

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
AT LAFAYETTE

JANE DOE, as next friend to her minor
daughters, JOAN DOE and JILL DOE,

Civil Action No.
Section:

v.

VERMILION PARISH SCHOOL BOARD,
RANDY SCHEXNAYDER, Superintendent,
BILL SEARLE, District A, ANGELA FAULK,
District B, DEXTER CALLAHAN, District C,
RICKY LEBOUF, District D, ANTHONY
FONTANA, District E, CHARLES CAMPBELL,
District F, CHRIS MAYARD, District G, RICKY
BROUSSARD, District H, and DAVID DUPUIS,
Principal, Rene A Rost Middle School.

COMPLAINT

I. PRELIMINARY STATEMENT

1. This is an action under 42 U.S.C. § 1983 and other federal laws, challenging unlawful sex discrimination at the Rene A. Rost Middle School, in Kaplan, Louisiana. The Plaintiffs — middle school students by and through their parent — allege that the Defendants have unlawfully segregated girls and boys attending Rene A. Rost Middle School in the 2009-2010 school year in violation of the Fourteenth Amendment's Equal Protection Clause, Title IX of the Education Amendments of 1972 ("Title IX"), the Equal Educational Opportunities Act, the United States Department of Education ("DOE") Title IX regulations, the United States Department of Health and Human Services ("DHHS") Title IX regulations, and the United States Department of Agriculture ("USDA") Title IX regulations.

2. The named Plaintiffs object to the sex segregation imposed by Defendants as a violation of their rights to enjoy equal educational opportunities without discrimination on the basis of sex. They seek to ensure that they and all students at Rene A. Rost Middle School have the equal opportunity to participate in the school's academic offerings without regard to their sex, and to receive instruction based on their individual strengths and needs.

II. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343, because this action raises federal questions and seeks to redress the deprivation of equal rights under Title IX, 20 U.S.C. §§ 1681 – 1688; the Equal Educational Opportunities Act, 20 U.S.C. § 1701 – 1758; and the Fourteenth Amendment of the U.S. Constitution, pursuant to 42 U.S.C. § 1983.

4. Venue is proper in this district under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims took place in this district and because some of the Defendants reside in this district.

5. Declaratory relief is authorized by 28 U.S.C. § 2201 and 28 U.S.C. § 2202. A declaration of the law is necessary and appropriate to determine the parties' respective rights and duties.

III. PARTIES

6. JANE DOE, Plaintiff herein, is the mother of two middle school children who attend Rene A. Rost middle school. Plaintiff Doe's children have been discriminated against on the basis of sex, and have been denied educational opportunities, in violation of the law. Plaintiff JANE DOE objects to her daughters being segregated on the basis of

sex. She believes that separate is not equal, and that her daughters will be treated differently because they are girls. She believes this disparate treatment will be harmful to them. She believes that it is positive for her daughters to interact with boys, as they will have to in all other areas of their lives. She is troubled that the school is separating boys and girls at various times throughout the day. Plaintiff JANE DOE appears on behalf of her minor children, and fears retaliation and embarrassment as a result of their involvement in this litigation. She therefore requests an Order from this Court preventing the Defendants from revealing her identity, or the identity of her minor children. A declaration from Jane Doe is attached hereto as Exhibit A.

7. JOAN DOE, Plaintiff herein, is a minor child attending school at Rene A. Rost middle school. Plaintiff Joan Doe's mother objects to her being segregated on the basis of sex. Plaintiff Joan Doe is involuntarily participating in sex-segregated classes. Plaintiff Joan Doe was told that if she wanted to attend co-educational classes, those classes would be held with the "special needs" section, which is not being segregated on the basis of sex. Because she is a minor, Joan Doe appears through her mother. Plaintiff Joan Doe fears retaliation and embarrassment as a result of her involvement in this litigation, and requests an Order from this Court preventing the Defendants from revealing her identity.

8. JILL DOE, Plaintiff herein, is a minor child attending school at Rene A. Rost middle school. Plaintiff Jill Doe's mother objects to her being segregated on the basis of sex. Plaintiff Jill Doe is involuntarily participating in sex-segregated classes. Plaintiff Jill Doe attempted to enroll in co-educational classes at Rene A. Rost and was told that the classes were "full," and that she must maintain a sex-segregated schedule.

Plaintiff Jill Doe fears retaliation and embarrassment as a result of her involvement in this litigation, and requests an Order from this Court preventing the Defendants from revealing her identity.

9. VERMILION PARISH SCHOOL BOARD, or “VPSB” is the entity responsible for the administration of schools within Vermilion Parish, including Rene A. Rost Middle School. As such, on January 24, 2008, the School Board adopted a policy allowing Defendant Dupuis to “conduct a study” on sex segregation at Rene A. Rost in the 2008-2009 school year.¹ Only one school board member, Mr. Fontana, voted against the proposal. This program was expanded in the 2009-2010 school year, and parental consent was not obtained to experiment upon or “study” the students. After being placed on notice of the unconstitutionality and illegality of the practices at Rene A. Rost in the 2009-2010 school year, the VPSB has failed to take remedial action and has continued to support single-sex classrooms. The VPSB is a political entity capable of suing and being sued.

10. RANDY SCHEXNAYDER is Superintendent of the Vermilion Parish School Board. Defendant Schexnayder is responsible for administration of all schools within the Vermilion Parish School District, including Rene A. Rost. After being placed on notice of the unconstitutionality and illegality of the practices at Rene A. Rost, the VPSB has failed to take remedial action and has continued to support single-sex classrooms. He is sued in his individual and official capacities.

11. BILL SEARLE is the Vermilion Parish School Board member for district A. As such, he is responsible for administration of all schools within the Vermilion Parish

¹ Vermilion Parish School Board meeting minutes, January 24, 2008, <http://www.vrml.k12.la.us/board/minutes/0708/01242008.pdf>, last visited September 6, 2009.

School District, including Rene A. Rost. After being placed on notice of the unconstitutionality and illegality of the practices at Rene A. Rost, he has failed to take remedial action and has continued to support single-sex classrooms. He is sued in his individual and official capacities.

12. ANGELA FAULK is the Vermilion Parish School Board member for district B. As such, she is responsible for administration of all schools within the Vermilion Parish School District, including Rene A. Rost. After being placed on notice of the unconstitutionality and illegality of the practices at Rene A. Rost, she has failed to take remedial action and has continued to support single-sex classrooms. She is sued in his individual and official capacities.

13. DEXTER CALLAHAN is the Vermilion Parish School Board member for district C. As such, he is responsible for administration of all schools within the Vermilion Parish School District, including Rene A. Rost. After being placed on notice of the unconstitutionality and illegality of the practices at Rene A. Rost, he has failed to take remedial action and has continued to support single-sex classrooms. He is sued in his individual and official capacities.

14. RICKY LEBOUF is the Vermilion Parish School Board member for district D. As such, he is responsible for administration of all schools within the Vermilion Parish School District, including Rene A. Rost. After being placed on notice of the unconstitutionality and illegality of the practices at Rene A. Rost, he has failed to take remedial action and has continued to support single-sex classrooms. He is sued in his individual and official capacities.

15. ANTHONY FONTANA is the Vermilion Parish School Board member for district E. As such, he is responsible for administration of all schools within the Vermilion Parish School District, including Rene A. Rost. Mr. Fontana voted to refer the sex segregation issue to the curriculum committee, but was outvoted by his fellow board members. However, after being placed on notice of the unconstitutionality and illegality of the practices at Rene A. Rost, he has failed to take remedial action and has continued to allow single-sex classrooms. He is sued in his individual and official capacities.

16. CHARLES CAMPBELL is the Vermilion Parish School Board member for district F. As such, he is responsible for administration of all schools within the Vermilion Parish School District, including Rene A. Rost. After being placed on notice of the unconstitutionality and illegality of the practices at Rene A. Rost, he has failed to take remedial action and has continued to support single-sex classrooms. He is sued in his individual and official capacities.

17. CHRIS MAYARD is the Vermilion Parish School Board member for district G. As such, he is responsible for administration of all schools within the Vermilion Parish School District, including Rene A. Rost. After being placed on notice of the unconstitutionality and illegality of the practices at Rene A. Rost, he has failed to take remedial action and has continued to support single-sex classrooms. He is sued in his individual and official capacities.

18. RICKY BROUSSARD is the Vermilion Parish School Board member for district H. As such, he is responsible for administration of all schools within the Vermilion Parish School District, including Rene A. Rost. After being placed on notice of the unconstitutionality and illegality of the practices at Rene A. Rost, he has failed to take

remedial action and has continued to support single-sex classrooms. He is sued in his individual and official capacities.

19. DAVID DUPUIS is the Principal of Rene A Rost Middle School. Mr. Dupuis devised and implemented a sex-segregation plan for his Middle School. He sought and received approval from the school board to implement the segregation, and, upon information and belief, is using the “study” to complete the requirements for his Ph.D. program. Defendant Dupuis has personally applied pressure to students and parents to segregate their children according to sex. He has not obtained the consent of parents to experiment upon their children. He is sued in his individual and official capacities.

IV. STATUTORY AND CONSTITUTIONAL FRAMEWORK

A. Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*)

20. Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, prohibits schools receiving federal funding from excluding individuals from any educational program or activity based on their sex.

21. Specifically, Title IX states, “No person in the United States shall, on the basis of sex, *be excluded from participation in*, be denied the benefits of, or be subjected to discrimination under *any education program or activity* receiving Federal financial assistance[.]” 20 U.S.C. § 1681(a) (emphasis added).

22. The statute sets out various limited exceptions from this broad nondiscrimination rule, permitting rules or policies creating single-sex educational programs or activities in specific, limited contexts. No such exception applies to sex-segregated classrooms in coeducational schools.

23. Title IX provides that each agency empowered to extend financial assistance to any educational program or activity is authorized and obligated to issue regulations interpreting and enforcing Title IX's nondiscrimination mandate with respect to that program or activity. 20 U.S.C. § 1682.

24. Despite Title IX's clear statutory prohibition against sex segregation in coeducational schools such as Rene A. Rost Middle School, recent amendments to Title IX regulations promulgated by the U.S. Department of Education purport to interpret the statute to permit recipients of U.S. Department of Education funding to operate sex-segregated classes in a variety of circumstances. *See* 34 C.F.R. § 106.34(b).

25. Even these Department of Education regulations make clear that, to be lawful, enrollment in a single-sex class or activity must be "completely voluntary." 34 C.F.R. § 106.34(b)(1)(iii). A "substantially equal" coeducational class in the same subject or activity must be made available to all students. 34 C.F.R. § 106.34(b)(1)(iv). Any sex-segregated classes must also be based on one of two enumerated objectives and implemented in "an even-handed manner." 34 C.F.R. § 106.34(b)(1)(i), (ii).

26. The Department of Education's Title IX regulations also state, "[A] recipient shall not, on the basis of sex . . . [p]rovide different aid, benefits, or services or provide aid, benefits, or services in a different manner." 34 C.F.R. § 106.31(b)(2).

27. The Department of Education's Title IX regulations also state, "[A] recipient shall not, on the basis of sex . . . deny any person any such aid, benefit, or service." 34 C.F.R. § 106.31(c).

28. By their own terms, the Title IX regulations promulgated by the U.S. Department of Education do not alter obligations not to discriminate on the basis of sex imposed by other federal regulations. 34 C.F.R. § 106.6.

29. The U.S. Department of Health and Human Services interprets Title IX differently from the U.S. Department of Education regarding sex-segregated classes. U.S. Department of Health and Human Services regulations explicitly prohibit U.S. Department of Health and Human Services funding recipients from instituting sex-segregated classes, stating, “A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis” 45 C.F.R. § 86.34.

30. The U.S. Department of Agriculture interprets Title IX differently from the U.S. Department of Education regarding sex-segregated classes. U.S. Department of Agriculture regulations explicitly prohibit U.S. Department of Agriculture funding recipients from instituting sex-segregated classes, stating, “A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis” 7 C.F.R. § 15a.34.

31. Other federal agencies also interpret Title IX differently from the U.S. Department of Education regarding sex-segregated classes. The U.S. Department of Homeland Security, the U.S. Nuclear Regulatory Commission, the U.S. Department of Energy, the U.S. Small Business Administration, the National Aeronautics and Space Administration, the U.S. Department of Commerce, the Tennessee Valley Authority, the U.S. State Department, the U.S. Agency for International Development, the U.S.

Department of Housing and Urban Development, the U.S. Department of Justice, the U.S. Department of Labor, the U.S. Department of the Treasury, the U.S. Department of Defense, the National Archives, the U.S. Department of Veterans Affairs, the U.S. Environmental Protection Agency, the U.S. Department of Interior, the Federal Emergency Management Agency, the National Science Foundation, the Corporation for National and Community Service, and the U.S. Department of Transportation all have promulgated regulations prohibiting sex-segregated course offerings in terms identical to those used by the U.S. Department of Health and Human Services and the U.S. Department of Agriculture. 6 C.F.R. § 17.415; 10 C.F.R. § 5.415; 10 C.F.R. § 1042.415; 13 C.F.R. § 113.415; 14 C.F.R. § 1253.415; 18 C.F.R. § 1317.415; 22 C.F.R. § 146.415; 22 C.F.R. § 229.415; 22 C.F.R. § 3.415; 28 C.F.R. § 54.415; 29 C.F.R. § 36.415; 31 C.F.R. § 28.415; 32 C.F.R. 196.415; 36 C.F.R. § 1211.415; 38 C.F.R. § 23.415; 40 C.F.R. § 5.415; 43 C.F.R. § 41.415; 44 C.F.R. § 19.415; 45 C.F.R. § 618.415; 45 C.F.R. § 2555.415; 49 C.F.R. § 25.415.

B. The Equal Educational Opportunities Act (20 U.S.C. § 1701 *et seq.*)

32. The Equal Educational Opportunities Act, 20 U.S.C. § 1701 *et seq.*, prohibits assignment of students to a school for the purpose of segregating students on the basis of sex. 20 U.S.C. § 1705.

C. Equal Protection Guarantee of the Fourteenth Amendment

33. The Fourteenth Amendment to the United States Constitution mandates that no State shall “. . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. Amend. XIV.

VI. FACTUAL ALLEGATIONS

34. Vermillion Parish School District and Rene A. Rost Middle School receive federal funding and are subject to the requirements of Title IX.

35. The federal funding received by Vermilion Parish School District includes not only funding from the U.S. Department of Education but also funding from other federal agencies, including National School Lunch Program funding from the U.S. Department of Agriculture (“USDA”). Upon information and belief, Defendants also accept funding from the U.S. Department of Health and Human Services (“DHHS”). Thus, Vermillion Parish School District and Rene A. Rost Middle School are subject to the Title IX regulations promulgated by the U.S. Department of Agriculture and the U.S. Department of Health and Human Services, as well as the Title IX regulations promulgated by the U.S. Department of Education.

36. Rene A. Rost Middle School is a public school with students in grades five through eight, located in Kaplan, Louisiana, and under the supervision of the Vermillion Parish School Board. Students are assigned to Rene A. Rost Middle School based on their place of residence. The student body of Rene A. Rost Middle School comprises both males and females.

37. On August 4, 2009, Rene A. Rose held orientation, at which Defendant Dupuis informed parents that the school would be segregated according to sex. The parents were not given any choice in the matter, but were simply informed that their children would be allocated to classrooms based upon sex.

38. On August 12, 2009, the Plaintiffs contacted Defendants, by and through counsel, and advised that sex-segregation is unlawful. Plaintiffs informed Defendants that if they persisted in this unlawful course of action, Plaintiffs would be forced to consider litigation. That letter is attached hereto as Exhibit B.

39. On August 13, 2009, Defendants responded that they would rescind the mandatory plan, and that instead the plan would be voluntary. They asked Plaintiff to refrain from filing for a temporary restraining order to allow the Defendant School Board to meet and formally vote to rescind the plan. The Board would not meet until August 20, 2009. Exhibit C.

40. On August 13, 2009, Plaintiffs sent a follow-up letter, advising that even if a co-educational alternative is offered, the single-sex option must be truly “voluntary,” and that the co-educational alternative must be absolutely equal to the single-sex option. Even then, Plaintiff advised that the segregation program was still legally problematic. Exhibit D.

41. The first day of school for the 2009-2010 school year at Rene A. Rost was August 17, 2009. Classes were segregated, because the Board had not met to vote to rescind the plan. However, Plaintiffs in good faith refrained from filing litigation, awaiting the Board’s remedial action.

42. At the Board's meeting on August 20, 2009 the Defendants voted to offer single-sex classes on a voluntary basis. Plaintiffs continued to patiently await implementation of these reforms, in an attempt to avoid litigation.

43. Defendants advised that a letter would be sent to parents allowing them to elect whether to enroll their children in single-sex or co-educational classes. Exhibit E. Plaintiff Jane Doe completed this form for her minor children, Joan and Jill, and requested that they be placed in co-educational classes.

44. Late on Wednesday, September 3, 2009, Plaintiff learned that her eldest daughter, Joan Doe, was informed that if she elected co-educational courses, she would be placed in the "special needs" class, which was co-educational. Joan Doe does not have "special needs." Joan Doe also was approached by Defendant Principal Dupuis and asked to talk with her mother about placing her daughter Jill in co-educational classes.

45. Minor child Joan Doe changed her mother's selection on the "parent election form" from "co-educational" to "single sex." Plaintiff believes that the child made this change due to the aforementioned pressure, due the fact that she would have been placed in "special needs" classes if her mother's co-educational selection were allowed to remain, and due to the fact that classes had already been established for two weeks, and all of her friends were in the single-sex classroom.

46. Similarly, Minor child Jill Doe also was approached by Defendant Dupuis. She was told to have her mother call Defendant Dupuis about the single sex classes. She also was told that she was "too smart" to be in the co-educational class.

47. Also late on Wednesday, September 3, 2009, Plaintiff Jane Doe learned that her younger daughter, Jill Doe, was refused admittance to the co-educational class

because it is “full.” Therefore, despite the express wishes of her parent, Minor Jill Doe is being placed in sex-segregated classrooms.

48. The co-educational classes are not “equal” to the sex-segregated classes. First, Joan Doe was told that if she wanted to attend co-educational classes, she would be in the “special needs” section. Plaintiff Jill Doe was told that she was “too smart” for that. Additionally, recently in a newspaper article from Abbeville Now newspaper² Defendant Dupuis explains that different teaching methods will be used with boys than with girls. He further stated that in reading, boys could be offered books that appeal to boys, and girls could be read books that appeal to girls. These comments indicate that the two tracks are not in fact equal, and, rather, represent exactly the sort of sex stereotyping and discrimination that Title IX and the Fourteenth Amendment seek to prevent.

49. The sex-segregation scheme is clearly not voluntary. Joan Doe was pressured to participate, both by the structure of the classes and because she was personally approached by Defendant Dupuis, who expressed a preference for her enrollment in single-sex classes. This pressure was so significant that it prompted Joan to disregard her mother’s wishes and change her election form. Jill Doe opted for the co-educational alternative, but was told that the class was full, and was placed in a segregated class anyway.

50. Not all girls are alike. Research demonstrates that the psychological differences between individual girls are far larger than any average psychological differences between girls and boys.

² See, <http://www.abbevilnow.com/content/aclu-targets-kaplan-classes>, last visited September 5, 2009.

51. Not all boys are alike. Research demonstrates that the psychological differences between individual boys are far larger than any average psychological differences between boys and girls.

52. Psychological research demonstrates that on average, boys and girls are psychologically more alike than different.

53. Gender is an imprecise proxy for psychological, emotional, and developmental differences in adolescents.

54. Plaintiffs are threatened with irreparable injury as a result of Defendants' illegal conduct.

55. The Defendants' discriminatory policies and practices threaten harm to the dignity interests of Plaintiffs.

56. The Defendants' discriminatory policies and practices threaten to deprive Plaintiffs of unique educational opportunities on the basis of their sex.

57. Louisiana law prohibits experimentation upon human beings without their consent, and renders such conduct criminal.³

³ See, La. R.S. 14:87.2: **Human experimentation.** Human experimentation is the use of any live born human being, without consent of that live born human being, as hereinafter defined, for any scientific or laboratory research or any other kind of experimentation or study except to protect or preserve the life and health of said live born human being.... ***

Whoever commits the crime of human experimentation shall be imprisoned at hard labor for not less than five nor more than twenty years, or fined not more than ten thousand dollars, or both.

VII. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION: Title IX

58. By providing classes separately at Rene A. Rost Middle School on the basis of sex and by requiring and refusing student participation in classes on the basis of the students' sex, Defendants discriminate against Plaintiffs on the basis of their sex, in violation of Title IX, 20 U.S.C. § 1681(a), as interpreted by the U.S. Department of Agriculture, 7 C.F.R. § 15a.34, and the U.S. Department of Health and Human Services, 45 C.F.R. § 15a.34.

59. Defendants engaged in such conduct intentionally, willfully, and in disregard of the rights of Plaintiffs and/or with actual notice of and deliberate indifference to the rights of Plaintiffs.

SECOND CAUSE OF ACTION: Title IX

60. By instituting sex-segregated classes at Rene A. Rost Middle School, Defendants have discriminated against Plaintiffs on the basis of their sex, in violation of Title IX, 20 U.S.C. § 1681(a), as interpreted by the U.S. Department of Education, 34 C.F.R. §§ 106.31, 106.34.

61. Defendants have failed and continue to fail to ensure that enrollment in any sex-segregated course at Rene A. Rost Middle School is completely voluntary, as required by 34 C.F.R. § 106.34(b)(1)(iii).

62. Defendants have failed and continue to fail to provide all students, including students of the excluded sex, substantially equal coeducational classes in the same subjects as the sex-segregated classes, as required by 34 C.F.R. § 106.34(b)(1)(iv).

63. Defendants have provided and continue to provide different educational aid, benefits, or services on the basis of sex and/or provide aid, benefits, or services in a different manner on the basis of sex, in violation of 34 C.F.R. § 106.31(b)(2).

64. Defendants have denied and continue to deny educational aid, benefits, or services on the basis of sex, in violation of 34 C.F.R. § 106.31(c).

65. Defendants engaged in such conduct intentionally, willfully, and in disregard of the rights of Plaintiffs and the proposed Plaintiff class and/or with actual notice of and deliberate indifference to the rights of Plaintiffs and the proposed Plaintiff class.

THIRD CAUSE OF ACTION: Title IX

66. By instituting sex-segregated classes at Rene A. Rost Middle School, Defendants have excluded and continue to exclude Plaintiffs from educational programs and activities on the basis of their sex and have otherwise discriminated against and continue to discriminate against Plaintiffs and the proposed Plaintiff class on the basis of their sex, in violation of Title IX, 20 U.S.C. § 1681(a).

67. Defendants have violated Title IX and continue to violate Title IX regardless of whether they have complied with the requirements set out in 34 C.F.R. § 106.34(b), as 34 C.F.R. § 106.34(b) represents an unreasonable, unconstitutional, arbitrary, and capricious interpretation of Title IX and thus is not entitled to deference and is without the force of law.

68. Defendants engaged in such conduct intentionally, willfully, and in disregard of the rights of Plaintiffs and/or with actual malice and deliberate indifference to the rights of Plaintiffs and the proposed Plaintiff class.

FOURTH CAUSE OF ACTION: Equal Educational Opportunities Act

69. Defendants have assigned Plaintiffs to Rene A. Rost Middle School for the purpose of segregating students on the basis of sex, in violation of the Equal Educational Opportunities Act, 20 U.S.C. § 1705.

70. Defendants engaged in such conduct intentionally, willfully, and in disregard of the rights of Plaintiffs

FIFTH CAUSE OF ACTION: Equal Protection

71. By segregating classes by sex at Rene A. Rost Middle School on the basis of overbroad, imprecise, and/or inaccurate gender stereotypes and generalizations and by treating boys and girls differently and unequally, Defendants have intentionally discriminated against Plaintiffs on the basis of their sex. Such discrimination is not based on an exceedingly persuasive justification or substantially related to an important state interest and thus violates Plaintiffs' right to equal protection of the laws, secured by the Fourteenth Amendment to the United States Constitution.

72. Defendants have violated Plaintiffs' right to equal protection of the laws and continue to violate Plaintiffs' right to equal protection of the laws regardless of whether they have complied with the requirements set out in 34 C.F.R. § 106.34(b), as the conduct that 34 C.F.R. § 106.34(b) purports to authorize constitutes intentional discrimination on the basis of sex that is not based on an exceedingly persuasive justification or substantially related to an important state interest, in violation of the right to equal protection of the laws, secured by the Fourteenth Amendment of the United States Constitution.

73. Defendants acted intentionally, willfully, and in disregard of the rights of Plaintiffs.

REQUEST FOR RELIEF

Plaintiffs respectfully request that this Court:

- (1) Temporarily restrain and preliminarily and permanently enjoin Defendants from segregating any class or educational program by sex;
- (2) Permanently enjoin all Defendants, their agents and employees, and all persons acting in concert or participation with them, including any successors and assigns, to take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described in this complaint and to prevent similar future occurrences;
- (3) Declare that the actions of Defendants constitute discrimination on the basis of sex, in violation of Plaintiffs' rights under federal and state law;
- (4) Declare 34 C.F.R. § 106.34(b) to be an unlawful, unreasonable, arbitrary, and capricious interpretation of Title IX;
- (5) Award Plaintiffs monetary damages to fairly and reasonably compensate Plaintiffs for any deprivation of their rights;
- (6) Award Plaintiffs their expenses, costs, and reasonable attorneys' fees under 42 U.S.C. § 1988 and any other applicable provision of law; and
- (7) Award other equitable and monetary relief as the Court deems just and proper.

Dated: September 8, 2009

Respectfully Submitted,

Ronald L. Wilson (#13575)
900 Poydras Street
Suite 2556
New Orleans, Louisiana 70112
*Cooperating Attorney for the American Civil
Liberties Union Foundation of Louisiana*

/s/ Katie M. Schwartzmann
Katie Schwartzmann (#30295)
P.O. Box 56157
New Orleans, Louisiana 70156
*Legal Director for the American Civil
Liberties Union Foundation of Louisiana*

Emily J. Martin
Lenora M. Lapidus
American Civil Liberties Union Foundation
Women's Rights Project
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2615
*(Motion for admission pro hac vice
forthcoming)*