tardies.

55. Jasper has been able to change his name from the female name he was given at birth to his male name, as listed in his school Google account and within the school's online assignment system, called Canvas.

56. Despite Jasper's requests that it do so, the school has refused to change his name and gender within the Skyward system used by school administration, which results in his former female name being populated into class rosters and seating charts.

57. While his regular teachers typically honor his requests to use his preferred male name and male pronouns, because these fields have not been changed in Skyward, substitute teachers routinely misgender him and refer to him by his dead name. This is extremely upsetting to him.

58. The school has indicated that it will not change those fields within Skyward unless or until Jasper has received a legal name and gender-marker change.

59. As a result of being denied access to men's facilities, and because he is frequently referred to by incorrect names and pronouns by substitute teachers, Jasper feels anxious and upset and often dreads going to school.

60. He is a good student and loves to learn, and these issues have tremendously impacted his ability to enjoy school.

61. The school's refusal to accept Jasper as a man, and the experience of being

threatened with discipline for using men's restrooms and the locker room has been extremely upsetting to Jasper.

62. The school's actions have also resulted in him being subjected to taunting by other classmates.

63. Jasper is being caused psychological stress and injury by the actions of the defendants in that they serve to emphasize the disconnect between his sex assigned at birth and gender identity and cause him continuing depression, anxiety, mental distress, and other injuries.

64. Jasper is being caused irreparable harm for which there is no adequate remedy at law.

65. Valparaiso Community Schools is a recipient of federal funding and is an entity covered by Title IX.

66. At all times defendants have acted and have failed to act under color of state law.

67. The actions and inactions of defendants represent intentional discrimination and have damaged plaintiff.

Legal claims

68. The failures to (1) allow Jasper to use male facilities and (2) require that he be referred to as a male, using the name pronouns consistent with his gender identity, represent unlawful discrimination because of sex in violation of Title IX, 20 U.S.C. § 1681(a), for which Valparaiso Community Schools is liable.

69. The failures to (1) allow Jasper to use male facilities and (2) require that he be referred to as a male, using the name and pronouns consistent with his gender identity, violate the Equal Protection Clause of the Fourteenth Amendment, for which the Principal of Valparaiso High School, in her official capacity, is liable.

WHEREFORE, the plaintiff requests that this Court:

- a. Accept jurisdiction of this case and set it for prompt hearing.
- b. Declare that defendants have violated the plaintiff's rights for the reasons noted above.
- c. Enter a temporary restraining order requiring defendants to allow the plaintiff to use men's restrooms and locker rooms and further requiring that the plaintiff be referred to by school personnel as male, using the name and pronouns associated with his gender identity.
- d. Enter a permanent injunction, requiring defendants to treat the plaintiff as a man in all respects, allowing him to use male restrooms and other facilities, and further requiring that he be referred to by school personnel as male, using the name and pronouns associated with his gender identity.
- e. Award plaintiff his damages.
- f. Award plaintiff his reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.
- g. Award all other proper relief.

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