

IN THE CIRCUIT COURT OF PLATTE COUNTY
SIXTH JUDICIAL CIRCUIT
STATE OF MISSOURI

R.F., a minor child, by and through her parent
and next friend, DUSTAN FARR,

Plaintiff,

v.

PLATTE COUNTY R-3 SCHOOL
DISTRICT,

SERVE: 998 Platte Falls Road, Platte City,
Missouri,

DOUG DOLL, in his official capacity as
president of the Board of Education, Platte
County R-3 School District,

SERVE: 998 Platte Falls Road, Platte City,
Missouri,

SHAWN CHIDDIX, in his official capacity as
vice president of the Board of Education,
Platte County R-3 School District,

SERVE: 998 Platte Falls Road, Platte City,
Missouri,

SHARON SHERWOOD, in her official
capacity as a member of the Board of
Education, Platte County R-3 School District,

SERVE: 998 Platte Falls Road, Platte City,
Missouri,

KAREN BRYANT, in her official capacity as
a member of the Board of Education, Platte
County R-3 School District,

SERVE: 998 Platte Falls Road, Platte City,
Missouri,

Case No.

Division:

MIKE MATOUSEK, in his official capacity as a member of the Board of Education, Platte County R-3 School District,

SERVE: 998 Platte Falls Road, Platte City, Missouri,

AMY MACCUISH, in her official capacity as a member of the Board of Education, Platte County R-3 School District,

SERVE: 998 Platte Falls Road, Platte City, Missouri,

TYLER FADLER, in his official capacity as a member of the Board of Education, Platte County R-3 School District,

SERVE: 998 Platte Falls Road, Platte City, Missouri,

Defendants.

PETITION FOR DAMAGES AND DECLARATORY RELIEF

COMES NOW, R.F., a minor child, by and through her parent and next friend, Dustan Farr, and in support of this Petition states and alleges as follows:

1. Defendants Platte County R-3 School District and the Platte County R-3 School District Board of Education refused to allow R.F., a transgender female, to use the girls' restrooms or locker rooms, and punished her with detention on two separate occasions for using the girls' restroom. Instead of allowing transgender students, including R.F., to use the restroom or locker room that aligns with their gender identity, Defendants require transgender students, including R.F., to use the restroom or locker room that aligns with their sex designated at birth.

2. This action is brought under the Missouri Human Rights Act (MHRA), Mo. Rev. Stat. § 213.010, *et seq.* and the procedures outlined in § 213.075 and § 213.111, and the Missouri Constitution, Article I, section 2.

PARTIES

3. R.F., a minor, and Dustan Farr, her parent and next friend, are residents of Clinton County, Missouri.

4. At all times relevant to the allegations described in this Petition, R.F. and Dustan Farr were residents of Platte City, Platte County, Missouri.

5. Defendant Platte County R-3 School District (PCSD) is a public school district in Platte City, Platte County, Missouri.

6. Defendants Doug Doll, Shawn Chiddix, Sharon Sherwood, Karen Bryant, Mike Matousek, Amy MacCuish, and Tyler Fadler, are sued in their official capacities only as officers and/or members of the Board of Education, Platte County R-3 School District (Board of Education).

7. The Board of Education oversees and operates the PCSD.

8. The Board of Education is responsible for setting and establishing school practices and policies.

9. A school district and school board are “persons” as defined by Mo. Rev. Stat. § 213.010(15) and used in Mo. Rev. Stat. § 213.065.

10. Defendants provide a place of public accommodation as defined by the MHRA, Mo. Rev. Stat. § 213.010(16)(e), as they operate a public facility owned by or on behalf of the state of Missouri or an agency or subdivision thereof.

11. A school's restrooms and locker rooms constitute public accommodations as defined in Mo. Rev. Stat. § 213.010(16)(e).

JURISDICTION AND VENUE

12. This action arises under the MHRA, Mo. Rev. Stat. § 213.100, *et seq.*, and the Missouri Constitution Article I, section 2.

13. All of the actions, inactions, practices, and policies as set forth herein were committed in Platte County, Missouri.

14. This Court maintains original subject-matter jurisdiction over this action pursuant to Missouri Constitution Article V, section 14, and has the authority to enter the requested relief pursuant to Mo. Rev. Stat. § 527.010, § 213.111.2, and Missouri Supreme Court Rule 87. *See J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249, 253–54 (Mo. banc 2009).

15. Venue is proper in Platte County, Missouri, pursuant to Mo. Rev. Stat. § 508.010 and § 213.111.

ADMINISTRATIVE EXHAUSTION

16. On April 26, 2022, Dustan Farr, on behalf of R.F., filed a Charge of Discrimination with the Missouri Commission on Human Rights (MCHR). The Charge of Discrimination is attached hereto as **Exhibit 1** and incorporated herein by reference.

17. The Charge of Discrimination afforded Defendants the opportunity to participate in voluntary compliance and notice of R.F.'s claims stated herein.

18. On May 10, 2023, a Notice of Right to Sue letter was issued by the MCHR. The Right to Sue letter is attached hereto as **Exhibit 2** and incorporated herein by reference.

19. This action has been timely commenced by the filing of this Petition within ninety (90) days from receipt of the Notice of Right to Sue.

20. R.F. has met all administrative requirements of the MHRA.

FACTUAL ALLEGATIONS

21. R.F. attended Platte County High School (PCHS) in the PCSD in Platte County, Missouri from September 2021 through December 2022.

22. R.F. is a sixteen-year-old transgender female.

23. R.F. identified as a transgender female before she began attending school at PCHS.

24. PCHS and PCSD staff and administrators were aware that R.F. is a transgender female.

25. R.F. was designated a male sex at birth based on physical sex characteristics.

26. R.F. has been diagnosed with gender dysphoria.

27. Gender dysphoria is the clinical diagnosis for the significant distress that results from the incongruity between one's gender identity and sex they were designated at birth.

28. Gender dysphoria is a serious medical condition, and it is codified in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision* (DSM-5-TR) (DSM-5 released in 2013 and DSM-5-TR released in 2022).

29. If left untreated, gender dysphoria can result in debilitating anxiety, severe depression, self-harm, and suicide.

30. Gender identity refers to a person's core sense of belonging to a particular gender, such as male or female.

31. Living in a manner consistent with one's gender identity is critical to the health and well-being of any person, including transgender people.

32. A person's gender identity is a fundamental aspect of human development.

33. There is a general medical consensus that there are significant biological bases for gender identity.

34. A person's gender identity usually matches the sex they were designated at birth based on the appearance of their external genitalia.

35. The terms "sex designated at birth" or "sex assigned at birth" are more precise than the term "biological sex" because all of the physiological aspects of a person's sex are not always aligned with each other.¹

36. Transgender people have a gender identity that differs from the sex they were designated at birth.

37. A transgender boy or man is someone who has a male gender identity but was designated a female sex at birth.

38. A transgender girl or woman is someone who has a female gender identity but was designated a male sex at birth.

39. R.F. began identifying as female at the age of 6 or 7.

40. R.F. identifies as female and refers to herself and her gender using feminine pronouns.

41. R.F. desires to be accepted as female.

42. R.F.'s parents knew, upon reflection, that she was transgender since she was very young.

43. R.F. began transitioning from male to female in early 2019.

44. R.F.'s treatment began with counseling.

¹ For these reasons, the Endocrine Society, an international medical organization representing over 18,000 endocrinology researchers and clinicians, warns practitioners that the terms "biological sex" and "biological male or female" are imprecise and should be avoided.

45. R.F. was later prescribed Spironolactone in 2019—a hormone blocker, and then estradiol in 2023—hormone replacement therapy.

46. R.F. has fully transitioned socially and lives as a female.

47. When R.F. attended PCHS, she had fully transitioned socially and was living as a female.

48. R.F.'s treatment by Defendants, PCSD and PCHS staff, and other students while was she was a student at PCHS caused emotional harm, depression, and anxiety.

49. At all relevant times, staff and administrators at PCSD knew that R.F. was a transgender female.

50. In September 2021, at the start of the 2021-2022 school year, R.F. was a freshman at PCHS.

51. At the beginning of the 2021-2022 school year, R.F. was informed by the assistant principal of PCHS of PCSD's requirement that students use either the restroom of their sex designated at birth or the single gender-neutral restroom at the school.

52. R.F. was told by a PCSD employee that using the restroom of the gender with which she identified (female) was against the law, although no specific law was referenced or provided to R.F.

53. PCHS's only gender-neutral restroom was not close to R.F.'s classes and it frequently had a long line because it was used by all students.

54. Defendants emphasized the importance of not missing class time and R.F.'s teachers would talk to her about why she takes so long to go to the restroom and miss class time because of it.

55. It was impractical for R.F. to rely on the one gender-neutral restroom as her only restroom option while at school.

56. R.F. preferred to use one of the several girls' restrooms at school.

57. R.F. was forced to choose between using an impractical single-stall restroom and risk missing or being late to class as well as being singled out from her classmates for using that restroom, using the boys' restroom even though she is a transgender female, or using the girls' restroom and risk punishment.

58. At the beginning of the 2021-2022 school year, R.F. began using the girls' restrooms.

59. In late November 2021, R.F. received her first of several verbal warnings from PCSD staff reprimanding her for using the girls' restroom.

60. On December 9, 2021, R.F. received one day of in-school suspension as punishment for using the girls' restroom.

61. On January 5, 2022, R.F. received two days of out-of-school suspension as punishment for using the girls' restroom.

62. During the entirety of her time attending PCHS, PCSD continued to enforce the district-wide requirement of not allowing R.F. to use the girls' restroom.

63. The requirement that a person use the restroom or locker room that aligns with their sex designated at birth and not their gender identity applied, and still applies, to all transgender students in the PCSD.

64. About a week after her January 2022 out-of-school suspension, R.F. was using the boys' restroom, fearing further discipline, when a male student in the restroom pointed at R.F. and said to another male student in front of her: "Maybe I should rape her."

65. The harassing comment made in front of and to R.F. in the boys' restroom was threatening and scared her.

66. This incident in the restroom was reported by R.F. to the assistant principal.

67. This incident in the restroom made R.F. afraid to attend school and to use the boys' restroom.

68. R.F. missed approximately three weeks of school after the incident before the school approved a virtual learning curriculum for her.

69. On March 1, 2022, before the virtual learning curriculum was formally approved, R.F. attempted to go back to school in person but was met by additional harassing comments from her classmates related to the rape threat made against her.

70. R.F. completed the 2021-2022 school year virtually.

71. R.F. returned to school in person at the beginning of the 2022-2023 school year.

72. When R.F. returned to school in person, the prohibition of R.F. and other transgender students from using the restroom that corresponds with the gender identity was still in place and being enforced.

73. The requirement that a person use the restroom that aligns with their sex designated at birth and not their gender identity also applied to locker rooms at PCHS and other PCSD schools.

74. Locker rooms are used for sports participation and physical education courses.

75. To graduate, students at PCHS, including R.F., are required to take physical education.

76. Because the same requirement applied to the use of locker rooms, R.F. intentionally put off taking physical education while at PCHS.

77. On or about January 1, 2023, R.F.'s family moved out of the Platte County R-3 School District.

78. The restroom and locker room requirement described in this Petition continues to exist in PCSD and at PCHS.

79. R.F. suffered harm from Defendants' actions, inactions, practices, and policies of not allowing her to use the girls' restroom, including PCSD staff punishing and reprimanding her verbally and punishing her with detention on two occasions. The actions, inactions, practices, and policies of Defendants caused R.F. to suffer anxiety, depression, and harassment.

80. R.F. expressly states that she is not asserting or attempting to assert any claim under the United States Constitution or any federal statute.

COUNT I
Violation of MHRA § 213.065
Sex Discrimination

81. R.F. realleges and incorporates by reference the allegations in paragraphs 1-80.

82. The MHRA protects certain classes of individuals from discrimination in places of public accommodation.

83. A school's restrooms and locker rooms are public accommodations.

84. Discrimination on the basis of nonconformity with sex stereotypes, transgender status, gender, gender identity, gender transition, sex designated at birth, and sex characteristics are all forms of discrimination on the basis of sex.

85. Defendants intentionally discriminated against R.F. and treated her differently from other students.

86. The discrimination against R.F. by Defendants and their actions, inactions, practices, and policies that did not allow her to use the girls' restroom is a form of sex discrimination.

87. Defendants denied R.F. "full and equal enjoyment" of a public accommodation by treating her differently than other students because of her sex.

88. Section 213.065 protects the following classes: "race, color, religion, national origin, sex, ancestry, or disability."

89. R.F. is a member of a protected class under the statute; she is protected on the basis of her "sex," as articulated in § 213.065.

90. The protected characteristic (sex) was a motivating factor in the denial of R.F.'s use of the public accommodation—the girls' restrooms and locker rooms.

91. R.F.'s sex designated at birth motivated Defendants to deny R.F. access to the girls' restrooms and locker rooms.

92. R.F.'s transgender status and gender identity motivated Defendants to deny R.F. access to the girls' restrooms and locker rooms.

93. Sex stereotyping motivated Defendants to deny R.F. access to the girls' restrooms and locker rooms.

94. R.F.'s education and mental well-being suffered as a result of this denial.

95. As a direct, foreseeable, and proximate result of Defendants' unlawful actions, inactions, practices, and policies, including the discrimination described herein, R.F. suffered damages, including emotional pain, suffering, harassment, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses.

96. Pursuant to the MHRA, Mo. Rev. Stat. § 213.111, R.F. is entitled to and hereby requests an award of attorneys' fees and litigation costs and expenses, and post-judgment interest at the highest lawful rate on any award or verdict provided.

COUNT II
Violation of MHRA § 213.065
Disability Discrimination

97. R.F. realleges and incorporates by reference the allegations in paragraphs 1-96.

98. R.F. is a transgender female and has been diagnosed with gender dysphoria.

99. R.F. is a member of a protected class under the statute; she is protected on the basis of her "disability," as articulated in § 213.065.

100. The Diagnostic and Statistical Manual of Mental Disorders (5th ed.) (DSM-V) recognizes gender dysphoria as a disorder.

101. A person's gender identity is biologically based.

102. Gender dysphoria has a physiological and biological etiology.

103. It has been demonstrated that transgender women, transgender men, non-transgender women, and non-transgender men have different brain composition, with respect to the white matter of the brain, the cortex (central to behavior), and subcortical structures.

104. Treatment for gender dysphoria includes, but is not limited to, psychotherapy, hormone therapy, and surgery.

105. Gender dysphoria is a condition that entails significant psychological distress and is not solely an issue with identity.

106. Gender dysphoria is categorized as a "mental impairment" that "substantially limits one or more of a person's major life activities" including social, occupational,

neurological, or brain functions, and thus constitutes a disability within the meaning of the MHRA. Mo. Rev. Stat. § 213.010(5).

107. Alternatively, Defendants regarded R.F. as having this disability and having a record of this disability; thus, R.F. is a member of a class of persons protected by the MHRA. Mo. Rev. Stat. § 213.010(5).

108. The protected characteristic was a contributing factor in the denial of R.F.'s use of the public accommodation.

109. R.F.'s disability motivated Defendants to deny R.F. access to the girls' restrooms and locker rooms.

110. R.F.'s education and emotional well-being have suffered as a result of this denial.

111. As a direct, foreseeable, and proximate result of Defendants' unlawful acts and inactions, including the discrimination described herein, R.F. suffered damages, including emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses.

112. Pursuant to the MHRA, Mo. Rev. Stat. § 213.111, R.F. is entitled to and hereby requests an award of attorneys' fees and litigation costs and expenses, and post-judgment interest at the highest lawful rate on any award or verdict provided.

COUNT III
Violation of Article I, section 2, of the Missouri Constitution

113. R.F. realleges and incorporates by reference the allegations in paragraphs 1-112.

114. Article I, Section 2, of the Missouri Constitution provides: "all persons are created equal and are entitled to equal rights and opportunity under the law."

115. The Equal Protection Clause of the Missouri Constitution protects individuals and groups from discrimination by the government, including discrimination because of disability and sex.

116. Defendants' actions, inactions, practices, and policies of denying R.F. and other transgender students access to the restrooms that align with their gender identity as a transgender person is discrimination based on disability, sex, gender identity, and transgender status.

117. R.F. was treated unequally by Defendants based on her disability, sex, gender identity, and transgender status under Defendants' practice, policy, and requirement that students who are transgender use the restroom and locker room that aligns with their sex designated at birth and not with their gender identity or transgender status.

118. Government discrimination based on sex is presumptively unconstitutional and subject to heightened scrutiny, placing a demanding burden of justification upon the defendant to provide at least an exceedingly persuasive justification for the differential treatment.

119. Discrimination on the basis of nonconformity with sex stereotypes, transgender status, gender, gender identity, gender transition, and sex characteristics are all forms of discrimination on the basis of sex.

120. Discrimination on the basis of one's diagnosis of gender dysphoria and transgender status is a form of discrimination on the basis of disability.

121. Defendants' actions, inactions, practices, and policies, in denying R.F. access to the girls' restrooms and locker rooms, harmed R.F.

122. Defendants' actions, inactions, practices, and policies that prevented R.F. from using a restroom consistent with her gender identity and transgender status operated to the

disadvantage of R.F. and impinged upon a fundamental right protected in the Missouri Constitution.

123. Transgender people have suffered a long history of discrimination in Missouri and across the country and continue to suffer such discrimination to this day. Transgender people are a discrete and insular group and lack the political power to protect their rights through the legislative process. They largely have been unable to secure explicit state and federal protections to protect against discrimination. Their transgender status bears no relation to their ability to contribute to society. And gender identity is a core, defining trait so fundamental to one's identity and conscience that a person cannot legitimately be required to abandon it as a condition of equal treatment.

124. Transgender people have obvious, immutable, and distinguishing characteristics that define that class as a discrete group. These characteristics bear no relation to transgender people's abilities to perform in, or contribute to, society.

125. Treatment for gender dysphoria—a condition from which only transgender people suffer and that R.F. has—is always aimed at affirming a gender identity that differs from a person's assigned sex at birth.

126. Discrimination against individuals based on gender dysphoria is discrimination based on sex, transgender status, and disability.

127. Females who are assigned female sex at birth and are not transgender are permitted to use the girls' restroom and locker rooms at Defendants' schools. Under Defendants' actions, inactions, practices, and policies, whether a student can use the female or male restrooms and locker rooms depends on their assigned sex at birth.

128. Under Defendants' actions, inactions, practices, and policies, whether a student can use the female or male restrooms and locker rooms depends on their transgender status.

129. Under Defendants' actions, inactions, practices, and policies, whether a person can or cannot use a restroom or locker room depends on whether the restroom or locker room they choose to use tends to reinforce or disrupt stereotypes associated with a person's sex assigned at birth.

130. Defendants' restroom and locker room requirement serves no important interest and, even if it did, it is not substantially related to achieving that interest, nor does it even advance any legitimate government interest.

131. Defendants' actions, inactions, practices, and policies related to restroom and locker room use target, restrict, and ban the use of certain restrooms and locker rooms for transgender youth based on generalized fears, negative attitudes, stereotypes, and moral disapproval of transgender people that are not legitimate bases for unequal treatment under any level of scrutiny.

132. The Act is not narrowly tailored to serve any compelling government interest.

133. The Act is not substantially related to any important government interest.

134. The Act is not even rationally related to any legitimate government interest.

135. Defendants are liable for their violation of the right to equal protection under the Missouri Constitution and R.F. is entitled to a declaratory judgment that the actions, inactions, practices, and policies in requiring transgender students to use the restroom and locker room that aligns with their sex designated at birth and not their gender identity violates equal protection.

WHEREFORE R.F. prays this Court:

- a. Declare that Defendants' actions, inactions, practices, and policies alleged herein related to the use of restrooms and locker rooms constitute sex discrimination.
- b. Declare that Defendants' actions, inactions, practices, and policies alleged herein related to the use of restrooms and locker rooms constitute disability discrimination.
- c. Declare that the actions, inactions, practices, and policies alleged herein related to the use of restrooms and locker rooms violated R.F.'s rights under the MHRA.
- d. Declare that the actions, inactions, practices, and policies alleged herein related to the use of restrooms and locker rooms violated R.F.'s rights under the Missouri Constitution, Article I, section 2.
- e. Award R.F. compensatory damages.
- f. Award R.F. punitive damages.
- g. Award R.F. attorneys' fees and costs.
- h. Award such other monetary and equitable relief as is just and proper.

Respectfully submitted,

/s/ Gillian R. Wilcox
Gillian R. Wilcox, #61278
Jason A. Orr, #56607
ACLU of Missouri Foundation
406 West 34th Street, Ste. 420
Kansas City, MO 64111
Phone: (314) 652-3114
gwilcox@aclu-mo.org
jorr@aclu-mo.org

Attorneys for R.F.