IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

Rapides Parish School Board,

Plaintiff,

v.

United States Department of Education; **Miguel Cardona**, in his official capacity as Secretary of the United States Department of Education; **Catherine E. Lhamon**, in her official capacity as Assistant Secretary for Civil Rights at the United States Department of Education; **United States Department of Justice**, **Merrick B. Garland**, in his official capacity as Attorney General of the United States; and **Kristen Clarke**, in her official capacity as Assistant Attorney General for the Civil Rights Division of the United States Department of Justice,

Defendants.

Case No. 1:24-cv-00567

Judge _____

Magistrate Judge _____

JURY TRIAL DEMANDED

COMPLAINT

The Biden administration's redefinition of the word "sex" in Title IX forces schools across the country to embrace a controversial gender ideology that harms children—including the very children it claims to help. And it fundamentally undermines the statute Congress enacted fifty years ago.

Congress enacted Title IX to promote equal opportunity for women. Title IX prohibits educational institutions, like Plaintiff Rapides Parish School Board, from discriminating on the basis of sex, while allowing entities to maintain sex separation in some programs to equalize opportunity for girls and women and to protect

the privacy interests of all. For fifty years, "sex" has meant the biological binary: differences between male and female. The Department of Education, with approval from the Attorney General, has rejected that commonsense understanding in its new rule implement Title IX. *See* "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance." 89 Fed. Reg. 33,474 ("the Rule").

The Rule redefines "sex" to mean "gender identity," "sex characteristics," and "sex stereotypes" (among other things). What that means for schools is clear: Schools must *ignore* sex to promote a person's subjective "sense of their gender. And schools must do so even though it deprives their female students of the equal opportunities in education that Title IX promised in 1972. By rewriting federal law in this way, the Biden administration will force schools to impose widespread harms on young people and deny free speech rights.

The Court should hold the Rule unlawful, set it aside under the Administrative Procedure Act (APA), 5 U.S.C. § 706, and enjoin Defendants from enforcing it against Plaintiff Rapides Parish School Board.

JURISDICTION AND VENUE

1. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 because this action arises under the U.S. Constitution and federal law.

2. This Court has jurisdiction under 28 U.S.C. § 1346(a) because this is a civil action against the United States.

3. This Court has jurisdiction under 28 U.S.C. § 1361 to compel an officer of the United States or any federal agency to perform his or her duty.

4. The APA waives sovereign immunity and provides jurisdiction and a cause of action to review Defendants' actions and enter appropriate relief. 5 U.S.C. §§ 553, 701–06.

5. This Court has equitable jurisdiction and remedial power to review and enjoin ultra vires or unconstitutional agency action. *See Larson v. Domestic & Foreign Com. Corp.*, 337 U.S. 682, 689–91 (1949).

6. This case seeks declaratory, injunctive, and other appropriate relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201–02; the APA, 5 U.S.C. §§ 701–06; and Federal Rule of Civil Procedure 57.

7. This Court may award costs and attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412.

8. Venue is proper in this Court and this division under 28 U.S.C. § 1391, including paragraph (e).

9. Defendants are agencies of the United States and officers and employees of the United States or of any of its agencies acting in their official capacity or under color of legal authority.

10. Plaintiff Rapides Parish School Board resides at 619 Sixth Street, Alexandria, Louisiana, in the Alexandria Division of the Western District of Louisiana, and no real property interest is involved in the action.

11. A substantial part of the events or omissions giving rise to the claims occurred in this district, because the case concerns the effect of Defendants' regulation on Rapides Parish School Board and its operations in this division of this district.

12. Plaintiff asserts its right under the Seventh Amendment to the U.S. Constitution and demands, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

PARTIES

Plaintiff

13. Plaintiff Rapides Parish School Board is located at 619 Sixth Street, Alexandria, Louisiana, 71306.

14. The school board operates 42 schools for students from pre-K through 12th grade.

15. For the 2023–2024 school year, the pre-K through 12th grade student body numbered approximately 21,000.

16. The school board receives federal funding administered by the United States Department of Education, including funding under the Individuals with Disabilities Education Act and Title I of the Elementary and Secondary Education Act.

17. In the 2024 fiscal year, the school board received approximately $30 million from these and other federal funding sources. Federal funds account for approximately 10% of the school board's annual budget.

18. Presently, all but one of the school board's campuses participate in Title I schoolwide.

19. It would cause the school board significant financial harm to lose eligibility for these federal programs.

20. The school board also receives funding from the State of Louisiana.

21. I and other personnel have already spent at least ten hours of time and resources analyzing the Department of Education's new Title IX rule and obtaining legal advice on how the Rule applies to the school board.

22. Seventh through twelfth grade physical education (P.E.) classes at Rapides Parish school campuses are sex-specific. P.E. classes regularly include contact sports, such as basketball and soccer.

23. Rapides Parish schools offer extracurricular activities, including interscholastic athletics. Many school sports teams are sex-specific. For example, Rapides Parish high schools field separate boys' and girls' teams for basketball, cross country, powerlifting, soccer, swimming, and track.

24. The school board complies with Louisiana law, including the Fairness in Women's Sports Act.

25. The school board is aware of five current students at its high schools, six students at its middle schools, and two students at its elementary schools who have identified a gender identity that differs from their sex. One of these identifies as "nonbinary."

26. The school board's practice is that all students, including those who identify a gender identity that differs from their sex, participate in school activities based on sex. For example, the school board would not enroll a male student in a girls' P.E. class, even if the male student self-identified as a girl.

27. The school board's practice is that all individuals—including students and staff—use sex-designated private facilities (such as restrooms, locker rooms, or changing rooms) based on biological sex. Facilities designated for "men" or "boys" may be used by biological males only. Facilities designated for "women" or "girls" may be used by biological females only.

28. The school board's employee conduct policy states: "Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in pre-kindergarten through grade 12 or in a manner that is not age-appropriate or developmentally appropriate for students in accordance with state standards." Ex. 1-C.

29. Many of the school board's policies rely on biological distinctions between male and female. For example, any search of a student's person must be done by a teacher or administrator "of the same sex as the student to be searched,

Ex. 1-A at 111, and sometimes in the presence of "[a] witness of the same sex," *id.* at 112.

30. The school board does not have and does not intend to adopt a policy mandating that staff or students use pronouns that reflect students' perceived gender identity when doing so is inconsistent with a student's sex.

31. Additional facts about Rapides Parish School Board are set out in the declaration of the board's superintendent, attached as Exhibit 1.

Defendants

32. Defendant United States Department of Education (DOE) is an agency under 5 U.S.C. §§ 551 and 701(b)(1). DOE's address is 400 Maryland Avenue SW, Washington, D.C. 20202. DOE promulgated the Rule, and it implements and enforces Title IX and the Rule.

33. Defendant Miguel Cardona is sued in his official capacity as Secretary of the United States Department of Education. His address is 400 Maryland Avenue, SW, Washington, D.C. 20202.

34. Secretary Cardona is responsible for the overall operations of the U.S. Department of Education, including the Department's administration of Title IX and the Rule.

35. Defendant Catherine E. Lhamon is Assistant Secretary for Civil Rights at the United States Department of Education. Her address is 400 Maryland Avenue, SW, Washington, D.C. 20202.

36. Assistant Secretary Lhamon implements and enforces Title IX and the Rule in programs administered by the Department of Education.

37. Defendant United States Department of Justice (DOJ) is an agency under 5 U.S.C. §§ 551 and 701(b)(1). DOJ's address is 950 Pennsylvania Avenue NW, Washington, D.C. 20202.

38. DOJ implements and enforces Title IX and the Rule, including by bringing enforcement actions for noncompliance on behalf of DOE and other agencies that administer federal funding programs.

39. Defendant Merrick B. Garland is sued in his official capacity as Attorney General of the United States. His address is 950 Pennsylvania Avenue NW, Washington, D.C. 20202.

40. The Attorney General is responsible for the overall operations of the U.S. Department of Justice.

41. The Attorney General implements and enforces Title IX and the Rule, including by bringing enforcement actions for noncompliance on behalf of DOE and other agencies that administer federal funding programs.

42. The Attorney General coordinates Title IX's implementation and enforcement by other executive agencies, including by approving Rules, regulations, and orders of general applicability implementing Title IX. 20 U.S.C. § 1682; Exec. Order No. 12250; 28 C.F.R. § 0.51.

43. Defendant Kristen Clarke is sued in her official capacity as Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice. Her address is 950 Pennsylvania Avenue NW, Washington, D.C. 20202.

44. Defendant Clarke implements and enforces Title IX and the Rule, including by bringing enforcement actions for noncompliance on behalf of DOE and other agencies that administer federal funding programs. 28 C.F.R. § 42.412.

45. Defendant Clarke coordinates Title IX's implementation and enforcement by other executive agencies. 20 U.S.C. § 1682; Exec. Order No. 12250; 28 C.F.R. §§ 0.51, 42.412.

BACKGROUND

I. Title IX

A. Title IX was enacted in 1972 to promote equal educational opportunities for women.

46. In 1972, Congress enacted Title IX, which forbids education programs or activities receiving federal financial assistance from discriminating on the basis of sex. Title IX provides:

> 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).

47. Title IX sought to eliminate discrimination against women in education and to provide men and women with equal educational opportunity. Its goal was to give women "equal opportunity to aspire, achieve, participate in and contribute to society based on their individual talents and capacities." *United States v. Virginia*, 518 U.S. 515, 532 (1996).

48. Before Title IX was enacted in 1972, women were excluded from many colleges and universities. Even where women were admitted, they were subject to higher admissions requirements and excluded from many programs, like law school and medical school.

49. As summarized by DOJ, Title IX has been strikingly successful in accomplishing its goals:

> In 2009, approximately 87 percent of women had at least a high school education and approximately 28 percent had at least a college degree, up from 59 percent with a high school education and 8 percent with a college degree in 1970. Additionally, enrollment in higher education has increased at a greater rate for females than for males; since 1968,

> the percentage of women between the ages of 25 and 34 with at least a college degree has more than tripled.

Equal Access to Education: Forty Years of Title IX, U.S. Dep't Just. 2 (June 23, 2012), https://perma.cc/3GFD-74YX.

B. Title IX promotes equal opportunities for women in physical education and athletics.

50. Before Title IX, schools often emphasized boys' athletic programs "to the exclusion of girls' athletic programs." *Williams v. Sch. Dist. of Bethlehem*, 998 F.2d 168, 175 (3rd Cir. 1993). Many high schools did not have girls' sports teams, which reduced the number of women who could compete in college. And the average university devoted a mere two percent of its athletic budget to women's sports.

51. To end this discrimination against women in athletics, Title IX and its implementing regulations have long defined "program or activity" to include interscholastic athletics. *See* 34 C.F.R. § 106.41(a); 44 Fed. Reg. 71,413, 71,413–15 (Dec. 11, 1979); *id.* at 71,417–418.

52. Title IX and its longstanding implementing regulations allow an entity subject to Title IX to provide athletic programs or opportunities separated by sex, and require those programs to do so in a manner that "provide[s] *equal athletic opportunity* for members of *both sexes*." 34 C.F.R. § 106.41(c) (emphasis added).

53. Title IX recognizes that there are biological differences between the sexes, and these differences sometimes require differential treatment to provide equal educational opportunity.

54. Title IX and DOE's longstanding regulations expressly permit schools to sponsor sex-specific sports teams "where selection for such teams is based on competitive skill or the activity involved is a contact sport," 34 C.F.R. 106.41(b), and

allow "separation of students by sex within physical education classes" for sports whose major activity involves bodily contact, 34 C.F.R. § 106.34(a)(1).

55. The same regulations require institutions to "effectively accommodate the interests and abilities of *both sexes*" when offering sex-separated athletic programs. 34 C.F.R. § 106.41(c) (emphasis added).

56. Title IX has been strikingly successful towards its intended goals of providing women with opportunities for athletic competition and scholarships. These developments have increased the opportunities for women and girls to benefit from being on athletic teams, developing skills associated with competitive sports, attending college on athletic scholarships, and participating in high-level competitions.

C. Title IX gives the federal government and private parties myriad enforcement mechanisms.

57. Institutions must adopt policies that comply with Title IX and the implementing regulations. They may not maintain policies that violate Title IX and the implementing regulations.

58. Any member of the public may file a complaint about an educational institution that he or she believes is not complying with Title IX or the implementing regulations.

59. DOE's Office of Civil Rights can investigate complaints alleging that an institution has violated Title IX and its implementing regulations. DOE also has the authority to initiate an investigation without receiving a complaint.

60. If DOE's Office of Civil Rights finds a covered institution is noncompliant, DOE may require the institution to take remedial action at the risk of losing federal funding.

61. The Supreme Court has interpreted Title IX to provide for a judicially implied private right of action, *Cannon v. Univ. of Chi.*, 441 U.S. 677, 709, 717

(1979), including a damages remedy, *Franklin v. Gwinnett Cnty. Pub. Sch.*, 503 U.S. 60, 76 (1992), and awards of attorney's fees under 42 U.S.C. 1988(b). *See Cummings v. Premier Rehab Keller, PLLC*, 596 U.S. 212, 218–19 (2022).

62. Defendants claim that substantive requirements they impose through their Title IX regulation are enforceable through Title IX's private right of action,

63. The Attorney General may bring an enforcement action against an educational institution that is not in compliance with Title IX and its implementing regulations.

II. The Biden Administration Imposes Gender-Identity Mandates on Federal Antidiscrimination Laws.

64. At the direction of the President, federal administrative agencies are attempting to implement gender-identity mandates throughout federal law.

A. President Biden directed federal executive agencies to add gender identity to federal laws.

65. In *Bostock v. Clayton County*, 590 U.S. 644 (2020), the U.S. Supreme Court held that under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2, terminating an employee "simply for being homosexual or transgender" constitutes discrimination "'because of … sex.'" *Id.* at 681.

66. The Court assumed that "sex" in Title VII "refer[s] only to biological distinctions between male and female." *Id.* at 655.

67. The Court also recognized that "transgender status" is a "distinct concept[ ] from sex." *Id.* at 669.

68. The Court emphasized that "other federal or state laws that prohibit sex discrimination," such as Title IX, were not "before" the Court. *Id.* at 681.

69. The Court did not compare Title IX's nondiscrimination provision with the distinct text of Title VII. *Compare* 42 U.S.C. § 2000e-2(a) (Title VII), *with* 20 U.S.C. § 1681(a) (Title IX).

70. Nor did the *Bostock* Court address Title IX's provision allowing for sex-separated living facilities or any of the other distinctions between the two biological sexes that Title IX recognizes and permits.

71. Even so, on his first day in office President Biden declared that *Bostock*'s analysis changed the meaning of all federal law on sex discrimination, claiming that any statutory reference to sex discrimination includes gender-identity discrimination "so long as the laws do not contain sufficient indications to the contrary." Exec. Order No. 13,988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, 86 Fed. Reg. 7023 (Jan. 20, 2021). The President ordered all his executive-branch agencies to implement this view. *Id.*

72. A short time later, DOJ's Civil Rights Division issued a memorandum instructing all federal agencies that "*Bostock* applies to Title IX." Memorandum from Pamela S. Karlan, Principal Deputy Assistant Att'y Gen., U.S. Dep't of Justice Civ. Rights Div., to Fed. Agency Civil Rights Dirs. and Gen. Couns. (Mar. 26, 2021), https://perma.cc/TUL5-9GAN ("Application of *Bostock v. Clayton County* to Title IX of the Education Amendments of 1972").

73. To the school board's knowledge, the administration has yet to say that a single federal law banning sex discrimination does *not* ban "gender identity" discrimination.

B. The Department of Education at first tried to implement a gender-identity mandate through "guidance" documents.

74. Even before promulgating the Rule at issue, DOE engaged in other agency action to implement President Biden's Executive Order.

75. *First*, DOE published in the Federal Register its "Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on

Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*." 86 Fed. Reg. 32,637 (June 22, 2021) ("Interpretation").

76. DOE concluded that the phrase "on the basis of sex" in Title IX has the same meaning as the phrase "because of … sex" in Title VII and that this interpretation "is most consistent with the purpose of Title IX." 86 Fed. Reg. at 32,638–39.

77. So, relying on *Bostock*, DOE pledged to enforce its Title IX interpretation and declared that it "will fully enforce Title IX to prohibit discrimination based on sexual orientation and gender identity in education programs and activities that receive Federal financial assistance from the Department." 86 Fed. Reg. at 32,639.

78. *Second*, Acting Assistant Secretary Suzanne B. Goldberg issued a "Dear Educator" letter notifying Title IX recipients of the Interpretation and reiterating that DOE "will fully enforce Title IX to prohibit discrimination based on sexual orientation and gender identity." Letter to Educators on Title IX's 49th Anniversary (June 23, 2021), https://bit.ly/3ksLLDj.

79. The Dear Educator letter included a "fact sheet" issued by the Civil Rights Division of the DOJ and the Office for Civil Rights ("OCR") at the Department of Education. U.S. Dep't of Justice & U.S. Dep't of Educ., Confronting Anti-LGBTQI+ Harassment in Schools: A Resource for Students and Families, https://perma.cc/KA47-U9LJ ("Fact Sheet").

80. A federal court preliminarily enjoined enforcement of the Interpretation and the Fact Sheet in Louisiana and 19 other states. *See Tennessee v. U.S. Dep't. of Educ.*, 615 F. Supp. 3d 807, 838 (E.D. Tenn. 2022), *appeal docketed* No. 22-5807 (6th Cir. June 13, 2022). That court concluded the challengers were likely to show that the Interpretation was a legislative Rule under the APA that required notice and comment, which was not conducted.

C. The Department of Education issues a new Rule that redefines "sex" to mean "gender identity."

81. Now DOE has undertaken notice-and-comment rulemaking. On April 29, 2024, DOE issued the Rule, which is entitled: "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance." 89 Fed. Reg. 33,474 (April 29, 2024).

1. The new definition of discrimination "on the basis of sex"

82. Under the Rule, "[d]iscrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity[.]" 89 Fed. Reg. at 33,886. This new regulatory demand will appear at 34 C.F.R. § 106.10.

83. The Department's rationale for its definition comes straight from *Bostock*: "discrimination on each of those bases is sex discrimination because each necessarily involves consideration of a person's sex, even if that term is understood to mean only physiological or 'biological distinctions between male and female.'" 89 Fed. Reg. at 33,802; *see* 590 U.S. at 659–60 ("If the employer intentionally relies in part on an individual employee's sex when deciding to discharge the employee—put differently, if changing the employee's sex would have yielded a different choice by the employer—a statutory violation has occurred.").

84. The Rule provides for discriminatory-intent liability, disparate-impact liability, hostile-environment liability, harassment liability, and other theories of liability on all of these bases.

85. As the Department's notice of proposed rulemaking (NPRM) explained it, this provision is intended to codify the Department's view that "Title IX's broad prohibition on discrimination 'on the basis of sex' … encompasses, at a minimum, discrimination against an individual because, for example, they are or are perceived to be male, female, or nonbinary; transgender or cisgender; intersex; currently or

previously pregnant; lesbian, gay, bisexual, queer, heterosexual, or asexual; or gender-conforming or gender-nonconforming." Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 87 Fed. Reg. 41,390, 41,532 (proposed July 12, 2022).

86. Nothing on this point changed in the final Rule. The Rule says that Title IX applies to "discrimination against an individual based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity" because "[a]ll of these classifications depend, at least in part, on consideration of a person's sex." 89 Fed. Reg. at 33,493.

87. The new regulatory provisions do not define "sex," "gender identity," or the other terms in this new definition.

88. As to "sex," the Rule says, "it is not necessary to resolve the question of what 'sex' means in Title IX for the Department to conclude that no statutory provision permits a recipient to discriminate against students … in the context of maintaining certain sex-separate facilities or activities." 89 Fed. Reg. at 33,821.

89. Nor does the Rule define "gender identity," though the Rule's preamble says that "gender identity … describe[s] an individual's sense of their gender, which may or may not be different from their sex assigned at birth." 89 Fed. Reg. at 33,809.

90. The Rule's revised version of 34 C.F.R.§ 106.10 treats the new enumerated bases of liability—sex stereotyping and the like—as overlapping ways in which Title IX addresses gender identity.

91. For example, the Rule defines gender-identity discrimination to be sex discrimination, but the Rule also defines sex-stereotypes discrimination to be sex discrimination, and *also* considers sex-stereotypes discrimination to encompass gender-identity discrimination. *E.g.*, 89 Fed. Reg. at 33,516 ("A person's nonconformity with expectations about … the sex with which they should identify

implicate one's sex, and discrimination on that basis is prohibited."). Built on this framework, the Rule implements Title IX to prohibit educational institutions from distinguishing between persons based on sex in a vast set of circumstances. At the same time, the Rule implements Title IX to *require* educational institutions to ignore sex in favor of a person's "sense of their gender"—in other words, schools must treat a boy who identifies as a girl as if he were a girl (and vice versa). When this Complaint refers to the Rule and Defendants' actions prohibiting discrimination based on gender identity, Plaintiff intends to encompass any alternative theory that Defendants may use to achieve these ends.

2. The new "de minimis harm" standard: gender identity controls over sex

92. The Rule revises 34 C.F.R.§ 106.31(a)(2) to say:

> In the limited circumstances in which Title IX or this part permits different treatment or separation on the basis of sex, a recipient must not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, except as permitted by 20 U.S.C. 1681(a)(1) through (9) and the corresponding regulations §§ 106.12 through 106.15, 20 U.S.C. 1686 and its corresponding regulation § 106.32(b)(1), or § 106.41(b).

89 Fed. Reg. 33,887 (to be codified at 34 C.F.R. § 106.31(a)(2)).

93. The Rule then specifies that "[a] policy or engaging in a practice that prevents a person from participating in an education program or activity *consistent with the person's gender identity* subjects a person to more than de minimis harm on the basis of sex." 89 Fed. Reg. at 33,887 (to be codified at 34 C.F.R. § 106.31(a)(2)) (emphasis added).

94. DOE's view is that *any* consideration of sex presumptively causes harm, but when the statute allows sex-based separation anyway, sex-differentiation is permissible even though (DOE claims) it presumptively causes more than de

minimis harm. 89 Fed. Reg.33,814–15; *see* 87 Fed. Reg. at 41,536 (explaining that "regardless of whether some students might experience more than de minimis harm if excluded from a particular sex-separate living facility on the basis of sex, Congress has nonetheless permitted that exclusion").

95. The Rule declares that these new standards apply to—and thus prohibit sex separation when applied to students who profess a gender identity different than their sex for—sex-separate restrooms and locker rooms, single-sex classes or portions of classes, and dress codes. 89 Fed. Reg. at 33,816.

96. The Rule's preamble states that "§ 106.31(a)(2) does not apply to male and female athletic teams a recipient offers under § 106.41(b)." 89 Fed. Reg. 33,816 (discussing provision to be codified at 34 C.F.R. § 106.31(a)(2)). By this, DOE implies that separating athletic teams by sex (ignoring gender identity) might be permissible even if it causes "more than de minimis harm."

97. This caveat does not appear to protect women's sports. First, the Rule elsewhere says that gender-identity discrimination is a kind of sex discrimination, 34 C.F.R. § 106.10, which requires schools to treat a boy who identifies as a girl as if he *were* a girl.

98. Second, section 106.31(a)(2)'s gender-identity mandates exempt subsection (b) of 34 C.F.R. § 106.41, but not subsection (a). 89 Fed. Reg. at 33,887. Subsection (a) says, "[n]o person shall, *on the basis of sex*, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis." 34 C.F.R. § 106.41(a) (2020) (emphasis added); *see* 89 Fed. Reg. at 33,887 (to be codified as 34 C.F.R. § 106.31(a)(2)).

99. That means a school risks sex-discrimination liability if a student is excluded from athletics "on the basis of [gender identity]," or "on the basis of [sex

stereotypes].” The upshot of the Rule is schools may have separate boys’ and girls’ teams, but must let a male onto the girls’ team if he identifies himself as a girl. Thus, in practice under the Rule, schools cannot maintain teams that are truly separated by sex.

100. This tracks what the Biden administration has elsewhere stated about Title IX’s requirements. DOJ has recently and repeatedly argued that, under existing 34 C.F.R. § 106.41(b), student athletes must be able to participate based on their gender identity rather than their sex. *E.g.*, Brief for the United States as Amicus Curiae in Support of Plaintiff-Appellant and Urging Reversal at 24–27, *B.P.J. v. W. Va. State Bd. of Educ.*, Nos. 23-1078, 23-1130 (4th Cir. April 3, 2023); Statement of Interest of the United States at 1, 7, *B.P.J. v. W. Va. State Bd. of Educ.*, No. 2:21-cv-00316 (S.D. W. Va. June 17, 2021), ECF No. 42.

101. Even if the Rule does not require gender-identity-based athletics, the Interpretation and the Fact Sheet do. *See supra* ¶¶ 74–80.

102. The school board has been protected by the preliminary injunction on enforcement of the Interpretation and the Fact Sheet. But the school board will need permanent protection from the Interpretation and the Fact Sheet.

103. Moreover, the Rule’s new section 106.31(a)(2) does not exempt P.E. classes from its gender-identity mandates. Indeed, the Rule does not even mention P.E. except to observe that “some sex-based distinctions may be appropriate in the protective gear or uniforms a recipient expects students to wear when participating in certain physical education classes are athletic teams.” 89 Fed. Reg. at 33,824.

104. Sex-specific P.E. classes have been permissible for decades. *See* 34 C.F.R. § 106.34(a). And girls are exposed to the same safety risks when competing against males in P.E. class. *See supra* ¶¶ 169–72.

D. The Rule contradicts Title IX's text and history.

105. Although Title IX does not define "sex" or "on the basis of sex," Title IX's plain text, history, and past application all prove that these terms refer to sex according to *biology*, not "gender identity."

106. The dictionary definition of the term "sex" has never—including when Title IX was enacted in 1972—meant "gender identity" as that term is used in the Rule. Instead, the word "sex" refers to the biological binary of male and female, or to the physiological and biological differences between male and female.

107. For decades, Title IX has been understood to allow distinctions by sex. Recognizing the biological fact of differences between males and females is necessary to achieving Title IX's policy goal of promoting educational opportunity for women.

108. Title IX specifies that it cannot be construed to prevent sex separation in "living facilities." 20 U.S.C. § 1686. That rule that has long been implemented in DOE's regulations to permit "separate … [h]ousing," 34 C.F.R. § 106.32(b)(1), as well as "separate toilet, locker room, and shower facilities," 34 C.F.R. § 106.33.

109. The Rule eviscerates Title IX's respect for the biological differences between male and female by requiring schools to categorize students in line with their "gender identity" while ignoring their sex.

110. The Rule also erases Title IX's longstanding recognition that sex in the human species is binary. *See, e.g.*, 20 U.S.C. § 1681(a)(2) ("both sexes"); 34 C.F.R. § 106.32(c)(2) (referring to "housing … provided to students of one sex, when compared to that provided to students of the other sex").

111. For example, the Rule revises 34 C.F.R. § 106.21 by replacing the statutory term "both sexes" with the term "all applicants." 89 Fed. Reg. at 33,887**.** The notice of proposed rulemaking said that this change was "in recognition of the fact that some applicants may have a nonbinary gender identity." 87 Fed. Reg. at

41,517, 41,528. The final Rule's preamble continues to refer to the concept of a "nonbinary" gender. *See, e.g.*, 89 Fed. Reg. at 33807.

112. That reasoning conflicts with the statute. Title IX's statutory text and its implementing regulations—until now—have used "sex" to mean the biological binary of male and female.

113. Redefining discrimination "on the basis of sex" to include "gender identity" will preclude school policies and practices that recognize sex to equalize opportunity, ensure privacy, or safeguard students, such as separating P.E. classes, locker rooms, and school sports teams based on biological sex.

III. The Rule Injures the School Board.

114. The Rule takes effect on August 1, 2024. It will impose immediate and long-lasting harm on the school board as well as its staff and students.

A. The Rule creates new liability risks for the school board.

115. The Rule creates new risks for the school board because it could lose federal funding, incur significant burdens and costs, or face liability.

116. Failure to follow the Rule and its interpretation of Title IX risks the burdens and costs of federal investigations and enforcement proceedings.

117. Failure to follow the Rule and its interpretation of Title IX risks disallowance, exclusion, suspension, and debarment from receipt of federal funding.

118. Failure to follow the Rule and its interpretation of Title IX risks liability for the school board under a cause of action in civil litigation, including in suits brought by private individuals.

119. DOE requires any applicant for federal funds to assure that its programs "will be operated … in compliance" with Title IX and its implementing regulations and to "commit itself to take whatever remedial action is necessary … to

eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination." 34 C.F.R. § 106.4(a)

120. The Rule appears inconsistent with Louisiana law on sports. This forces the school board to choose between, on the one hand, following what the Rule appears to demand on sports in violation of Louisiana law and, on the other hand, ignoring what the Rule says to comply with Louisiana law. Either way, the school board is exposed to liability.

121. Under Louisiana's Fairness in Women's Sports Act ("Fairness Act"), "[e]ach intercollegiate or interscholastic athletic team or sporting event that is sponsored by a school and that receives state funding shall be expressly designated, based upon biological sex, as only one of the following:

> (1) … [A] male, boys, or mens team or event shall be for those students who are biological males.
>
> (2) A female, girls, or womens team or event shall be for those students who are biological females.
>
> (3) A coeducational or mixed team or event shall be open for participation by biological females and biological males.

La. Stat. Ann. § 4:444(A) (2022).

122. The Fairness Act specifies that "[a]thletic teams or sporting events designated for females, girls, or women shall not be open to students who are not biologically female." *Id.* § 4:444(B).

123. The Fairness Act provides a private cause of action for any "biological female student who is deprived of an athletic opportunity or suffers or is likely to suffer from any direct or indirect harm as a result of a violation," or "who is subjected to retaliation or other adverse action by a school, athletic association, or other organization as a result of reporting a violation." *Id.* § 4:446(A), (B).

124. The Fairness Act also provides a cause of action for "[a] school, school coach, school employee, school board, school board employee, school board member, postsecondary education board, or postsecondary education board member who suffers any direct or indirect harm for prohibiting a biological male from participating in a female, girls, or womens athletic team or sporting event pursuant to the requirements of [the Fairness Act]." *Id.* § 4:446(D).

125. Relief under the Fairness Act includes but is not limited to "(1) [i]njunctive relief, protective order, writ of mandamus or prohibition, or declaratory relief to prevent any violation of [the Fairness Act]" and "(2) actual damages, reasonable attorney's fees, and costs." *Id.* § 4:446(E).

126. At least 23 other states have similar laws. *See* Ala. Code § 16-1-52(b)(2) (2023); Alaska Admin. Code tit. 4, § 06.115(b)(5)(D) (2023); Ariz. Rev. Stat. § 15-120.02 (2022); Ark. Code § 6-1-107(b)–(c) (2021); Fla. Stat. § 1006.205(3)(a) (2021); Idaho Code § 33-6203(1) (2020); Ind. Code § 20-33-13-4 (2022); Iowa Code § 261I.2 (2022); Kan. Stat. § 60-5603 (2023); Ky. Rev. Stat. § 156.070(g) (2022); Miss. Code §§ 37-97-1 to 37-97-5 (2021); Mo. Rev. Stat. § 163.048 (2023); Mont. Code § 20-7-1306 (2023); N.C. Gen. Stat. § 116-401 (2023); N.D. Cent. Code § 15-10.6-02 (2023); Okla. Stat. tit. 70, § 27-106 (2022); S.C. Code § 59-1-500 (2022); S.D. Codified Laws § 13-67-1 (2022); Tenn. Code, § 49-6-310 (2022); Tex. Educ. Code § 33.0834 (2022); Utah Code § 53G-6-902 (2022); W. Va. Code § 18-2-25d (2021); Wyo. Stat. § 21-25-102 (2023).

127. These laws align with Title IX's text and the DOE guidance issued and enforcement actions taken in the first four decades of Title IX's existence. *See supra* ¶¶ 46–56.

128. The Rule's requirement that schools allow students to participate on sex-specific sports teams according to gender identity conflicts with Louisiana's Fairness Act.

129. In a letter to all Louisiana school leaders and school boards, the Louisiana Department of Education explained:

> [The] new Title IX rules could be in direct contradiction with Louisiana's Fairness in Women's Sports Act, a law that affirms school-sanctioned athletic participation must be divided by biological sex unless the configuration is co-ed in nature. While ED claims these new rules do not speak to sports, the new rules explicitly mentions athletics over 30 times. Clearly, sports in Louisiana could be impacted by the new rules and, if implemented, create a conflict with Louisiana law.

Memorandum from Dr. Cade Brumley, State Superintendent of Educ., to Sch. Sys. Leaders & Sch. Bds. (April 22, 2024), https://www.louisianabelieves.com/docs/default-source/links-for-newsletters/dr.-cade-brumley_title-ix-memo-4_22_2024.pdf ("Response to New Federal Title IX Rules").

130. The Rule states that "a recipient's obligation to comply [with the Rule] is not obviated or alleviated by any State or local law or other requirement[.]" 89 Fed. Reg. at 33,885 (to be codified at 28 C.F.R. § 106.6(b)); *see also id.* at 33,805–06.

131. The school board's policy and practice are to comply with all Louisiana laws, including Louisiana's Fairness in Women's Sports Act. *See* La. Stat. Ann. § 4:441–46. The Rule threatens to require the school board to violate state law as a condition of receiving any federal funds.

132. Disregarding the Fairness Act threatens the board's state funds—funds that make up the bulk of the board's annual budget—and subjects the school board to private lawsuits under the Fairness Act. *See* La. Stat. Ann. § 4:446.

B. The Rule imposes immediate, ongoing compliance costs.

133. Under the Rule, as a condition of continuing to accept federal funding for education, the school board must begin immediately to repeal existing policies, adopt new policies, make assurances to the federal government, and train staff to

comply with the Rule's new mandates. The school board will have to spend time and resources fulfilling these requirements.

134. Covered educational institutions must agree to comply with the Rule, including the prohibition on discrimination on the basis of gender identity.

135. The Rule requires covered entities to provide a notice of nondiscrimination stating that they will not discriminate on the basis of gender identity. *See* 34 C.F.R. § 106.8(a), (b). The school board will have to spend time and resources on these notices.

136. The Rule prohibits covered institutions from stating that they will engage in actions or omissions inconsistent with the Rule's prohibitions on discrimination on the basis of gender identity. *See* 34 C.F.R. § 106.8(b)(2)(ii).

137. Under the Rule, covered institutions must train current and new employees on the Rule's required policies and procedures. *See* 89 Fed. Reg. at 33,885 (to be codified at 34 C.F.R. § 106.8(d)).

138. The school board's existing policies use the term "gender" as a synonym for "sex," reflecting the board's understanding that both terms refer to the same concept: biological sex. *See, e.g.*, Ex. 1-A at 102, 104, 106. This will need to be amended to avoid confusion due to the Rule's new definitions. The school board will have to spend time and resources on these amendments.

139. The school board's longstanding policies reflect Title IX's use of the term "sex" to mean the biological binary between males and females. For example, one policy states that "*[m]ale and female* students must be eligible for benefits, services, and financial aid without discrimination on the basis of sex." Ex. 1-A at 118 (emphasis added). This policy and others like it will need to be changed. The school board will have to spend time and resources on these amendments.

140. The Rule will require careful review of—and likely additional changes to—other policies and practices established by the school board.

141. The school board's existing practice is to separate restroom, locker room, and shower facilities by sex: males are not allowed to enter the girls' locker rooms, restrooms, or showers; likewise, females are not allowed to enter the boys' locker rooms, restrooms, or showers. Under the Rule, this will need to be changed. The school board will have to spend time and resources on these changes.

142. Under the school board's existing policy, any search of a student's person must be done by a teacher or administrator "of the same sex as the student to be searched," Ex. 1-A at 111, and at times in the presence of "[a] witness of the same sex," *id.* at 112. For the privacy of students and staff, this policy would need to be reassessed based on the Rule. The school board will have to spend time and resources on amending this policy.

143. Under the school board's existing policy, certain allegations of sexual harassment of an employee are assessed by a panel that includes "three males and three females selected by the Superintendent." Ex. 1-A at 101. The board would need to amend this policy based on the Rule. The school board will have to spend time and resources on these amendments.

144. The school board's existing dress-code policy is different for "girls" than for "boys." Ex. 1-A at 98. The board would need to amend this policy to clarify how it applies to students who identify a gender contrary to their sex or as non-binary. The Rule arguably would require the board to permit students who identify as non-binary to choose which dress code applies to them even though other students would not have that same option. The school board will have to spend time and resources on these amendments.

145. The school board's existing field trip policy requires that "any field trips consisting of boys and girls and requiring them to stay overnight must be chaperoned by faculty, staff, or parents of both sexes." Ex. 1-B. The board's practice is to house males and females separately on such trips. The school board does not

allow a biological male student who identifies as a girl to house with female students on such a trip, or vice versa. The board would need to reassess these field trip policies and practices based on the Rule. The school board will have to spend time and resources on amending this policy.

146. The school board's longstanding policies do not make practical or logical sense under the Rule.

147. For example, imposing the Rule's mandates onto the school board's existing search policy, a girl who identifies as a boy would have her person searched by an adult male and the search witnessed by another adult male. *See* Ex. 1-A at 111. Such situations would be intolerable to the school board and could also expose the board to liability. So the school board would need to find an alternative policy for searches.

148. But if the board adopted a search policy for students who identify as a transgender that is different from the one that applies to other students, the board still risks liability for sex discrimination under the Rule.

149. Under the Rule, the field trip policy (Ex. 1-B) would need to account for chaperones who identify as a gender identity different from their sex, such as a student's father who identifies as a woman. The Rule seemingly would require the school to place this chaperone in a room of girls. *See* 89 Fed. Reg. at 33,816 (explaining that the Rule applies to "any 'person,' … which also could include parents of minor students"). That situation would not be tolerable to the school board and could expose the school board to liability.

150. The school board would need to amend its dress code policy (Ex. 1-A at 98–99) to account for students who identify as the opposite sex or as non-binary.

151. The school board's employee conduct policy (Ex. 1-C) provides that "classroom instruction … on sexual orientation or gender identity may not occur in pre-kindergarten through grade 12 or in a manner that is not age-appropriate or

developmentally appropriate for students in accordance with state standards." The school board risks violating the Rule unless it changes this policy.

152. The school board would maintain each of these existing policies and practices without the Rule. The cost of amending these policies is an injury to the school board.

153. At least thirteen students have identified a gender identity that differs from their sex. *See* Ex. 1 ¶ 18. Under the Rule, the school board must immediately allow these students to "participate in" school programs and activities "consistent with their gender identity." 89 Fed. Reg. at 33,887 (to be codified at 34 C.F.R. § 106.31(a)(2)).

154. At a minimum, that will require that these students immediately be allowed to use opposite-sex locker rooms, restrooms, and other sex-designated spaces and to enroll in P.E. classes consistent with their gender identity.

C. The Rule will harm students in Rapides Parish.

155. Allowing students to access sex-specific private spaces like locker rooms according to their gender identity effectively eliminates the sex separation in those spaces.

156. The school board has determined that eliminating these sex-specific private spaces violates the fundamental rights of privacy and safety.

157. Rapides Parish schools separate such spaces by sex—meaning biological sex. Males do not enter the girls' locker rooms, restrooms, or showers; likewise, females do not enter the boys' locker rooms, restrooms, or showers.

158. The presence of opposite-sex students in these spaces deprives children of privacy and threatens their personal sense of safety and security. These harms are more than de minimis, but the Rule disregards them.

159. Because Title IX applies to employees of educational institutions, the Rule apparently would require the school to allow adults, such as parent volunteers, chaperones, teachers, and coaches, to access private spaces consistent with their gender identities. That harms students as well as other adults forced to share private spaces with a person of the opposite sex. These harms are more than de minimis, but the Rule disregards them.

160. Requiring students to use restrooms, locker rooms, and showers in the presence of the opposite sex also deprives them of access to equal educational opportunity. Allowing males into spaces reserved for girls subjects girls to distress and embarrassment, at best, and an increased risk of harassment or assault, at worst. Preventing girls from accessing educational opportunities on equal terms goes against Title IX.

161. The school board's physical education programs will also be harmed by the Rule because its schools must allow boys who identify as girls to enroll in the girls' P.E. classes.

162. If a school maintains its policy of disallowing boys from enrolling in girls' P.E. classes, that policy would be unlawful sex discrimination under the Rule because the Rule says that "preventing [students] from participating in [school] consistent with their gender identity" subjects them to "more than de minimis harm." 89 Fed. Reg. at 33,887; *see* 34 C.F.R. § 106.41(a)–(c).

163. This undermines the privacy and safety of the girls in those P.E. classes. These harms are more than de minimis, but the Rule disregards them.

164. The school board's athletic programs and female athletes will also be harmed by the Rule, the Interpretation, and the Fact Sheet because schools must allow boys who identify as girls to participate on the girls' sports teams.

165. This undermines the privacy and safety of the girls on those sports teams. These harms are more than de minimis, but the Rule disregards them.

166. Athletics provides female students with countless advantages. Athletic participation is associated with positive educational outcomes, including better attendance, higher grades, fewer disciplinary issues, a greater desire to go to college, and higher advanced placement enrollment rates. Girls who participate in sports are more confident and have higher self-esteem.

167. Participating in high school sports can provide girls with opportunities for athletic scholarships in college. These athletic scholarships lower the cost of higher education and provide other benefits including access to medical facilities, health benefits, travel expenses, and gear such as shoes, clothes, and bags.

168. The Rule, the Interpretation, and the Fact Sheet threaten to reduce substantially the benefits of athletics to female student-athletes by requiring them to compete against males who identify as girls for spots on their school's teams and then to compete against males on opposing schools' female athletic teams.

169. Males have physiological athletic advantages over similarly fit females, including in the respiratory, cardiovascular, muscular, and other systems. These result in higher short-term and sustained levels of oxygen to transport to the muscles and increased muscle fibers and muscle mass.

170. These physiological differences between males and females directly result in stark disparities in the athletic record books because boys and men can consistently run faster and jump higher and farther than comparably fit girls and women.

171. When males compete in female events, gifted and dedicated female athletes are denied the equal athletic opportunity that Title IX guarantees by being forced to compete against male athletes who have inherent and immutable advantages.

172. Physiological differences between the two sexes, combined with basic principles of physics, also create enhanced risks of injury—and more severe

injuries—for female athletes when competing against male athletes than in competition involving female athletes only.

173. Increasing numbers of boys and men are competing and trying to compete in female sports and depriving girls and women of athletic opportunities and accomplishments. For example, in Connecticut, two males competing in girls' high school track and field won 15 women's state championship titles—titles previously held by nine different girls.

174. Providing physical education and athletic opportunities is part of the school board's educational mission.

175. If the school board were to comply with the Rule, Rapides Parish schools would risk losing students to private schools that are not required to comply with the Rule and thus can keep recognizing the biological differences between boys and girls, including as they relate to physical education and athletics.

IV. The Rule Infringes on the Constitutional Rights of Teachers and Students.

176. Under the First Amendment to the U.S. Constitution, "Congress shall make no law … abridging the freedom of speech … or the right of the people peaceably to assemble[.]" U.S. Const. amend. I. This requirement also applies to the States and to local government units like the school board through the Fourteenth Amendment's due process clause.

177. By adding "gender identity" to Title IX, the Rule threatens the First Amendment exercise of board members, staff, and students. The Rule is facially invalid because it imposes vague and overbroad restrictions on speech that give enforcement officials unbridled discretion.

178. For example, the Rule chills speech in favor of the traditional understanding that sex is binary or against the practice of transitioning a child to a gender identity that does not conform with his or her sex. There is a substantial

risk that students and staff will refrain from voicing their views on these topics or will simply acquiesce in using opposite-sex pronouns or names out of fear they will be accused of and punished for discriminatory harassment.

179. The risk of such self-censorship is real. In schools that have adopted policies treating gender identity as "sex" for purposes of sex discrimination, teachers have faced discipline for refusing to use opposite-sex pronouns because this allegedly constitutes "sex-based" harassment or discrimination. *See, e.g.*, *Ricard v. USD 475 Geary Cnty. Sch. Bd.*, No. 5:22-cv-04015, 2022 WL 1471372, at *1 (D. Kan. May 9, 2022); *Geraghty v. Jackson Loc. Sch. Dist. Bd. of Educ.*, Complaint, ECF 1, No. 5:22-cv-2237 (N.D. Ohio Dec. 12, 2022).

180. Requiring staff and students to participate in social transitioning by using opposite-sex pronouns or an opposite-sex name, for example, infringes on their First Amendment right to be free from compelled speech.

181. Public school teachers do not surrender their First Amendment rights as a condition of serving the public. *See Garcetti v. Ceballos*, 547 U.S. 410, 417 (2006). Their speech as citizens on matters of public concern is protected by the First Amendment. *Id.*

182. A teacher's refusal to participate in a social transition through speech is constitutionally protected activity because refraining from participating in social transition implicates the teacher's interests as a private citizen, speech associated with social transition implicates matters of urgent public concern, and the government has no interest that could outweigh a teacher's First Amendment rights.

183. A public school cannot "treat[] everything teachers … say in the workplace as government speech subject to government control." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 530–31 (2022). Endorsing the administration's

preferred gender ideology is not part of an educator's job duties, and refraining from doing so is protected.

184. The Rule threatens the school board with Title IX liability unless it compels staff to speak consistent with the administration's preferred ideology about the nature of sex. At the same time, the Rule threatens Title IX liability unless the school board enacts overbroad policies about sex-based harassment that chill protected speech.

185. Students' speech rights are also threatened by the Rule. The same speech (or refusal to speak) by a student could be treated as sex-based harassment or discrimination under the Rule. Under the Rule, schools are liable if a student's actions are "subjectively and objectively offensive" and "severe *or* pervasive." 89 Fed. Reg. at 33,494–96; *see id.* at 33,886 (to be codified at 34 C.F.R. 106.11).

186. The Biden administration has consistently taken the position that failing to use opposite-sex names or pronouns is discriminatory under Title VII and section 1557 of the Affordable Care Act—a statute that incorporates Title IX. *See, e.g.*, U.S. Equal Employment Opportunity Commission, *Fact Sheet: Notable EEOC Litigation Regarding Title VII & Discrimination Based on Sexual Orientation and Gender Identity*, https://bit.ly/3RrIkwv (last visited Apr. 29, 2024). If failing to use opposite-sex pronouns or names is harassment, the school board risks liability if it does not require fellow students to speak in favor of an opposite-sex "gender identity" or discipline those who do not.

187. Forcing students to speak consistently with, or refrain from speaking against, a hotly debated political viewpoint on questions about gender stigmatizes those who hold disfavored views. By treating legitimate decisions to speak or refrain from speaking as "sex-based harassment," the Rule infringes on First Amendment freedoms.

188. Because the Rule requires the school board to treat protected expression as if it were sex-based harassment, the Rule would force the school board to amend its policies to violate the constitutional rights of staff and students and to chill wide swaths of protected speech.

V. The School Board's Urgent Need for Judicial Relief

189. All the acts of Defendants described above, and their officers, agents, employees, and servants, were executed and are continuing to be executed by Defendants under the color and pretense of the policies, statutes, ordinances, regulations, customs, and usages of the United States.

190. The Rule is "[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court." 5 U.S.C. § 704.

191. No statute precludes judicial review of the Rule, and the Rule is not committed to agency discretion by law under 5 U.S.C. § 701(a).

192. The Interpretation and the Fact Sheet are "[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court." 5 U.S.C. § 704.

193. No statute precludes judicial review of the Interpretation and the Fact Sheet, and they are not committed to agency discretion by law under 5 U.S.C. § 701(a).

194. The school board has no adequate or available administrative remedy.

195. In the alternative, any effort to obtain an administrative remedy would be futile.

196. The school board suffers legal wrong and harm from the Rule and the Interpretation and the Fact Sheet.

197. The school board is a regulated party under the Rule, the Interpretation, and the Fact Sheet.

198. The Rule, the Interpretation, and the Fact Sheet are definitive and determine the rights and obligations of persons, including the school board.

199. DOE declares that the Rule has the full force of law.

200. The school board faces imminent irreparable harm and is susceptible to risk of enforcement under the Rule beginning on its effective date.

201. The school board's compliance costs constitute ongoing irreparable harm caused by the Rule. The school board has no way to obtain monetary compensation from the federal government for its compliance costs.

202. Absent injunctive and declaratory relief granted before the Rule's effective date, the school board has been and will continue to be harmed by the Rule's immediate, ongoing compliance costs and by continued exposure to legal penalties if it fails to adopt policies that align with the Rule's mandates.

203. The school board has no adequate remedy at law.

204. The equities favor the school board's request for injunctive relief or vacatur, which will maintain the status quo that has been in place for five decades.

FIRST CLAIM
RULE—CONTRARY TO STATUTE
(5 U.S.C. § 706; 28 U.S.C. § 2201)

205. Plaintiff realleges and incorporates paragraphs 1–204 of this Complaint.

206. Each Defendant Department is an "agency" under the APA. *Id.* § 701(b)(1).

207. Under the APA, a court must "hold unlawful and set aside agency action" if the agency action is "not in accordance with law," "in excess of statutory

jurisdiction, authority, or limitations, or short of statutory right," or "contrary to constitutional right, power, privilege, or immunity" under 5 U.S.C. § 706.

208. The Rule is not in accordance with law and exceeds statutory jurisdiction, authority, and limitations in many respects.

209. Title IX uses the word "sex" to mean the biological, binary distinction between male and female. Title IX repeatedly imposes an approach to educational opportunity that is cognizant of two sexes and their differences, using such terms as "both sexes" and the "opposite sex."

210. The Rule imposes an approach irreconcilable with the statute. It requires schools to adopt a "nonbinary" approach to sex discrimination and sex differences. This rewrites the statute from one requiring equal opportunity for both sexes (often through the explicit consideration of sex differences) into one requiring equal opportunity based on gender identity. At the same time, the Rule requires equal treatment based on "nonbinary" or "asexual" gender identities—classifications that are defined without reference to a person's sex.

211. Title IX prohibits discrimination "on the basis of sex" while specifically allowing distinctions based on sex differences to achieve equal opportunity. That prohibition does not include discrimination "on the basis of gender identity" as distinct from an individual's sex. *See supra* ¶¶ 105–13.

212. Congress has not delegated to Defendants the authority to prohibit gender-identity discrimination under Title IX.

213. Title IX expressly contemplates sex-specific educational programs. *E.g.*, 20 U.S.C. § 1686 (separate living facilities). The statute does not permit educational institutions to *ignore* sex in favor of gender identity.

214. The Rule's gender-identity mandates make the statute nonsensical and unworkable. Under the Rule, students who claim a gender identity different from their sex could claim unlawful discrimination based on both gender identity and

sex. For example, consider a male student who identifies as a girl. It would be discrimination on the basis of sex to exclude this student from boys' locker rooms, but it would also be discrimination on the basis of gender identity to exclude this student from the girls' locker rooms. *See* 34 C.F.R. § 106.33. The student can demand access anywhere.

215. DOE's "de minimis harm" standard is not found in the statutory text and goes against the rule of construction in 20 U.S.C. § 1686.

216. Substantive canons of statutory construction preclude reading Title IX's references to "sex" to include "gender identity" that differs from a person's biology.

Clear Statement Rule

217. A clear statement is necessary for a statute to preempt the historical police powers of the States, to abrogate state sovereign immunity, or to permit an agency to regulate a matter in areas of traditional state responsibility. This is especially true when Congress conditions such a change in the balance of federal and state power on the receipt of federal funding.

218. A clear statement is needed to displace the states' traditional authority over public education, which includes separating the sexes in physical education class and sports, as well as in school restroom facilities, locker room facilities, and shower facilities. When Title IX was enacted in 1972, the public lacked clear notice that Title IX would apply in the way mandated by this rule. The clear statement rule therefore precludes DOE from interpreting Title IX to include the Rule's redefinition of "sex."

219. The Rule threatens to override state laws, including Louisiana's Fairness in Women's Sports Act.

Major Questions Doctrine

220. The major questions doctrine also precludes reading "on the basis of sex" in Title IX to include the gender-identity mandates created by the Rule.

221. Title IX's statutory text respects the biological differences between male and female. When biological differences matter, Title IX respects them by permitting sex-separated programs offered on equal terms. That includes housing, restroom facilities, locker room facilities, shower facilities, physical education classes, and sports.

222. If Congress wanted to require schools to *ignore* biological differences for students who identify themselves with a different gender identity, it would have said so openly. Title IX, which is filled with references to the inherent biological differences between male and female, cannot be read to give administrative agencies like DOE authority to mandate that schools ignore the biological distinctiveness of girls and boys.

Conditional Spending

223. When Congress imposes conditions on acceptance of federal funds under the spending clause, the Constitution limits the States and the public's obligations to those requirements "unambiguously" set out on the face of the statute. *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981).

224. No funding recipient could unmistakably know or clearly understand that Title IX would impose the gender-identity mandates created by the Rule as a condition of accepting federal funds from DOE.

225. The public lacked the constitutionally required clear notice that the Act would apply in this way when Title IX was passed or when funding grants were made. *Bennett v. New Jersey*, 470 U.S. 632, 638 (1985).

226. As a result, the Rule must be held unlawful and set aside under 5 U.S.C. § 706.

227. The Rule must also be enjoined and declared unenforceable under 5 U.S.C. § 705 to preserve status and rights pending review of this Court.

SECOND CLAIM
RULE—INFRINGES ON CONSTITUTIONAL RIGHTS
(5 U.S.C. § 706; 28 U.S.C. § 2201; ULTRA VIRES)

228. Plaintiff realleges and incorporates paragraphs 1–204 of this Complaint.

229. Each Defendant Department is an "agency" under the APA. 5 U.S.C. § 701(b)(1).

230. Under the APA, a court must "hold unlawful and set aside agency action" if the agency action is "contrary to constitutional right, power, privilege, or immunity" under 5 U.S.C. § 706.

231. A court has equitable jurisdiction to review and enjoin ultra vires or unconstitutional agency action. *See Larson v. Domestic & Foreign Com. Corp.*, 337 U.S. 682, 689–91 (1949).

232. The school board has standing to challenge the Rule because the Rule forces the school board to choose between respecting individuals' constitutional rights and complying with federal law. *See Bd. of Educ. of Cent. Sch. Dist. No. 1 v. Allen*, 392 U.S. 236, 241 n.5 (1968) (school board had standing because the challenged law compelled members to "choose between violating their oath [to uphold the Constitution] and taking a step—refusal to comply with [the law]—that would be likely to bring their expulsion from office and also a reduction in state funds for their school districts").

233. The school board has standing to vindicate the rights of staff and students under the First Amendment overbreadth doctrine. *See Speech First, Inc. v. Cartwright*, 32 F.4th 1110, 1122 (11th Cir. 2022).

234. The school board has third-party standing to vindicate the rights of staff and students. *Kowalski v. Tesmer*, 543 U.S. 125, 129–30 (2004). The school board is directly injured by the Rule because, as an educational institution that receives federal funding through DOE, it is the object of the regulation. *See supra* ¶¶ 16–19.

235. The school board shares a close relationship with its staff and students and can effectively advocate for their First Amendment rights. *See Washington v. Trump*, 847 F.3d 1151, 1160 (9th Cir. 2017); *Parks Sch. of Bus., Inc. v. Symington*, 51 F.3d 1480, 1487 (9th Cir. 1995).

236. Staff and students face obstacles that bar them from effectively advocating for their First Amendment rights. Among other things, asserting their First Amendment rights on the hotly charged issue of gender identity subjects them to harassment and ostracization.

237. The Rule's treatment of speech as discriminatory harassment will likely create "self-censorship and chilling of expression" by staff and students, *Clark v. City of Lakewood*, 259 F.3d 996, 1010 (9th Cir. 2001), making it appropriate for the school board to represent their interests.

238. Under the First Amendment to the U.S. Constitution, "Congress shall make no law … abridging the freedom of speech … or the right of the people peaceably to assemble …." U.S. Const. amend. I. The First Amendment applies to the Sates and to the school board as incorporated through the Fourteenth Amendment.

239. Students' speech is protected by the First Amendment.

240. Educators' speech on matters of public concern is protected by the First Amendment.

241. The Rule restricts and compels employee and student speech in violation of the First Amendment.

242. The Rule would require the school board to adopt policies that both restrict and compel staff and student speech in violation of the First Amendment as incorporated through the Fourteenth Amendment.

243. The Rule is so vague and overbroad that it will chill protected expression that disagrees with DOE and DOJ's view about the meaning of sex: "[M]any persons, rather than undertake the considerable burden (and sometimes risk) of vindicating their rights … will choose simply to abstain from protected speech—harming not only themselves but society as a whole, which is deprived of an uninhibited marketplace of ideas." *Virginia v. Hicks*, 539 U.S. 113, 119 (2003) (citation omitted).

244. Adopting policies required by the Rule exposes the school board to lawsuits and liability for violating individuals' First Amendment rights.

245. The Rule is contrary to law because DOE lacks authority to compel funding recipients to violate individuals' constitutional rights.

246. As a result, the Rule must be held unlawful and set aside under 5 U.S.C. § 706 and the Court's inherent equitable power to enjoin ultra vires and unconstitutional actions.

247. The Rule must also be enjoined and declared unenforceable under 5 U.S.C. § 705 to preserve status and rights pending review of this Court.

THIRD CLAIM
RULE—EXCEEDS FEDERAL POWER
(5 U.S.C. § 706; 28 U.S.C. § 2201; ULTRA VIRES)

248. Plaintiff realleges and incorporates paragraphs 1–204 of this Complaint.

249. Each Defendant Department is an "agency" under the APA. 5 U.S.C. § 701(b)(1).

250. Under the APA, a court must "hold unlawful and set aside agency action" if the agency action is "contrary to constitutional right, power, privilege, or immunity" under 5 U.S.C. § 706.

251. A court has equitable jurisdiction to review and enjoin ultra vires or unconstitutional agency action. *Larson*, 337 U.S. at 689–91.

252. Even if DOE's interpretation of Title IX were a reasonable interpretation of the statute, it would be constitutionally impermissible because it exceeds Congress's Article I enumerated powers and transgresses on the reserved powers of the States under the federal constitution's structural principles of federalism and the Tenth Amendment. U.S. Const. art. I, § 8, cl. 1; *id.* amend. X.

253. The Rule requires the school board to apply gender-identity mandates as a condition of receiving federal funding. Federal funding is approximately 10% of the school board's budget.

254. Such a requirement is unconstitutionally coercive. The Rule requires the school board to adopt a controversial gender ideology or give up more than 10% of its budget and disregard the systems put in place over five decades. That leaves the school board with no meaningful choice. It is an improper use of the Spending Clause.

255. The school board cannot accept the gender-identity mandates as applied to interscholastic sports because that would conflict with Louisiana's Fairness Act, *see* La. Stat. Ann. §§ 4:441–46, and the federal government cannot commandeer state and local governments in that way, *see Murphy v. Nat'l Collegiate Athletic Ass'n*, 584 U.S. 453, 470–75 (2018).

256. Requiring Louisiana schools to give up all federal funding—which is what they would have to do to comply with the Fairness Act—amounts to a "gun to the head." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 581 (2012) (plurality). Similarly, requiring Louisiana to repeal the Fairness Act or deprive its

citizens of the billions of dollars in education funding that their federal tax dollars underwrite, *see id.* at 676–81 (Scalia, J., concurring in relevant part), is "economic dragooning that leaves the States with no real option but to acquiesce," *id.* at 582 (plurality).

257. The Rule exceeds federal Spending Clause power.

258. As a result, the Rule must be held unlawful and set aside under 5 U.S.C. § 706 and the Court's inherent equitable power to enjoin ultra vires and unconstitutional actions.

259. The Rule must also be enjoined and declared unenforceable under 5 U.S.C. § 705 to preserve status and rights pending review of this Court.

FOURTH CLAIM
RULE—ARBITRARY AND CAPRICIOUS
(5 U.S.C. § 706; 28 U.S.C. § 2201)

260. Plaintiff realleges and incorporates paragraphs 1–204 of this Complaint.

261. Each Defendant Department is an "agency" under the APA. 5 U.S.C. § 701(b)(1).

262. Under the APA, a reviewing Court must "hold unlawful and set aside agency action" if the agency action is "arbitrary," "capricious," or "an abuse of discretion." 5 U.S.C. § 706(2)(A).

263. Agency action is arbitrary and capricious if "the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Motor Vehicle Mf'rs Ass'n v. State Farm Auto Mut. Ins. Co.*, 463 U.S. 29, 43 (1983).

264. The Rule fails to define the key terms, "sex," "gender identity," "sexual orientation," "sex stereotypes," "sex characteristics," "transgender," and "sex assigned at birth."

265. In drafting and promulgating the Rule, DOE failed to undertake reasoned decision-making in many respects.

266. *First*, the Rule acts irrationally by explicitly resting its gender-identity regime on *Bostock*, even though *Bostock* said it did not encompass other civil rights statutes that address sex discrimination (as Title IX does) or circumstances implicating intimate or physical contact (as Title IX does). The agencies' explicit and pivotal reliance on *Bostock* represents a fundamental error at the heart of the Rule and renders it arbitrary and capricious on its face.

267. *Second,* the Rule's gender-identity mandates are vague and impossible to apply. The Rule describes "gender identity" as "an individual's sense of their gender." This is undefinable and unworkable. Schools cannot know what it means or apply it consistently. It has no basis in the statutory text. It rejects the explicit biological binary of Title IX and therefore undermines the statute's purposes.

268. The Rule imposes inconsistent requirements. For example, the Rule requires schools to let males who identify as girls into girls' P.E. classes and locker rooms even though limiting males from girls' programs is not a gender identity distinction. Yet DOE and DOJ consider such distinctions a violation of the Rule.

269. 34 C.F.R. §§ 106.10 and 106.31(a)(2) mandate gender-identity discrimination despite purporting to prohibit it. For example, under the Rule schools must let students use a locker room based on the sex with which they identify, meaning that a male who "identifies" as a boy cannot use the girls' locker room, but a male who identifies as a female can. The Rule requires the school to treat the two males differently based on gender identity, even as the Rule purports to prohibit discrimination based on gender identity. The Rule fails to consider this

important aspect of the problem. Such unexplained inconsistency is arbitrary and capricious.

270. DOE's inclusion of "sex stereotypes" as a version of sex discrimination is also unreasoned. "[B]iological differences between males and females" are "not stereotypes associated with either sex." *Eknes-Tucker v. Governor of Ala.*, 80 F.4th 1205, 1229 (11th Cir. 2023); *accord L. W. ex rel. Williams v. Skrmetti*, 83 F.4th 460, 484 (6th Cir. 2023). DOE fails to explain why it considers biological differences to be sex stereotypes within the meaning of *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989) (plurality). That is a failure of reasoned decision-making.

271. *Third*, the Rule ignores its effect on P.E. classes. Section 106.31(a)(2) will require that schools enroll male students in girls' P.E. classes (and vice versa). P.E. classes regularly include contact sports, such as basketball and soccer, and DOE's longstanding regulations allow separation by sex in those classes. *See* 34 C.F.R. § 106.34(a)(1). But the Rule now requires schools to allow students to participate in P.E. according to their gender identity instead of their sex. *See* 89 Fed. Reg. at 33,887 (to be codified at 106 C.F.R. § 106.31(a)(2)). The Rule ignores the harms this will cause girls and overlooks its impact on P.E. classes. DOE's failure to address this problem is a lack of reasoned decision-making.

272. *Fourth*, DOE disregfards the effect of its Rule on school policies that direct staff not to tell parents when their children decide to identify as the opposite sex. Rather than disavow the parental-exclusion policies in the two example school policies that the NPRM cited with approval, *see* 87 Fed. Reg. 41,561, DOE continues to cite the same examples in the Rule, 89 Fed. Reg. at 33,709. DOE's failure to address how the Rule affects these parental-exclusion policies is a lack of reasoned decision-making.

273. *Fifth*, the Rule does not consider the privacy interest in not exposing one's unclothed body to persons of the opposite sex. A student has a constitutionally

protected privacy interest in preventing persons of the opposite sex from seeing her unclothed or partially clothed body. *See, e.g.*, *Brannum v. Overton Cnty. Sch. Bd.*, 516 F.3d 489, 495 (6th Cir. 2008). This interest in bodily privacy, which is protected even in prisons, *see, e.g.*, *Fortner v. Thomas*, 983 F.2d 1024, 1030 (11th Cir. 1993), applies to public-school students in housing as well as restroom, locker room, and shower facilities. By putting persons of the opposite sex into these sex-specific spaces, the Rule creates a serious risk that students will be forced to expose their bodies to the opposite sex against their wishes. Children will reasonably hesitate to object lest the objection be taken as discriminatory harassment based on gender identity. DOE's failure to consider these privacy interests lacks reasoned decision-making.

274. *Sixth*, the Rule does not explain DOE's reversal of its previous position that "restroom, locker room, and shower facilities" are "living facilities" subject to 20 U.S.C. § 1686.

275. *Seventh*, DOE failed to consider schools' reasonable reliance interests when promulgating the Rule. For instance, the agency failed to consider the changes to longstanding policies, practices, and facilities that schools would need to undertake to comply with the Rule while respecting the privacy rights and safety interests of others. Schools adopted these policies and practices and built expensive facilities in reliance on DOE's prior positions. The failure to consider these reliance interests renders the Rule arbitrary and capricious.

276. *Seventh*, DOE failed to consider any alternative policies, such as (1) taking no action; (2) creating rules to protect privacy and girls' equal access to athletic programs, including P.E. classes, under the correct understanding of Title IX; (3) grandfathering existing categories of programs and practices covered by Title IX; or (4) creating or expanding existing exemptions for those with safety concerns or other reliance on past policies.

277. Thus, the Rule must be held unlawful and set aside under 5 U.S.C. § 706.

278. The Rule must also be enjoined and declared unenforceable under 5 U.S.C. § 705 to preserve status and rights pending review of this Court.

FIFTH CLAIM
INTERPRETATION AND FACT SHEET—CONTRARY TO LAW
(5 U.S.C. § 706)

279. Plaintiff realleges and incorporates paragraphs 1–204 of this Complaint.

280. Each Defendant Department is an "agency" under the APA. 5 U.S.C. § 701(b)(1).

281. Under the APA, a reviewing Court must "hold unlawful and set aside agency action" if the agency action is "not in accordance with law," "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right," or "contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(A)-(C).

282. An agency has no power to act unless Congress confers that power, and actions that are unauthorized by Congress are ultra vires.

283. Title IX and its regulations do not prohibit discrimination on the basis of gender identity.

284. The Interpretation's and the Fact Sheet's mandates to the contrary exceeds DOE's authority under Title IX and related regulations.

285. Congress has not delegated to the executive branch any authority to impose the mandates found in the Interpretation and the Fact Sheet.

286. The Interpretation's and the Fact Sheet's reading of Title IX must satisfy the clear-notice rule, a substantive canon of statutory interpretation that applies because DOE's construction displaces traditional state police power

authority, implicitly abrogates state sovereign immunity, and interprets Spending Clause legislation.

287. The Interpretation and the Fact Sheet violate the major questions doctrine because Congress's enactment of Title IX did not unambiguously give DOE authority to impose the Interpretation and the Fact Sheet since it vastly changes the rights and obligations in Title IX.

288. Because the Interpretation and the Fact Sheet exceed DOE's authority under Title IX and its implementing regulations, the Interpretation and the Fact Sheet are ultra vires, contrary to law, and issued in excess of DOE's authority.

289. The Interpretation and the Fact Sheet go so far beyond any reasonable reading of the relevant congressional text and its implementing regulations that the Interpretation and the Fact Sheet functionally exercise lawmaking power reserved only to Congress. U.S. Const. art. I, § 1.

290. The Interpretation and the Fact Sheet are contrary to law and exceed DOE's statutory authority because *Bostock*'s interpretation of Title VII's language is inapplicable to Title IX.

291. The Interpretation and the Fact Sheet are contrary to law because, properly interpreted, Title IX's prohibition of discrimination "on the basis of sex" does not encompass discrimination based on gender identity.

292. The Interpretation's and the Fact Sheet's rationale is contrived for the President's policy convenience rather than based on law and necessary considerations under the APA. *See Dep't of Com. v. New York*, 139 S. Ct. 2551, 2575–76 (2019).

293. As a result, the Interpretation and the Fact Sheet must be held unlawful and set aside under 5 U.S.C. § 706 and the Court's inherent equitable power to enjoin ultra vires and unconstitutional actions.

SIXTH CLAIM
INTERPRETATION AND FACT SHEET—ARBITRARY AND CAPRICIOUS
(5 U.S.C. § 706)

294. Plaintiff realleges and incorporates paragraphs 1–204 of this Complaint.

295. Each Defendant Department is an "agency" under the APA. 5 U.S.C. § 701(b)(1).

296. Under the APA, a reviewing Court must "hold unlawful and set aside agency action" if the agency action is "arbitrary," "capricious" or "an abuse of discretion." 5 U.S.C. § 706(2)(A).

297. The Interpretation and the Fact Sheet, and Defendants' enforcement of them, explicitly rely on an interpretation of Title IX and a reading of *Bostock* that is erroneous.

298. Without reliance on this legal interpretation, the Interpretation and the Fact Sheet would not have been promulgated.

299. DOE failed adequately to consider important aspects of the issue.

300. The Interpretation and the Fact Sheet create inconsistent and confusing standards, allow absurd results, lead to discrimination, and undermine other sex-based classifications. *See supra* ¶¶ 105–13.

301. In promulgating the Interpretation and the Fact Sheet, DOE failed to consider a gender-identity mandate's effect on schools, staff, and students, including their constitutional rights, their interests in maintaining sex-specific facilities, and their interests in maintaining sex-specific athletic teams. *See supra* ¶¶ 114–88.

302. In promulgating the Interpretation and the Fact Sheet, DOE failed to consider their impact on the interests of female athletes, including their privacy interests and their interests in receiving an equal opportunity to participate in and benefit from interscholastic athletics as part of their education. *See supra* ¶¶ 164–73.

303. In promulgating the Interpretation and the Fact Sheet, DOE failed to consider reliance interests of schools in not being subject to a prohibition on discrimination on the basis of gender identity under Title IX. *See supra* ¶¶ 46–56, 105–13.

304. In promulgating the Interpretation and the Fact Sheet, DOE failed to adequately acknowledge that the Interpretation and the Fact Sheet were a change in position from its existing regulations and initial post-*Bostock* guidance.

305. DOE failed to consider any alternative policies, such as (1) taking no action; (2) creating regulations to protect female sports and privacy under the correct understanding of Title IX; (3) grandfathering existing categories of programs and practices covered by Title IX; or (4) creating or expanding existing exemptions for those with safety concerns or other reliance on past policies.

306. These failures render the Interpretation and the Fact Sheet arbitrary, capricious, and an abuse of discretion.

307. The Interpretation's and the Fact Sheet's rationale is contrived for the President's policy convenience rather than based on law and necessary considerations under the APA. *See Dep't of Com. v. New York*, 139 S. Ct. 2551, 2575–76 (2019).

308. As a result, the Interpretation and the Fact Sheet must be held unlawful and set aside under 5 U.S.C. § 706.

PRAYER FOR RELIEF

Plaintiff Rapides Parish School Board respectfully prays for judgment in its favor and requests the following relief:

A. That, pursuant to 5 U.S.C. § 706, this Court hold unlawful and set aside the Rule's definition of "sex-based discrimination" in 34 C.F.R. § 106.10, and the corresponding definition in the Interpretation and the Fact Sheet.

B. That, pursuant to 5 U.S.C. § 706, this Court hold unlawful and set aside the Rule's de minimis harm provision in 34 C.F.R. § 106.31(a)(2).

C. That this Court declare unlawful the Rule's definition of "sex-based discrimination" in 34 C.F.R. § 106.10, and the corresponding definition in the Interpretation and the Fact Sheet; as well as the de minimis harm provision in 34 C.F.R. § 106.31(a)(2).

D. That this Court declare unlawful the Rule's de minimis harm provision in 34 C.F.R. § 106.31(a)(2).

E. That this Court issue a declaratory judgment and permanent injunction preventing Defendants, including their employees, agents, successors, and all persons in active concert or participation with them, from implementing, enforcing, or applying the Rule or the Interpretation and the Fact Sheet to require covered institutions to:

   1. Apply Title IX's prohibition on discrimination "on the basis of sex" as a prohibition on discrimination on the basis of gender identity.

2. Apply Title IX's prohibition on discrimination "on the basis of sex" as a prohibition on discrimination on the basis of sex stereotypes.

3. Enroll students in classes or athletic programs based on students' gender identity instead of their sex.

4. Open single-sex housing, locker rooms, changing rooms, showers, and restrooms to individuals of the opposite biological sex.

5. Mandate that students or staff participate in or affirm a self-identified transgender student's gender transition, including by requiring students or staff to use an opposite-sex name or personal pronouns.

6. When enforcing Title IX's sex-based harassment prohibitions, treat disfavored speech on the topics of gender identity, transgenderism, or gender dysphoria as prohibited harassment; or treat failure to use opposite-sex pronouns or names as prohibited harassment.

F. That this Court issue all necessary and appropriate process, including a preliminary injunction and temporary order under 5 U.S.C. § 705, to postpone the effective date of the Rule or to preserve status or rights pending conclusion of the judicial review proceedings.

G. That this Court award to Plaintiff attorneys' fees, costs, and other expenses of this action under any applicable federal statute, including 28 U.S.C. § 2412.

H. That this Court grant the requested injunctive relief without a condition of bond or other security being required of Plaintiff; and

I. That this Court grant any other relief that is equitable, just, and proper.

J. That this Court retain jurisdiction over this matter for the purpose of enforcing its orders.

Respectfully submitted this 30th day of April, 2024.

s/ Michael T. Johnson

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**Motion for pro hac vice admission filed concurrently*

***Motion for pro hac vice admission filed concurrently; practice supervised by one or more D.C. Bar members while D.C. Bar application is pending.*

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

Rapides Parish School Board, *Plaintiff*, v. **United States Department of Education**, et al., *Defendants*.	**Case No.** 1:24-cv-00567 **Judge** _____ **Magistrate Judge** _____

DECLARATION OF JEFF POWELL

I, Jeff Powell, declare as follows:

1. I am above the age of 21, and fully competent to make this declaration.

2. These facts are within my personal knowledge and are true and correct. If called to testify, I could and would testify competently to these facts.

3. As Superintendent of the Rapides Parish School Board ("the school board"), I serve as the school board's executive officer and its professional advisor.

4. The school board operates 42 schools for students from pre-K through 12th grade.

5. For the 2023–2024 school year, the pre-K through 12th grade student body numbered approximately 21,000.

6. The school board receives federal funding administered by the United States Department of Education, including funding under the Individuals with Disabilities Education Act and Title I of the Elementary and Secondary Education Act.

7. In the 2024 fiscal year, the school board received approximately $30 million from these and other federal funding sources. Federal funds account for approximately 10% of the school board's annual budget.

8. Presently, all but one of the school board's campuses participate in Title I schoolwide.

9. It would cause the school board significant financial harm to lose eligibility for these federal programs.

10. The school board also receives funding from the State of Louisiana.

11. I and other personnel have already spent at least ten hours of time and resources analyzing the Department of Education's new Title IX rule and obtaining legal advice on how the rule applies to the school board.

12. The word "sex," as I use it in this declaration, means biological distinctions between male and female.

13. Providing physical education and athletic opportunities is part of the school board's educational mission.

14. Seventh through twelfth grade physical education (P.E.) classes at Rapides Parish school campuses are sex-specific. P.E. classes regularly include contact sports, such as basketball and soccer. The school board worries that girls will be harmed if they are forced to compete in these contact sports with boys who identify as girls.

15. Rapides Parish schools offer extracurricular activities, including interscholastic athletics. Many school sports teams are sex-specific. For example, Rapides Parish high schools field separate boys' and girls' teams for basketball, cross country, soccer, swimming, and track.

16. The school board has determined that girls' athletic opportunities with be undermined, the fairness of women's sports will be jeopardized, and the safety of

female athletes will be compromised if girls are forced to compete against boys who identify as girls.

17. The school board complies with Louisiana law, including the Fairness in Women's Sports Act.

18. I am aware of five current students at the school board's high schools, six students at its middle schools, and two students at its elementary schools who have identified a gender identity that differs from their sex. One of these students identifies as "nonbinary."

19. The school board's practice is that all students, including those who identify as a gender that differs from their sex, participate in school activities based on sex. For example, a school would not enroll a male student in a girls' P.E. class, even if that student self-identified as a girl.

20. The school board's practice is that all persons use sex-designated private facilities (such as restrooms, locker rooms, or changing rooms) based on biological sex. Facilities designated for "men" or "boys" may be used by biological males only. Facilities designated for "women" or "girls" may be used by biological females only.

21. The school board does not have and does not intend to adopt a policy mandating that staff or students use opposite-sex names or pronouns when referring to transgender students.

22. Attached as Exhibit 1-A is a true and correct copy of excerpts from the Rapides Parish School Board Policies Handbook and Student Code of Conduct for the 2023–2024 school year. These policies use the word "gender" as a synonym for "sex," with both words meaning the biological binary of male and female. *See, e.g.*, Ex. A at 101–102, 104–107.

23. Attached as Exhibit 1-B is a true and correct copy of the school board's "Field Trips and Excursions" policy for the 2023–2024 school year.

24. Attached as Exhibit 1-C is a true and correct copy of the school board's "Employee Conduct" policy for the 2023–2024 school year.

25. Many of the school board's policies and practices will have to be amended to account for transgender-identifying students, faculty, staff, or parents if the new Title IX rule is not enjoined. The school board would not make these amendments to its policies and practices but for the new Title IX rule forcing the board to do so.

I declare under 28 U.S.C. § 1746 and under penalty of perjury that this declaration is true and correct based on my personal knowledge.

Executed this 29th day of April, 2024, at Alexandria, Louisiana.

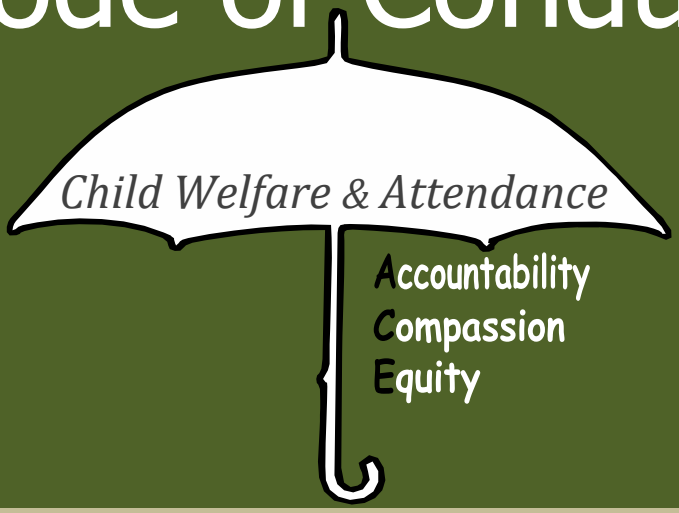
Jeff Powell

Superintendent
Rapides Parish School Board

EXHIBIT 1-A

Excerpts from the
2023–2024 Rapides Parish School Board Policies Handbook and Student Code of Conduct

Rapides Parish School Board Policies Handbook and Student Code of Conduct



2023 2024

Rapides Parish School Board
619 Sixth Street
Alexandria, Louisiana 71301

Attendance
Bullying
Discipline
R.A.A.A.V.L.
R.A.P.P.S.
RTI
School Calendar
Student Rights and Responsibilities
Substance Abuse
Transfers

Section XII
The Right to Express and Dress

FREEDOM OF SPEECH

A. RIGHT

Students have the right to express their opinions verbally or in writing and under reasonable restraints, to distribute written material on school grounds or in buildings as long as this expression in no way interferes with the orderly process of the school. Prior approval of the principal is required for the distribution of written materials.

B. RESPONSIBILITY

Students should take care to express their opinions and ideas in a respectful manner so as not to offend or slander others. Freedom of expression does not extend to profane, vulgar, pornographic or racist material or communications advocating violence or criminal acts.

DRESS AND APPEARANCE FOR ALL STUDENTS

A. RIGHT

Students have a right to dress in comfortable fashions.

B. RESPONSIBILITY

Students should take care to express their opinions and ideas in a respectful manner so as not to offend or slander others. Freedom of expression does not extend to profane, vulgar, pornographic or racist material or communications advocating violence or criminal acts.

C. RAPIDES PARISH SCHOOL BOARD DRESS CODE

The school has the power to regulate student dress for school-sponsored extra-curricular activities, as well as that on the school campus.

Members of the dance line, boosters, and cheerleaders will be allowed to wear their uniforms on a game day at the discretion of the Principal.

Obscene, profane language or provocative pictures on clothing, backpacks, jewelry and accessories are prohibited.

Satanic, cult, or gang-related symbolism in any form is prohibited on school campuses.

Drug-related symbols in any form including advertisements or promotions of alcohol or tobacco are prohibited on school campuses.

Tattoos that are vulgar, obscene, gang-related or otherwise disruptive to the school environment are not permitted.

Student's hair must be groomed in such a manner that it will not draw undue attention. All natural, protective, cultural hairstyles shall be allowed to include but not limited to: afros, dreadlocks, twists, locs, braids, cornrow braids, Bantu knots, curls, and hair styled to protect hair texture or cultural significance.

The activity of hair braiding shall not be allowed during the school day.

No picks or combs are to be worn in the hair during school hours.

Extreme Mohawk hairstyles and hair carving/art are unacceptable. Feathers are not allowed to be worn in hair except for cultural purpose with approval from the principal.

Sunglasses are not to be worn in the school building. Shoes are to be worn at all times.

Except finger rings, no rings, studs, or pins are to be worn on the body. Earrings, however, for girls are permitted and studs for boys.

The waistline of pants, jeans and shorts are not to be worn below the top of the hipline.

Faces must be kept neat, both in the case of boys with facial hair or girls with excessive make-up. Facial hair must be kept neat and well groomed.

Students are prohibited from the following:

- Wearing tennis shoes with skates to school.
- Bringing electronic scooters to school.

Out of dress day attire will be at the discretion of the principal.

STUDENT DRESS CODE

SCHOOL UNIFORM POLICY

Students in Pre-K thru 12th Grade

BOYS:

Navy or khaki pants or shorts (no cargo pants/no cargo shorts or sweatpants).

Solid white and solid black, knit shirts with collar or cotton/cotton blend button front shirts with long or short sleeves - school logo(s) are optional.

GIRLS:

Navy or khaki pants, Capri pants, shorts, skirts, skorts or jumpers (no cargo pants/no cargo shorts or sweatpants). Leggings may be worn only under approved bottoms.

Solid white and solid black, knit shirts with collar or cotton/cotton blend button front shirts with long or short sleeves - school logo(s) are optional.

In each school, a committee shall choose no more than two (2) colored knit shirts with collars and spirit shirts. These shirts may have a school logo.

Shirts must be long enough to tuck in and remain tucked in at all times.

Only solid white, black, or grey undershirts or camisoles shall be worn under the school uniform shirt.

Jeans may be worn in any color only on approved jean days. Jeans are not part of the uniform.

Belts may be worn and must be buckled at all times. If worn, no part of the belt may be left hanging at any time and must be threaded through the loops.

Students may wear any jacket when weather dictates except for trench coats, dusters, knee length.

Sweatshirts/Pullovers

- Shall be solid white, solid black or a designated school color. These sweatshirts/pullovers may have school logo.
- Hoods are prohibited in the building.
- Sweatshirts/pullovers of any kind may not be worn in any way that creates a distraction.

Hats and hoods are prohibited in the building.

Uniform length: skirts, skorts, jumpers and shorts (boys and girls) must be no shorter than four inches above the knee as measured from the back crease of the knee. The knee-length requirement has been waived for all students in grades Pre-K – 3.

Shoes must be worn at all times. No rubber or foam swim footwear, flip-flops, beach or pool sandals, house shoes (slippers) or crocs will be allowed.

There will be no mutilation including tearing, ripping or cutting of hems, cuffs, sleeves or body of the coordinates. NO OVER SIZING! The uniform must be in the correct size to avoid any sagging.

The principal will have the authority to designate out of uniform days with or without pay.

Revised: February, 2001
Revised: January, 2002
Revised: July: 2006
Revised: June, 2007

Ref: Scott v. Board of Education, 304 N.Y.S. 2d 601 (1969); Darr v. Schmidt, 460 F.2d 609 (1972); La Rev. Stat. Ann. §17:416.7; Board minutes, 6-29-98, 11-23-98, 8-30-99, 12-3-99, 2-28-00, 3-27-00, 6-12-01, 8-7-01, 7-6-06, 6-5-07.

PROCEDURES APPLICABLE TO VIOLATIONS OF DRESS AND APPEARANCE REGULATIONS

1) Upon being advised of a student not being in compliance with the dress or appearance policy, the school principal or designee should confer with the student in an office setting and advise the student of the nature of the dress or appearance infraction and obtain the student's response. A written record should be made of the conference and the student should be encouraged to remedy the violation voluntarily to eliminate the necessity of any disciplinary action. An attempt should be made to contact by telephone, the parent(s) or guardian(s) of students under age 18 in an attempt made to remedy the violation without the necessity of formal discipline.

2) From the time of the initial conference with the school administrator, the student should be removed from class or the student population until either the end of the school day or the correction of the dress or appearance violation on that day.

3) Should the student return to school the next school day in violation of the dress or appearance regulations, the school principal or designee should confer with the student to determine whether the violation is willful, persistent or deliberate. A written record of the conference and the determination of whether the violation is willful, deliberate or persistent should be made. A second attempt to contact the student's parent(s) or guardian(s) and advise the parent(s) or guardian(s) of the situation should be made and the administration should make a brief note of the response of the parent(s) or guardian(s). The student should again be removed from the classroom setting but remain in school until the end of the school day or a remediation of the violation, whichever occurs first.

4) If the principal or designee, upon conferring with the student or parent, determines that the violation is deliberate or persistent and is unlikely to be resolved without the imposition of formal discipline, the school administrator shall initiate and follow the formal due process provisions for suspension and/or, in an extreme case, expulsion of the student presently found in *Section IV* of the *Rapides Parish School Board Policies Handbook and Student Code of Conduct*. A student enrolled in grades pre-kindergarten through 5 shall not be given an out-of-school suspension or expulsion or suspended from riding the bus for a uniform or appearance violation unless a determination is first made by the principal that the uniform violation is tied to a willful disregard to school policies by the student. (This last sentence should be included only if SB54 of 2015 passes and becomes law.)

STUDENT TRANSFERS FROM OUT OF THE PARISH

Students who move into Rapides parish from another parish or state will have five school days to be in compliance with the dress code.

DISCRIMINATION

There shall be no discrimination in regard to race, sex, religion, handicap, or natural origin in the Rapides Parish School System.

FILE: GAEAA
Cf: GAAA, GAE
Cf: JM,JGCE

SEXUAL HARASSMENT

The Rapides Parish School Board recognizes that sexual harassment can be a violation of state and federal law. The Board, therefore, shall not tolerate sexual harassment on the part of any employee towards another employee or a student within the workplace. Conduct in violation of this prohibition shall result in disciplinary measures, up to and including dismissal.

DEFINITION

Harassment on the basis of sex is defined as any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly as a term or condition of any individual's employment/education.
2. Submission to or rejection of such conduct by an individual is used as a basis for employment/education decisions affecting the individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work/education or creating an intimidating, hostile, or offensive working/educational environment. Incidents of sexual harassment may include verbal harassment such as derogatory comments, jokes, or slurs, or remarks or questions of a sexual nature; physical harassment such as unnecessary or offensive touching; and visual harassment such as derogatory or offensive posters, cards, cartoons, graffiti, drawings, looks, or gestures. Harassment does not only depend upon the perpetrator's intention, but also upon how the person who is the target perceives the behavior or is affected by it. Individuals who experience sexual harassment from coworkers or others should make it clear that such behavior is offensive to them.
4. Additionally R.S. 17:81Q prohibits electronic communication by school employees with students except under limited circumstances as defined by board policies. Such prohibited communications constitute harassment or intimidation and may subject the employee to discipline, dismissal or criminal prosecution as determined by applicable policies and statutes.

REPORTING PROCEDURES

In the event that an individual believes such instances require a remedy or that there is a basis for a complaint, the individual shall first discuss the issue with the individual's principal or immediate supervisor. Should no resolution occur to the satisfaction of the individual after five (5) days, a formal complaint may be filed. If the victim of the alleged sexual harassment is a minor student and if the alleged harassment falls within the definition of "abuse" as defined by the Board's policy on child abuse (Policy JGCE), then all school employees with knowledge are mandatory reporters and the allegations must be reported to child protection or law enforcement as provided by state law and the Board policy on child abuse. Such reporting must be made in addition to any procedures under this sexual harassment policy. If the victim of the sexual harassment is a student and the accused perpetrator is another student or is an individual not employed by the School Board, the victim shall report the incident(s) to the school guidance counselor, assistant principal, or principal as soon as practicable. If, after investigation, the allegations are determined to be well founded, the offending student shall be subject to suspension or expulsion under the Board's normal student disciplinary policies. Additionally, Board employees who become aware of such allegations should report them to child protection or to law enforcement agencies in accordance with the Board's mandatory reporting policies and state law if the offending conduct rises to the level of child abuse or neglect as therein defined. Failure of the victim to promptly report acts of sexual harassment shall not standing alone constitute a defense to discipline or dismissal and shall only be one factor in evaluating the validity of the allegations under this policy.

STEP 1 EMPLOYEE

If any employee has concerns or a complaint about the nature of any conduct or physical contact by another employee of the school district, the individual should file a formal written complaint with the Personnel Department or with the Superintendent. The receiving office will be charged with investigating the complaint and attempt to remedy it to the mutual satisfaction of all parties involved within five (5) working days of the date of receipt of the complaint. The investigating office shall indicate its disposition of the complaint in writing and shall furnish copies to all concerned parties.

STEP 1 STUDENT

If a student has concerns or a complaint about the nature of any conduct or physical contact by an employee of the Rapides Parish School Board, the student should contact either the school administrator or the school counselor. The school administrator will report the alleged incident to the Superintendent or his/her designee. The school administrator and the Superintendent or his/her designee will be charged with investigating the complaint and attempt to remedy it informally to the mutual satisfaction of all parties involved within five (5) working days of the date of receipt of the complaint. The investigating office shall indicate its disposition of the complaint in writing and shall furnish copies to all concerned parties. If the complaint constitutes a moral offense against a student as defined by Board policy, the procedures of that policy shall be invoked in lieu of any procedures under this sexual harassment policy.

STEP 2 - (EMPLOYEE AND/OR STUDENT)

In the event any of the concerned parties are not satisfied with the disposition of the complaint at Step One (1) or if no disposition has been made, then the concerned party may appeal to the Sexual Harassment Panel. The Sexual Harassment Panel shall include a chairperson, three males and three females selected by the Superintendent.
The Sexual Harassment Panel has seven (7) working days to schedule a hearing. If harassment is found, the panel may exercise one of the following options:

1. The panel may require an appropriate remedy which seeks to redress the wrong. Noncompliance with the remedy will result in disciplinary action.
2. The panel may recommend to the Superintendent that documentation be placed in one's evaluation folder, short or long term suspension with or without pay, or dismissal. The Sexual Harassment Panel shall give written disposition of the complaint within five (5) days of such hearing and shall furnish copies to the appropriate parties and to the Superintendent.

STEP 3 - (EMPLOYEE AND/OR STUDENT) Revised 10/2007

In the event the parties concerned are not satisfied with the disposition of Step Two (2) or if no disposition has been made within five (5) days of such meeting, the parties concerned may appeal to the Superintendent. The appeal shall be in writing and set forth the same information as in Step Two (2). The Superintendent within thirty (30) days shall meet with the appropriate parties. Disposition shall be made no later than five (5) days after the meeting. A copy of such disposition shall be furnished to the appropriate parties.

STEP 4 - (EMPLOYEE AND/OR STUDENT)

In the event the parties concerned are not satisfied with the disposition of the appeal at Step Three (3), or if no disposition has been made in Step Three (3), the concerned parties may appeal to the Rapides Parish School Board. The appeal shall be in writing and shall request that the Superintendent place the concern on the agenda of the next regularly scheduled Board meeting. Such written request must include copies of all decisions previously rendered in connection with the complaint.

Any employee who becomes aware of any allegation of possible harassment shall report such allegations to the Superintendent or designee. All reports received shall be properly and adequately investigated. Appropriate disciplinary action shall be taken when violations of this policy have been determined. The Board shall prohibit retaliation against an employee or student for a complaint made or for participating in an investigation of alleged harassment, unless, after investigation, it is found that the accuser has made a willfully false accusation in which case the accusing employee or student shall be subject to discipline or dismissal under the Board's standard due process provisions.

Nothing contained in this policy and/or procedure shall restrict or diminish the authority of the Superintendent to suspend or terminate any employee in accordance with the policies of the Rapides Parish School Board, state law and applicable statutes.

Failure to meet any procedural deadline imposed herein shall not be cause for dismissal of proceedings absent the demonstration of material prejudice by the affected person.

STUDENT HARASSMENT OR INTIMIDATION

It is the policy of the Rapides Parish School District to provide and maintain a learning environment that is free from harassment and/or intimidation because of a student's gender, race, color, national origin, ethnicity, or disability.

To this end, the school district prohibits any and all forms of harassment and for intimidation because of a student's gender, race, color, national origin, ethnicity, or disability.

It shall be a violation of the school district's Student Harassment or Intimidation policy for any teacher, administrator, or other school personnel of this school district to tolerate racial harassment or intimidation or harassment or intimidation based on a student's gender, color, national origin, ethnicity, or disability, by any student, teacher, administrator, or other school personnel, or by any third person or parties who are participating in, observing, or otherwise engaged in activities, including sporting events and other extra-curricular activities, under the auspices of the school district or any of its schools.

For the purposes of this policy, other school personnel means non-instructional support staff employees or other persons subject to the control and/or supervision of the school district.

The school district shall act promptly to investigate all complaints, either formal or informal, verbal or written, of harassment and/or intimidation because of a student's gender, race, color, national origin, ethnicity, or disability; to promptly take appropriate action to protect students from further harassment and/or intimidation; and, if it determines that prohibited harassment or intimidation has occurred, to promptly and appropriately discipline any student, teacher, administrator, or other school personnel who is found to have violated this policy and/or to take other appropriate action reasonably calculated to end the harassment and/or intimidation.

This policy shall be reproduced in the school district's employees' handbook and in its student's handbook.

DEFINITIONS

A. Harassment and/or Intimidation based on a student's race or color for purposes of this policy racial harassment and/or intimidation of a student based on race or color shall consist of verbal or physical conduct, or actions displays or depictions, relating to an student's race or color, by a student, teacher administrator or other school personnel when

1. the harassing conduct is sufficiently severe persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity or creates an Intimidating, threatening or abusive educational environment;
2. the harassing or intimidating conduct otherwise adversely affects or hinders or restrains a student's participation in a student activity or an extra-curricular activity; or
3. the harassing or intimidating conduct adversely affects a student's learning opportunities.

Examples of conduct which may constitute harassment and/or intimidation of a student because of race or color (regardless of whether the individual is white, black, Hispanic, Asian, Native American or other racial grouping) include, but are not limited to, the following:

- graffiti containing racially offensive language,
- racially offensive name calling jokes and humor,
- racially offensive notes, drawings and cartoons,
- threatening or intimidating conduct directed at another because of the other's race or color,
- racial slurs, racially negative and/or offensive stereotypes, and hostile acts which are based upon another's race or color,
- written or graphic material containing racial comments or stereotypes which is posted or circulated and which are aimed at degrading students on account of race or color,
- threats and physical acts of aggression or assault upon another because of, or in a manner reasonably related to, race or color,
- other kinds of aggressive conduct such as theft or damage to property which is motivated by race or color considerations,
- possession and display or showing of racial hate materials and publications of groups or organizations which espouse racial intolerance or hatred, or which espouse the inferiority of a race or color where not used and approved by a teacher in connection with an authorized class, and/or

- display of Confederate flags or banners, display of black power symbols, or the display of any flag, banner or symbol of a group or organization which espouses racial intolerance or hatred, or which espouses the inferiority of a race or color where not used and approved by a teacher in connection with an authorized class.

B. Harassment and/or Intimidation based on a student's national origin or ethnicity

For purposes of this policy, ethnic or national origin harassment and/or intimidation of a student consists of verbal or physical conduct relating to a student's ethnicity or country of origin or the country of origin of the student's parents, family members or ancestors, by a student, teacher, administrator, or other school personnel when:

1. The harassing conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment;
2. The harassing or intimidating conduct has the purpose or effect of substantially or unreasonably interfering with a student's work or academic performance, or hinders or restrains a student's participation in a student activity or extra-curricular activity; or
3. The harassing or intimidating conduct otherwise adversely affects a student's learning opportunities.

Examples of conduct which may constitute harassment and/or intimidation of a student because of national origin or ethnicity include, but are not limited to, the following:

- graffiti containing offensive language which is derogatory to others because of their national ongoing or ethnicity,
- threatening or intimidating conduct directed at another because of the other's national origin or ethnicity,
- ethnic jokes, name calling, or rumors based upon a student's national origin or ethnicity, or that of members of his/her family or ancestors,
- ethnic slurs, negative stereotypes, and hostile acts which are based upon another's national origin or ethnicity,
- written or graphic material containing ethnic comments or stereotypes which is posted or circulated and which are aimed at degrading students, members or descendants of a foreign nation of origin, or ethnicity,
- threats or physical acts of aggression or assault upon another because of, or in a manner reasonably related to ethnicity or national origin,
- other kinds of aggressive conduct such as theft or damage to property which is motivated by national origin or ethnicity, and/or
- possession and display or showing of ethnic hate materials and publications of groups or organizations which espouse ethnic intolerance or hatred, or which espouse the inferiority of an ethnic group where not used and approved by a teacher in connection with an authorized class.

C. Harassment and/or Intimidation based on a student's disability for purposes of this policy, physical or mental disability harassment and/or intimidation of a student consists of verbal or physical conduct relating to a student's physical or mental impairment by a student, teacher, administrator, or other school personnel when

1. the harassing conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program, activity or extra-curricular activity or creates an intimidating, threatening or abusive educational environment;
2. the harassing or intimidating conduct has the purpose or effect of substantially or unreasonably interfering with a student's work or academic performance; or
3. the harassing or intimidating conduct which otherwise adversely affects a student's learning opportunities.

Examples of conduct which may constitute harassment and/or intimidation because of a physical or mental disability include, but are not limited to, the following:

- graffiti containing offensive language which is derogatory to others because of their physical or mental disability,
- threatening or intimidating conduct directed at another because of the other's physical or mental disability,
- jokes, rumors or name calling based upon an individual's physical or mental disability,
- slurs, negative stereotypes, and hostile acts which are based upon another's physical or mental disability,

- graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading individuals with a physical or mental disability,
- physical acts of aggression or assault upon another because of or in a manner reasonably related to, an individual's physical or mental disability, or
- other kinds of aggressive conduct such as theft or damage to properly which is motivated by an individual's physical or mental disability.

DUTIES OF PRINCIPALS TO DISSEMINATE REVIEW AND EXPLAIN THIS POLICY

A. The principal of each school within the school system shall review and explain this policy to each teacher, administrator, and other school personnel assigned to, or otherwise authorized to be upon the campus of the school and shall have each such parson sign a form stating that the policy has been reviewed and explained to him or her and that he or she will abide by the policy. The form shall be provided by the school district coordinator for complaints of harassment and/or intimidation, and may be a form attached to the employee handbook. The original, fully executed form shall be retained by the principal and a copy of the form shall be sent to the school district coordinator for complaints of harassment and/or intimidation.

B. The principal of each school shall assure that this policy is reviewed and explained to all students enrolled in the school In a manner designed to adequately communicate to the students, based upon their age and general levels of understanding, the contents of this policy and reporting procedures for complaints of harassment and/or intimidation based on gender, race, color, national origin, ethnicity, or physical or mental disability. The principal shall also assure, in such a manner as not to deter meritorious complaints by students, the seriousness of this policy and the need to avoid the making unfounded complaints.

The principal may design a program or plan and designate teachers, guidance counselors and/or other administrators to review and explain this policy to students. At the elementary level, each parson designated to review and explain this policy shall execute a statement attesting they have reviewed and explained this policy to each student, and that all questions raised by students were handled and adequately answered. At the middle and high school grade levels, including the sixth grade, each student shall be required to sign a form attesting that this policy has been reviewed with, and explained to, them and that they understand this policy and will abide by it.

At the elementary level, the principal, to the extent practicable, also shall review and explain this policy to the parents/tutors/guardians of students enrolled in the school. This may be done at parent/teacher organization meeting or other appropriate assemblies of parents/tutors/guardians conducted on school property.

Each principal of each school, regardless of the grade levels served by the school, shall also assure that a copy of this policy is forwarded to each student's parents/tutors/guardians with a communication advising them that should they have questions regarding this policy, the same should be communicated to him or her for answer. This may be done by sending home with each student a copy of the *Rapides Parish School Board Policies Handbook and Student Code of Conduct* to each student's parents/tutors/guardians where the parent/tutor/guardian executes and returns to the school the *Receipt and Statements of Compliance Form* attached to each such handbook.

A copy of this policy shall be at all times conspicuously posted in each school in a location accessible to students, faculty, administrators and other school personnel. The posted copy of this policy shall contain a) the name, mailing address (Which may be that of the school) and work and home telephone numbers of the parson designated as the school's school-based coordinator for complaints of harassment and/or intimidation, b) the name, mailing address and work and home telephone number of the school district coordinator for complaints of harassment and/or intimidation, and. c) with respect to complaints of harassment and/or intimidation based on race or color. the name of the school district's monitor and the attorney employed by the United States Department of Justice with monitoring responsibility for the implementation of the Consent Judgment of December 7, 2000.

REPORTING PROCEDURES FOR COMPLAINTS OF HARASSMENT AND/OR INTIMIDATION

Any student who believes he or she has been the victim of harassment and/or intimidation because of his or her gender, race, color, national origin, ethnicity, or physical or mental disability by a student, teacher, administrator, or other school personnel, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extra-curricular activities, under the auspices of the school district or an Individual school, is encouraged to immediately report the alleged conduct or act to the person at his or her school designated as the school-based coordinator for complaints of harassment and/or intimidation, or to the principal, a guidance counselor, a teacher or other employee of the school system, including the school district coordinator for complaints of harassment and/or intimidation, and/or the Superintendent or other central office official. The school district

encourages the reporting party or complainant to use the report form available from the principal of each school or from the school district's central office, but oral reports shall be considered as complaints as well. Use of formal reporting forms is not mandated. Nothing in this policy shall prevent any person from reporting harassment directly to the Superintendent.

A. In each school, the principal, an assistant principal or a guidance counselor shall be designated by the principal as the school-based coordinator for complaints of harassment and/or intimidation.

B. Any teacher, administrator, or other school personnel who has knowledge or a belief, a reason to know, or receives notice that a student has or may have been the victim of harassment and/or intimidation, because of gender, race, color, national origin, ethnicity, or physical or mental disability shall immediately inform the school-based and school district coordinators for complaints of harassment and/or intimidation. Failure to immediately inform the school-based and school district coordinators for complaints of harassment and/or intimidation shall result in disciplinary action against the teacher, administrator, or other school personnel.

C. Any parent, tutor, guardian or other person who has knowledge or a belief, a reason to know, or receives notice that a student has or may have been the victim of harassment and/or intimidation because of gender, race, color, national origin, ethnicity, or physical or mental disability is encouraged to inform the school-based and school district coordinators for complaints of such harassment and/or intimidation, or the Superintendent or other school district or school-based official.

D. Upon receipt of a written report of harassment and/or intimidation, the school-based coordinator for complaints of harassment and/or intimidation shall immediately inform the school district coordinator for complaints of harassment and/or intimidation without prior screening or investigation of the report. A written statement of the alleged facts must be forwarded to the school district's coordinator for complaints of harassment and/or intimidation as soon thereafter as possible. Where an oral complaint or report is received by the school-based coordinator for complaints of harassment and/or intimidation, it shall be reduced to writing on a report form and the school district's coordinator for complaints of harassment and/or intimidation shall be immediately informed of the complaint prior to screening or investigation of the oral complaint. A written statement of the alleged facts must be forwarded to the school district coordinator for complaints of harassment and/or intimidation as soon thereafter as possible. Failure by a school-based coordinator for complaints of harassment and/or intimidation to forward a report or an oral complaint and the required written statement in timely fashion shall result in disciplinary action against the school-based coordinator for complaints of harassment and/or intimidation.

E. The school district has designated the Title IX Coordinator as its school district coordinator for complaints of harassment and/or intimidation.

1. He/she shall receive complaints or reports and written statements of harassment and/or intimidation because of gender, race, color, national origin, ethnicity, or physical or mental disability.

2. He/she shall oversee the investigative process.

3. He/she shall be responsible for assessing the training needs of the school district's staff and students in connection with the dissemination, comprehension, and compliance with this policy.

4. He/she shall arrange for the training required in Paragraph 34 of the Consent Judgment of December 7, 2000.

5. He/she shall ensure that any investigation into an alleged act or conduct involving harassment and/or intimidation because of a student’s gender, race, color, national origin, ethnicity, or physical or mental disability is conducted by an impartial investigator who has been trained in the requirements of equal educational opportunity, including harassment, and who is able to apply procedural and substantive standards which are necessary and applicable to identify harassment prohibited by this policy and any unlawful harassment or conduct, recommend appropriate discipline when harassment is found, and take other appropriate action to rectify the damaging effects of any prohibited act or conduct, including recommendations for interim measures which may be deemed necessary for the protection of the victim during the course of the investigation.

   In each instance in which harassment is found to have occurred because of an act or conduct of a student, the school district coordinator for complaints of harassment and/or intimidation schedule and conduct, or direct the school-based coordinator for complaints of harassment and/or intimidation and principal to schedule and conduct a conference with the parent(s), Mores) or guardian(s) of the child found to have committed an act or engaged in conduct prohibited by this policy.

In each instance in which harassment is found to have occurred because of an act or conduct of a teacher, administrator, or other school personnel of the school district, appropriate disciplinary actions shall be taken. In each instance in which harassment is found to have occurred because of an act or conduct of a third party, such person shall be banned from school activities under the auspices of the school district or any school within the school system.

In each instance in which the harassment alleged may, if found to have actually occurred, constitute a crime under either the laws of this state or of the United States, the school district coordinator for complaints of harassment and/or intimidation shall notify in writing the district attorney or the United States Attorney having jurisdiction over the matter. (This requirement may be satisfied by the school district coordinator for complaints of harassment and/or intimidation by consulting with the member of the district attorney's office designated to provide general counsel services to the school district or by consulting with the school district's general counsel should one be appointed to deliver general legal services for the school district. Compliance with the legal advice received through such consultation shall serve to discharge the responsibility imposed herein on the school district coordinator for complaints of harassment and/or intimidation.) In the event the district attorney or the United States Attorney elects to investigate the report or oral complaint of harassment and/or intimidation, a school district investigation into the matter shell, nevertheless proceed, unless enjoined by a court of proper jurisdiction.

6. The school district shall respect the privacy of the complainant, the individuals against whom the report or oral complaint is made against, and all witnesses as much as possible, consistent with the school district's obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

INVESTIGATIONS

A. Upon receipt of a written statement from a school-based coordinator for complaints of harassment and/or intimidation or upon receipt of a report or oral complaint from a third person, as the case may be, the school district coordinator for complaints of harassment and/or intimidation shall undertake or authorize an investigation. The investigation may be conducted by a school district official or a person designated to conduct such investigations. The investigator must be impartial and have received such training as provided for hereinabove.

B. The investigation shall consist of a personal interview with the complainant, and may include interviews with the complainant parent(s), tutor(s) or guardian(s), the individual(s) against whom the complaint is made and his/her parent(s), tutor(s) or guardian(s) where the alleged perpetrator is a student and others who have knowledge of the alleged act or conduct or circumstances giving rise to the complaint the investigation may also consist of an evaluation of any other information or documents which may shed light on the alleged act or conduct.

C. In determining whether a violation of this policy has occurred, the investigator shall consider

1. The nature and severity of the act or conduct,
2. How often the act or conduct occurred,
3. Whether the act or conduct was part of a continuing pattern of behavior, or whether past incidents of similar behavior have been found to have occurred,
4. The relationship between the parties,
5. The gender, race, color, national origin, physical and mental capacity, and age of the victim and perpetrator,
6. Whether the perpetrator was in a position of power, or whether because of his/her status the student had reason to believe the perpetrator, was in a position of power over the student subjected to the harassment and/or intimidation,
7. The number of alleged persons involved in the harassment and/or intimidation,
8. Where the harassment occurred,
9. Whether there have been other incidents of the same or similar behavior at the school involving the same or other students,
10. Whether the act or conduct adversely affected the student’s education, educational environment, or participation in extra-curricular activities, and
11. The context in which the alleged act or conduct occurred.

D. Upon completion of an investigation, the investigator shall make a written report to the school district coordinator of complaints of harassment and/or intimidation, where the investigation is conducted by another person, and the Superintendent. The investigation shall be completed in as expeditious an amount of time as practicable under the

circumstances, but in no event shall an investigation take longer to complete than one month from the date of its commencement, except where enjoined by a court of proper jurisdiction. The written report of the investigator shall contain a recommendation with respect to disciplinary action and shall be filed with the School Board, and a copy thereof shall be furnished to the school district monitor and, in cases involving harassment based on race or color, the attorney employed by the United States Department of Justice with monitoring responsibility for the implementation of the Consent Judgment of December 7, 2000.

STUDENT DISCIPLINE FOR VIOLATIONS OF THIS POLICY

A. The Superintendent shall be responsible for seeing to it that the disciplinary action recommended by the investigator is carried out, unless he/she provides written reasons as to why the recommended disciplinary action is overly severe or insufficient, based upon the investigative findings, in the written report. A copy of any such written reasons shall be filed with the School Board and a copy thereof shall be furnished the school district's monitor and, in cases involving harassment based on race or color, the attorney employed by the United States Department of Justice with monitoring responsibility for the Implementation of the Consent Judgment of December 7, 2000.

B. The discipline administered a student may include any discipline provided for in the discipline policies of the Rapides Parish School Board. In addition to the actions provided for in the said School district's discipline policies, a mandatory student/parent/tutor/guardian conference shall be conducted by the school district coordinator for complaints of harassment and/or Intimidation or the School-based coordinator for complaints of harassment and/or intimidation and the principal of the school.

With the exception of disciplinary action consisting of a suspension or expulsion which must be considered by the School Board, the investigators procedures contained in this policy shall supersede and take precedence over those contained in the discipline policies of the Rapides Parish School Board and the recommended discipline contained in the investigative report, as accepted or modified by the Superintendent, shall serve in lieu of any recommendation of a teacher or action by a principal.

In cases involving possible suspension or expulsion, the recommended discipline contained in the investigative report, as accepted or modified by the Superintendent, shall serve in lieu of any recommendation of a principal.

DISCIPLINE OF TEACHERS ADMINISTRATORS AND OTHER SCHOOL PERSONNEL

Teachers, administrators and other School personnel shall be disciplined by the School Board in accordance with applicable law and/or School Board policy.

Where the safety or welfare of a child may be at issue, the Superintendent is authorized to suspend a teacher, administrator or other school personnel with pay and benefits pending completion of an investigation and/or School Board disciplinary action.

REPRISAL

A. Submission of a good faith report or compliant of harassment and/or intimidation based on gender, race, color, national origin, ethnicity, or physical or mental disability shall not affect the complainant or reporter's future employment, grades, learning or working environment, participation in extra-curricular activities, or work assignments.

B. Any student teacher, administrator, or other school employee who retaliates against any person who complains or reports an act or conduct constituting or which may constitute harassment and/or intimidation because of gender, race, color, national origin, ethnicity, or physical or mental disability shall be disciplined by the school district. Retaliation includes, but is not limited to any form of intimidation, reprisal or harassment.

Ref: 29 U.S.C. 791 at. seq.; 42 U.S.C. 2000d; 42 U.S.C. 12131-12134; Consent Judgment, Virgie Lee valley et. al, y. Rapides Parish School Board, 12-7-00; La Rev. Stat. Ann. §§14:41 et seq., 17:81. Board minutes 2-06-02, 3-06-07.

EMPLOYEE TOBACCO USE

Board members and Board employees are prohibited from smoking, carrying a lighted cigar or cigarette, pipe or any other form of smoking object or device, or possessing any lighted tobacco product or any other lighted combustible plant material in any elementary or secondary school building, on the campus of any elementary or secondary school, in any building on the campus, on any school bus, or in the building or on the grounds of any other facility on property owned by or leased to the Board, including but not limited to the media center, the central office, the maintenance buildings or the grounds of those buildings.

Board members and Board employees are prohibited from chewing or otherwise consuming any tobacco or tobacco product on or in any buildings, grounds or buses mentioned in the foregoing paragraph.

Additionally, during the loading, unloading or transport of students, or during any school sponsored activity where students are present, no cigarettes, cigars, smoking paraphernalia or other tobacco products, whether chewing tobacco, snuff or otherwise, shall be displayed or placed so that those products are observable by any student during the participation by students in school or school related activities or transportation for those purposes.

The prohibitions mentioned above shall not apply to forested lands owned by the Board where no buildings or improvements are constructed such as 16"" Section swamp lands open to the public for recreational use unless students are present on a school sponsored or school related activity, in which case the prohibitions shall apply.

Revised: September, 2006
Revised: February, 2007

Ref: 20 USC 7183 (No Child Left Behind Act of 2001); La. Rev. Stat. Ann. §§17:240, 40:1300.251, 40:1300.252, 40:1300.253, 40:1300.255, 40:1300.261; Board minutes, 3-D7-Q6, 3-Q6-Q7.

STUDENT HARASSMENT OR INTIMIDATION NOT CAUSED BY A STUDENT'S RACE, COLOR, NATIONAL ORIGIN, ETHNICITY, SEX, SEXUAL ORIENTATION OR DISABILITY

It is the policy of the Rapides Parish School Board that harassment, intimidation, cyberbullying, and bullying of a student by another student is prohibited. Any student participating in such activities is subject to discipline including suspension or expulsion as provided by the general discipline procedures in the Student Code of Conduct.

For purposes of this Subsection the terms “harassment,” “intimidation,” and bullying shall mean any intentional gesture or written, verbal, or physical act that:

1. A reasonable person under the circumstances should know what will have the effect of harming a student mental or physical or damaging his property or placing a student in reasonable fear of harm to his life or person or damage to his property;
2. Is so severe, persistent, or pervasive that it creates an intimidating threatening or abusive educational environment for a student: and
3. Any student, school employee, or school volunteer who in good faith reports an incident of harassment, intimidation, cyberbullying or bullying to the appropriate school official in accordance with the procedures established by local board policy shall be immune from a right of action for damages arising from any failure to remedy the reported incident.

ACT 755

This act requires the board to review the student handbook and code of conduct and amend it to “assure that the policy prohibiting harassment, intimidation and bullying of a student by another student specifically addresses the nature, extent, causes and consequences of cyberbullying. The act requires the review and amendment not later than January 1, 2011, and requires that the board, within ten days of school enrollment by each student, inform each student of the prohibition against harassment, etc.

Section XIII
Searches

SEARCHES

INTRODUCTION

Students have a right to be free from unreasonable searches of their persons. However, Act No. 658, Section 416.3 of Title XVII of the Louisiana Revised Statutes of 1950 makes the following provisions relative to the search of students' persons, desks, lockers, and other school areas when searching for contraband, illegal drugs or weapons.

A. (1) The parish and city school systems of the state are the exclusive owners of all public school buildings and all desks and lockers within the building assigned to any student and any other area of any public school building or grounds set aside specifically for the personal use of the students. Any teacher, principal, school security guard, or administrator in any parish or city school system of the state may search any building, desk, locker, area, or grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

(2) The teacher, principal, school security guard, or administrator may search the person of a student of his personal effects when, based on the attendant circumstances at the time of the search, there are reasonable grounds to suspect that the search will reveal evidence that the student has violated the law, a school rule, or a school board policy. Such a search shall be conducted in a manner that is reasonable related to the purpose of the search and not excessively intrusive in light of the age or sex of the student and the nature of the suspected offense.

B. If any teacher, principal, school security guard, or administrator in the public school system is sued for damages by any student, the parent of any student, or other person qualified to bring suit on behalf of the student, based upon a search of that student's person, desk, locker, or any other area of a school building or grounds set aside specifically for that student's personal use, when the teacher, principal, school security guard, or administrator reasonably believed that the student had weapons, illegal drugs, alcohol, stolen goods, or other materials or objects the possession of which is a violation of the parish or city school board policy on his person, or had reasonable belief that such desk, locker, or other area contained such items, or based upon a search using a metal detector, it shall be the responsibility of the school board employing such teacher, principal, school security guard, or administrator to provide the defendant with legal defense, including reasonable attorney's fees, investigatory costs, and other related expenses.

C. Lockers shall be opened in the student's presence when administratively feasible.

D. A student not present shall be informed of the search.

E. Items which are specifically prohibited by law, Board policy or school regulation shall be impounded. The principal or designee shall report the discovery or confiscation of the following items or materials to the law enforcement officials:

1. Any firearms, explosives, bombs, knives or other implements which can be used as weapons or the careless use of which might inflict harm or injury.

2. Any controlled dangerous substance as defined in R.S.40:961 (7).

Any implement or material required to be reported to law enforcement officials as provided above shall be retained and secured by the administrator in such a manner as to prevent the destruction, alteration or disappearance of the item or material until such time as the law enforcement authority either takes custody of the implement or material, or provides notice to the school principal or administrator that it need no longer be retained. If law enforcement advises that the material or implement need not be retained, the administrator shall forward the material to the office of the superintendent, and the superintendent or designee may confiscate the item or material and have it destroyed or donated to appropriate law enforcement agencies, or may return it to the parent or guardian of the student as the superintendent in his or her discretion may deem appropriate.

F. The student shall be given a receipt for any items impounded by school administrators and parent or guardians shall be notified of any items impounded.

G. A written record shall be made, thereof, by the person conducting the search and shall include the name of the person involved, the circumstances leading to the search and results of the search.

H. Any search of a student's person shall be done privately by a teacher or an administrator of the same sex as the student to be searched.

I. When a search of a student's person is conducted, at least one witness, who is an administrator or teacher also of the same sex as the student, shall be present throughout the search.

J. Violation of this policy by a teacher, administrator or other school board employee shall be referred to the superintendent for appropriate disciplinary action as provided by board policies and applicable state law.

SEARCH OF NON-STUDENTS ENTERING PUBLIC SCHOOL BUILDINGS OR GROUNDS

Any school principal, administrator or school security guard may search the person, handbag, briefcase, backpack, purse or other objects in possession of any person who is not a student enrolled at the school or a school employee while said person is in any school building or on the school grounds, either by conducting a random search with a metal detector or by a reasonable physical search of the person's clothing or other possessions, when there is a reasonable suspicion that such person has any weapons, illegal drugs, alcohol, stolen goods or other materials or objects, the possession of which is a violation of the school board's policy or state law. Said search shall be conducted in a manner that is reasonable related to the purpose of the search and, if a search of the clothing or person of the party is conducted, it shall be conducted by a school employee or administrator of the same sex as the person to be searched. Except, when circumstances make it impracticable, the search of a non-student's person or clothing which is worn on the body should be conducted in a room or other private area and should be witnessed by an additional school employee of the same sex as the person to be searched. Any contraband or other illegal items, the possession of which violates state law or school board policy, which are found as a result of the search shall be impounded by the school board employee or administrator and the appropriate law enforcement agency notified.

METAL DETECTORS

Random searches with a metal detector of students of their personal effects may be conducted at any time, provided they are conducted without deliberate touching of the student.

GUIDELINES FOR USE OF METAL DETECTORS RAPIDES PARISH SCHOOLS PURSUANT TO R.S. 17:81 (L)

POLICY:

The Rapides Parish School Board, to help ensure the safety of its students and employees, has approved the use of metal detectors in schools. Strict guidelines will be followed to ensure that searches conducted with a metal detector are lawful, unbiased, and respectful of the right of privacy.

PURPOSE:

School systems in Louisiana are faced with ever-increasing violence and the use of weapons on or adjacent to school campuses and at after-school social functions. In this connection, it is generally believed that a so-called wand metal detector could prove useful as a deterrent when utilized in a publicized random search program. The purpose of these guidelines is to deter students from bringing weapons onto school property, thus reducing the potential for violent incidents.

NOTIFICATION:

(1) Signs shall be posted outside the entrances to School Board facilities in order to provide notice to all persons that they are subject to search as a condition of entry.

(2) The parents or guardians are hereby notified that random searches will be conducted.

RANDOM SEARCHES

(1). Search students at random as they enter school, enter the cafeteria and leave school; search all of every third, fourth, or fifth student.

(2). Select at random an entire class to search upon entering, and/or upon leaving the classroom.

DETECTOR SEARCH PROCEDURE

When conducting a detector search of a student or individual, the administrator shall request that all metal objects be removed from pockets and placed on a tray, along with any bags or parcels being carried. If the detector activates on the individual, the administrator conducting the search shall request that any remaining metal objects be removed. If the detector activates again, the individual should be taken to a private area and personally searched by a search team member of the same sex. A witness of the same sex should be present during this portion of the procedure. Strip searches are prohibited. Once the object causing the metal detector to activate has been removed, the individual shall be searched again with the metal detector, and the search will continue only if the detector activates again. A physical exam will be made of all bags and parcels belonging to the individual.

DISCOVERY OF CONTRABAND

Should an individual be found in possession of contraband (such as weapons, illegal drugs, or other prohibited objects), the search team member shall notify the appropriate school official and/or law enforcement officer. The law enforcement officer shall take custody of all weapons and illegal drugs. The administrator should attempt to notify parents of a student when a discovery of contraband has been made.

In the event concealed contraband is detected or suspected and the student refuses to produce the object the law enforcement officials shall be called to conduct a search.

RETURN OF PROPERTY

All property removed from an individual that is not prohibited by law or School Board policy and is appropriately possessed shall be returned to the individual.

SCHOOL GROUNDS

Following completion of a search of students, the search team should conduct a perimeter search of the school grounds for weapons or other contraband.

STUDENT ACCESS TO AUTOMOBILES

During the school day, students shall not enter automobiles on or near campus without permission from the teacher or principal. This will reduce student access to weapons or contraband.

Section XIV
Access to Records

Parents and guardians have the right to inspect and review any school records dealing with their children. Students eighteen (18) years of age or older have the sole right to inspect and review their respective student records. Review and dissemination of any student information shall be conducted under strict statutory precautions. Student records are defined to be all official records, files, documents, and other materials directly related to children, including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system. Such items include, but are not necessarily limited to, identifying data, academic work completed, grades, standardized test scores, attendance data, scores on standardized intelligence, aptitude, and psychological tests, and health data.

ANNUAL NOTIFICATION

All parents/guardians shall be notified annually of their rights under the Family Educational Rights and Privacy Act of 1974 (FERPA). Such notification shall be made annually by publication in student handbooks, newsletters, notification to student's home by students, by mail, or publication in the official journal or in such manner as deemed appropriate by the Board.

DIRECTORY INFORMATION

Information classified as "directory information" may be publicly disclosed from a student's record without the consent of the parent or eligible student where the release of the information is appropriately interconnected to school activities, athletic participation and the like. Directory information is hereby designated by the Rapides Parish School Board to include the following:

1. Student's name and grade level
2. Student's major field of study
3. Student's participation in officially recognized activities and sports
4. Student's weight and height as members of athletic teams
5. School attended by student and degrees and awards received by student
6. Photographs or videos of student taken in connection with the activities, awards, etc. mentioned above

A parent or adult student may refuse to allow release of directory information described above, thus prohibiting that release regarding the student to the public. The board's student handbook shall contain a brief statement notifying parents or adult students that they have thirty days in which to notify the school board of their refusal to allow release of directory information concerning the student as described above. The notice shall be in writing and delivered to the office of the principal of the school which the student will attend during the upcoming school year, with a copy simultaneously mailed or delivered to the office of the Rapides Parish Superintendent, P.O. Box 1230, Alexandria, LA, 71309. If the described notice is not so delivered, then the RPSB, its central office and school personnel may release directory information concerning the student as described above.

Collection and Disclosure of Information Related to Postsecondary Education

Upon obtaining the written consent (via the Release of Student Information consent form) from a parent, or student who has reached the age of majority or legal guardian of a student, the Board shall collect the following information from each student in grades eight through twelve:
(a) Full name.
(b) Date of birth.
(c) Social security number.
(d) Student cumulative transcript data.
(e) Race and ethnicity data.
The consent authorizes the Board to provide such information to Louisiana post-secondary institutions, LOSFA (Louisiana Office of Student Financial Assistance) and Board of Regents – full name, date of birth, social security number, race, ethnicity, and transcript data. The data will be used for the purposes of processing applications for admission and for compliance with state and federal reporting requirements, for state and federal financial aid, for required grant program reporting, for providing reports to the school's governing authority on the postsecondary education remediation needs, retention rates, and graduation rates, for each high school under its jurisdiction, and for evaluating comparative postsecondary education performance outcomes based on student transcript data in order to develop policies designed to improve student academic achievement**. Failure to provide written consent for the collection and disclosure of the student's information will result in delays or may prevent successful application for admission to a post-secondary educational institution and for state and federal student financial aid.** Once obtained such written consent shall continue year to year until withdrawn by the parent, eligible student or legal guardian. If a parent, eligible student or legal guardian wishes to deny consent for release of information related to postsecondary education, except as provided by law, he or she must contact the school office and complete a "Release 10 Clarification Form". Such termination does not apply to information generated/released

prior to the receipt of consent termination. Access by the Louisiana Department of Education LRS 17:3914 provides limitations on the access to student personally identifiable information by the Louisiana Department of Education. (a) Provide a student's identification number as provided by law, and aggregate data to the local school board, the state Department of Education, or the State Board of Elementary and Secondary Education solely for the purpose of satisfying state and federal reporting requirements. (b) Provide to the state Department of Education, for the purpose of satisfying state and federal assessment, auditing, funding, monitoring, program administration, and state accountability requirements, information from which enough personally identifiable information has been removed such that the remaining information does not identify a student and there is no basis to believe that the information alone can be used to identify a student. No official or employee of the state Department of Education shall share such information with any person or public or private entity located outside of Louisiana, other than for purposes of academic analysis of assessments. (c) Provide personally identifiable information regarding a particular student to any person or public or private entity if the sharing of the particular information with the particular recipient of the information has been authorized in writing by the parent or legal guardian of the student, or by a student who has reached the age of legal majority, or if the information is provided to a person authorized by the state, including the legislative auditor, to audit processes including student enrollment counts. Any recipient of such information shall maintain the confidentiality of such information. Any person who knowingly and willingly fails to maintain the confidentiality of such information shall be subject to the penalties provided by law. (d) Provide for the transfer of student information pursuant to the provisions of R.S. 17:112 **RELEASE OF STUDENT INFORMATION CONSENT FORM on page 185**

In accordance with the No Child Left Behind Act of 2001, schools shall honor the requests of military recruiters for names, addresses and phone numbers of high school students, unless parents or the adult student have specified that such information not be released to recruiters, with the parental or student notification having been delivered in duplicate in the manner described above relating to general directory information.

ACCESS TO RECORDS – ACT 547 of 2018

1. The parent or legal guardian of a minor student shall be provided access to student records upon within ten (10) business days of submitting a written request either electronically or on paper, no charge is made for records transmitted electronically. Paper copies of records shall be in accordance with the schedule adopted by the Board. Such records shall include academic records including but not limited to results of interim or benchmark assessments, records of discipline, records of attendance, records associated with a child's screening for learning challenges, exceptionalities, plans for an individualized education program or individual accommodation plan or any other student-specific file, document or material maintained by the school. If the student is eighteen (18) years or older, only the student has the right to determine who, outside the school system, has access to his/her records. The parent, legal guardian or student, if the student is 18 or over, will, upon written request to the principal maintaining those records, have the opportunity to receive an interpretation of those records, have the right to question those data, and if a difference of opinion is noted, shall be permitted to file a letter in said cumulative folder stating their position. If further challenge is made to the record, the normal appeal procedures established by School Board policy will be followed. Student records may only be examined in the presence of a school official competent to interpret student records information.
2. School personnel having access to those data are defined as any person or persons under contract to the system and directly involved in working toward either the affective or cognitive goals of the system.
3. Access to school records shall not be denied to a parent solely because he/she is not the child's custodial or domiciliary parent (La. Rev. Stat. Ann. §9:351).

RELEASE OF INFORMATION OUTSIDE THE SCHOOL SYSTEM

1. To release student records to other schools or school systems in which the student intends to enroll, the parents, legal guardian or the student, if he/she is eighteen (18) years or over, must be notified of the transfer and the kinds of information being released. They shall receive a copy of such information if it is requested in writing and shall have the opportunity to challenge that record as described above. Those data may be released to State Education and other governmental agencies only if the names and all identifying markings are removed to prevent the identification of individuals.
2. To release student records to other persons or agencies, written consent shall be given by the parent, legal guardian or the student if he/she is 18 or older. Such consent form shall state which records shall be released, to whom they shall be released and the reason for the release. A copy of the student record being sent shall be made available to the person signing the release forms if he/she so desires.
3. The principal of a public elementary or secondary school shall provide for the transfer of the education records, including special education records. If applicable, of any current or former student at his/her school upon the written request of any authorized person on behalf of a public or nonpublic elementary or secondary school, or an educational facility operated within any correctional or health facility, whether within or outside the state of Louisiana, where such student has become enrolled or is seeking enrollment.

Under no circumstances may a school or school district refuse to promptly transfer the records of any child withdrawing or transferring from the school. Transfer of records, whether by mail or otherwise, shall occur no later than ten (10) business days from the date of receipt of a written request.

4. Student records shall be furnished in compliance with judicial orders or pursuant to any lawfully issued subpoena if the parents, legal guardian and students are notified in advance.
5. All authorizations for release of information shall be filed in the student cumulative folder.
6. The School Board and employees may disclose education records or information from education records, without the consent of the parent or guardian of the student who is the subject of the records, to certain law enforcement officials. Disclosure of such records or information shall be in accordance with the following provisions:
   A. Disclosure of education records or information from education records shall only be made to state or local law enforcement officials or to other officials within the juvenile justice system Verification of the official's position may need to be made before the disclosure of records or information.
   B. The disclosure of the education record or information must relate to the ability of the juvenile justice system to serve, prior to adjudication, the student whose records or information is to be disclosed.
   C. The officials to whom the records or the information are disclosed shall certify in writing that that person, and any agency or organization with which that person is affiliated, shall keep the personally identifiable portions of the records or the information confidential and shall not disclose the personally identifiable portions of the records or the information to any person, agency, or organization except a person, agency, or organization within the juvenile justice system having an independent right to the information.
   D. Any other provisions necessary to comply with federal law or rules.

REVIEW OF STUDENT RECORDS BY THE PARENT

1. Schools shall provide for the review of student records by parents or guardians. Parents and students shall be given notification of their right to review the student records.
2. A parent or guardian who desires to review his/her child's record shall contact the school for an appointment. A conference shall be scheduled as soon as possible, not to exceed one month. The disclosure record shall be completed at the time of the conference. Prior to the scheduled conference, the principal shall review the record for accuracy and completeness.
3. The record shall be examined by the parent in the presence of the principal or a designated professional person. The principal or a designated professional person shall provide the parent an opportunity to raise questions regarding information on the records A record of the review shall be made on the disclosure record.
4. If the parent or guardian requests a hearing to challenge information contained in the student's folder, a written request for the hearing shall be made and a hearing scheduled for a date not less than three (3) working days or more than two (2) weeks from the date of the requests.
   A. The hearing shall be held with the principal and the parent or guardian at the scheduled time.
   B. If the parent or guardian is not satisfied with the hearing with the principal, he/she shall have the opportunity to appeal the decision to the Superintendent or designee(s).
   C. The parent or guardian shall request the appeal in writing to the Superintendent. Upon receipt of said request, the Superintendent shall schedule a hearing within ten (10) working days following receipt of the parent's request. The date, time and place of the review hearing shall be sent to the parent or guardian by United States registered or certified mail, return receipt requested.
5. At the review hearing:
   A. The Superintendent or designee shall preside;
   B. The parent or guardian and the principal shall be present. The student shall be present if requested by the parent or guardian or school official;
   C. The decision of the hearing shall be communicated to the school and parent or guardian in writing within ten (10) working days;
   D. The parent shall have the right to file a dissenting statement concerning the hearing; such statement shall become part of the student's cumulative folder.

Revised: October, 2001 Revised: February, 2003 Revised: December, 2009 Revised: May, 2013
Ref: 20 USC 1232 (g-i) (Family Educational Rights and Privacy Act), 20 USC 7908 (Armed Forces Recruiter Access to Student Information), 34 CFR 99. i -99 67 {Family Educational Rights and Privacy - Federal Regulations}; La. Rev. Stat. Ann. §§9:351, 17:81, 17:112, 17221.d._ +7-c~ 44:4 44:4.1 44:31 44:32, La. Civil Code, Art. 131, 134, 250; Board minutes 5-4-10.

STUDENTS' RECORDS

Schools must gather and maintain certain information about students for administrative purposes and for guiding students' proper education and career goals. The cumulative folder contains the official student record and will follow the student through school.

A. Contents of the cumulative records and permanent discipline folder may be examined only in the presence of the school official who is competent to interpret student's records.

B. Students, parents, guardians, or school officials may examine the contents of the cumulative records at all reasonable times. Exception: If students are eighteen years of age or older, they may deny access to their records by parents or other parties by a written notice on file.

C. Students eighteen years of age or older may examine the contents of the cumulative record at any reasonable time.

D. Other school personnel who have a proper educational purpose for examining the information may have access to the cumulative records.

- In accordance with state law (R.S. 71:81), student records or information may be disclosed to Law Enforcement & Juvenile Justice System officials without the consent of the parents subject to a confidentiality requirement by those agencies.

E. Access to school records shall not be denied to a parent solely because he/she is not the child's custodial or domiciliary parent (R.S. 9:351).

F. Legally, students' records cannot be withheld for non-payment of fees or debts.

Student records should be transferred within ten (10) business days to another school or education facility upon receipt of a written request for those records from the other education facility. (R.S. 17:112)

G. Any school fees owed by the student must be paid before the student can participate in commencement ceremonies from a public high school in Rapides Parish.

H. Student names, addresses and telephone numbers are not public records accessible upon request by the general public (R.S. 44:4(29) (a).

DIRECTORY INFORMATION - FERPA

In order to give parents notice as required by the policy, when the student handbook is prepared for the 2013-14 school year, a paragraph should be inserted in the "Student Records" section of the handbook to provide as follows:

Parents/guardians of students and students eighteen years of age or older are hereby notified of their rights to restrict the public release of certain information concerning the student in accordance with the Family Educational Rights & Privacy Act of 1974 (FERPA) and the No Child Left Behind Act of 2001. Should a parent /guardian or adult student wish to restrict the public release of certain information concerning the student in connection with athletic or academic honors received, participation in certain school activities, or access to records by military recruiters, the parents/guardians or adult students must notify the principal of the school which the student will attend in the upcoming year in writing, with a copy of notice being delivered or mailed to the office of the superintendent, P.O. Box 1230, Alexandria, LA, 71309, in accordance with the provisions of Rapides Parish School Board Policy JR. Failure to file the appropriate written notice within thirty days from dissemination of this handbook shall permit the student's school or the central office to publicly release general directory information concerning the student in connection with the student's participation in or receipt of honors or awards for athletic activities, academic endeavors, honors and degrees, etc., all as specifically provided by RPSB Policy JR.

CONSENT FOR RELEASE OF RECORDS CONTAINING PERSONALLY IDENTIFYING INFORMATION OF STUDENTS INCLUDING GRADE TRANSCRIPTS AND RECORDS FOR STUDENTS IN GRADES 8-12 REQUIRED FOR COLLEGE ADMISSION APPLICATIONS

Recent changes to State law (R.S. 17:3913-3914 and Act 228 of 2015) require that parental/guardian consent be obtained before schools or school personnel can release information, including a student's full name, which might be used to identify a particular student. A detailed consent form is found at the end of this Handbook and in order to permit schools to release traditional information regarding club and athletic participation, graduation programs, school yearbooks and more importantly, student grade transcripts to colleges to which a student is applying for admission, the parent/guardian must sign the written permission document and return it to the school's admitting office for filing. In compliance with recent state enactments, the document is detailed and provides that if consent is given it may be revoked by a written revocation signed by the parent/guardian and delivered to the school with a copy to the Rapides Superintendent of schools. Whether the consent is signed or not personally identifying student information will be released or provided by school personnel only in accordance with Federal or State law or Board policies applicable to providing this type of information to various agencies or, in the case of student accomplishments or participation in school activities, to media.

FREEDOM OF RELIGION

Students' religious beliefs are their own and should be respected; therefore, nothing shall permit the imposition of another's religious beliefs or teaching of any students.

SPECIAL EDUCATION AND TRAINING

Louisiana law provides for educational training abilities and opportunities for the handicapped. It is the responsibility of the public school system of Louisiana, both from the local and state levels, to offer the best available educational, learning, and training facilities, services, classes and opportunities to all children of school age within their respective boundaries. Parish school boards must provide transportation for special education students when such transportation is necessary.

No student however, may be excluded from regular classes because of mental or physical disability or handicap unless this is the placement decision of the Student IEP Committee.

A personal consultation with the parent or guardian must be provided. The parent or guardian shall have the right to have the child retested by the other competent public or private authorities, and if the retesting justifies, to determine the correct evaluation in the district court or juvenile court of the parish where the student lives. A student may be excluded from regular classes or from special education classes for disciplinary reasons. In keeping with the special education discipline policy, no child who is handicapped, including emotionally disturbed shall be assigned to a class for the handicapped because of disciplinary reasons.

TITLE IX

A. GENERAL

In June 1972, the Congress passed Title IX of the Education Amendment, a law which affects virtually every educational institution in the country. The law prohibits discrimination by sex in educational programs that receive federal funds. The law states in part that, "No person in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving federal financial assistance." Male and female students must be eligible for benefits, services, and financial aid without discrimination on the basis of sex.

B. MARRIAGE AND PREGNANCY

Any school or education program or activity receiving federal assistance shall not apply any rules concerning a student's actual or potential family, or marital status which treats students differently on the basis of sex.

A student shall not be discriminated against, nor excluded from the education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, termination of pregnancy or recovery

there from, unless the student requests voluntarily to participate in a separate portion of the education program or activity of the school. A school may require such a student to obtain the certification of a doctor that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a doctor. Instructional programs (outside or away from the regular school setting) for pregnant students must be comparable to that offered to non-pregnant students. Pregnancy must be treated in the same manner as any other temporary disability. At the conclusion of the disability, the student shall be reinstated to the status held before. **Federal Register, Wednesday, June 4, 1975, Volume 40, Number 108, Part II**

EXPECTANT AND PARENTING STUDENTS FILE: JQE Cf: IDDC

The Rapides Parish School Board is cognizant of the problems of marriage, pregnancy and parenthood among students prior to their graduation from high school. The School Board authorizes the Superintendent to assure that such students have the opportunity to earn the education which they deserve. It is recommended that a pupil who becomes pregnant shall notify the principal or guidance counselor in writing immediately upon knowledge of the condition. Pregnant pupils will be permitted to continue in school in all instances when continued attendance has the sanction of the expectant mother's physician. A physician's statement shall be submitted stating the pupil's medical condition, approval for continued attendance, and activities in which the pupil may not participate. The student shall keep the school administration continually apprised of her progress. The school shall not be held responsible for any medical problems that may arise with a pregnant pupil while she is in school. Should the student need to be absent from school for a prolonged period of time, the student may enroll in the School Board's homebound instruction program until released by her physician to return to regular classes. Any student who is not able to return to regular classes shall be encouraged to enroll in an appropriate alternative education program. Marital, maternal, or paternal status shall not affect the rights and privileges of pupils to receive a public education nor to take part in any extracurricular activity offered by the schools. After delivery, the student shall be permitted to return to school as soon as she is physically able, upon certification by her physician.

In regard to each expectant and parenting student, each school and the Rapides Parish School Board shall:

1. Maintain confidentiality in regard to the student;
2. Ensure a safe and supportive learning environment for the student;
3. Promote academic success for the student;
4. Utilize sensible attendance policies, taking into account all necessary factors; and,
5. Provide a supportive school environment that promotes high school graduation.

Revised: March 7, 2017

Ref: US Constitution, Amend. XIV, ' 1, 20 USC ' 1681 et seq. *(Discrimination Based on* Sex *or Blindness);* La. Rev. Stat. Ann. §17:221.7; Cleveland Board of Education v . LaFleur, 94 S.Ct. 791 (1974); Davis v. Meeks, 344 F.Supp. 298 (N.D. Ohio 1972); Holt v. Shelton, 371 F.Supp. 821 (M.D. Tenn. 1972); Board minutes, 3-7-17. Rapides Parish School Board

GRIEVANCE PROCEDURES

An aggrieved party is student, parent or concerned citizen with grievance to be filed with principal concerning unlawful practices at school site. Proceedings may terminate at any step upon mutual agreement or upon aggrieved party's satisfaction.

INFORMAL

Oral notification to principal
Oral hearing with principal (5 days)
Disposition of grievance (5 days)

FORMAL

With grievance filed with principal
Hearing scheduled by principal (5 days)
Disposition by principal (5 days)
Appeal to the Superintendent (5 days)
Copy to Board President
Hearing scheduled by Superintendent (15 days)
Disposition by Superintendent (5 days)
Filing appeal to the Board by the Superintendent (5 days)
Hearing scheduled by the Board (15 days)
Disposition by the Board in Executive Session (5 days)
Appeal to Courts and/or Civil Rights Office

EXHIBIT 1-B

Rapides Parish School Board
Field Trips and Excursions Policy

FILE: IFCB
Cf: EDAE

FIELD TRIPS AND EXCURSIONS

The Rapides Parish School Board recognizes that educational field trips and trips to various types of contests for instructional purposes help provide desirable learning experiences. The Superintendent shall have responsibility for development of administrative criteria governing field trips and excursions. Only those field trips that grow out of the instructional program or are otherwise related to the program, may be permitted on school time. Other trips such as those involving band and athletic activities should be confined to non-school time, except where the school is engaged in an activity, competition or contest that requires use of school time.

Teachers planning on conducting field trips or out-of-class learning experiences shall submit an application in writing to the principal for approval. Before any trip or excursion is taken, *written parental permission* forms shall be secured for every student planning to take the trip. Students who have not submitted signed parental permission forms shall not be allowed to take the trip.

Before approval of any field trip is given, it shall be determined whether the trip is covered by the School Board's liability insurance. No travel shall be authorized where coverage cannot be secured prior to the trip commencing. In addition, private vehicles shall not be used for transporting students on field trips or interscholastic activities unless evidence of adequate liability insurance coverage on the private vehicle is presented to the principal and such vehicle is driven by properly licensed adult. Liability insurance with the minimum limits of at least $25,000 each person/$50,000 each occurrence bodily injury and $25,000 property damage shall be required by the School Board. Individuals who use their own vehicles to transport students on field trips shall be required to sign acknowledgement forms regarding insurance requirements.

Only buses belonging to or contracted to the School Board and driven by certified drivers shall be permitted.

Additionally, any field trips consisting of boys and girls and requiring them to stay overnight must be chaperoned by faculty, staff, or parents of both sexes. Parents should be encouraged to serve as chaperones when possible.

The use of alcohol or any other illegal drug shall be strictly prohibited. All students shall be subject to the Rapides Parish School Board alcohol and drug policy. All luggage, as well as ice chests, shall be inspected by the chaperones to make sure that no alcohol or other illegal drugs are present before or during field trips. Behavior rules and regulations are the same as those while the students are attending school. These facts should be emphasized on the written parental permission forms.

Students shall be reminded that they are representing their school and all disorderly conduct shall reflect on their school. Also, any student violating any of these rules should be sent home immediately after their parents have been notified.

Ref: La. Rev. Stat. Ann. §§17:81, 17:176.1
Board minutes, 6-4-96, 2-5-97, 6-17-02

Rapides Parish School Board

EXHIBIT 1-C

Rapides Parish School Board
Employee Conduct Policy

FILE: GBRA
Cf: GBN, JG

EMPLOYEE CONDUCT

The Rapides Parish School Board believes the teaching profession occupies a position of public trust involving not only the individual teacher's personal conduct, but also the interaction of the school and the community. Education is most effective when these many relationships operate in a friendly, cooperative, and constructive manner. A teacher's conduct, as well as the conduct of all employees throughout the school district, should meet acceptable standards of the community and show respect for the law and the rights of others.

All employees, volunteers, student teachers, interns, and any other person affiliated with the Rapides Parish School Board have the responsibility to be familiar with and abide by the laws of the state, the policies and decisions of the School Board, and the administrative regulations and procedures designed to implement School Board policies. Employees and others shall also comply with the standards of conduct set out in this policy and with any other policies, regulations, procedures, or guidelines that impose duties, requirements, or standards of conduct attendant to their status as School Board employees. The Rapides Parish School Board acknowledges the First Amendment rights of its employees to speak publicly on matters of public concern.

Employees and all others shall be expected to observe at least the following standards of conduct:

- Be courteous to students, one another, and the public and conduct themselves in a professional and ethical manner.
- Recognize and respect the rights and property of students, other employees, and the public.
- Maintain confidentiality of all matters relating to students and other employees.
- Demonstrate dependable attendance and punctuality with regard to assigned activities and work schedules.
- Observe and adhere to all terms of an employee's contract or job description.
- Strive to keep current and knowledgeable about the employee's area of responsibility.
- Refrain from promoting personal attitudes and opinions for matters other than general discussion.
- Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in pre-kindergarten through grade 12 or in a manner that is not age-appropriate or developmentally appropriate for students in accordance with state standards.
- Refrain from using undue influence to gain, or attempt to gain, promotion, leave, favorable assignments, or other individual benefit or advantage.
- Advocate positive personal behavior on or off campus and attempt to avoid improprieties or the appearance of improprieties.

While the operation of the School Board and its schools is governed by the provisions of this and all other School Board policies, regulations, and procedures, as well as procedures of the individual schools, no policy manual can list each and every instance of misconduct that is precluded. Accordingly, employees are cautioned that the appropriateness of certain action or behavior must necessarily be dictated by the nature of the position held by the employee and standards of common sense. By virtue of one's education and experience, an employee knows and understands that certain actions or conducts are unacceptable even in the absence of formal School Board policy. For instance, without the need of a specific prohibition or warning, a classroom teacher should be aware of the impropriety of certain practices such as leaving students unattended, using profanity or sexually suggestive language, or bringing a firearm onto campus. Such conduct constitutes both incompetence and willful neglect of duty. Such conduct, as well as violation of any state or federal law or School Board policies, regulations, or procedures, or school regulations or procedures, shall result in the imposition of discipline up to and including termination.

PROHIBITED SEXUAL CONDUCT

Regardless of the age of the employee or the age of the student, employees are prohibited from engaging in any form of sexual conduct with students. Students are persons defined in the glossary of the *Policy Handbook* and the *Student Code of Conduct*. Additionally, it is a violation of criminal statutes for board employees to engage in sexual or any other types of inappropriate behavior with children or students under the age of seventeen (17), and further a criminal violation for any educator as defined in La. Rev. Stat. Ann. §14:81.4 to engage in sexual conduct with a student who is seventeen (17) years of age or older, but less than twenty-one (21) years of age, where there is an age difference of greater than four (4) years between the two persons.

Notwithstanding any claim of privileged communication, any educator, having cause to believe that prohibited sexual conduct has occurred between another educator and a student, shall be required by state law to immediately report such conduct to a local or state law enforcement agency.

NOTIFICATION BY EMPLOYEES

A teacher or any other School Board employee shall report any final conviction or plea of guilty or *nolo contendere* to any criminal offense, excluding traffic offenses, to the School Board within forty-eight (48) hours of conviction or plea.

Arrests for Certain Sexual Offenses

Effective January 1, 2012, any public school employee shall be required to report his/her arrest for a violation of La. Rev. Stat. Ann. §§14:42-14:43.5, 14:80-14:81.5, any other sexual offense affecting minors, any of the crimes listed in La. Rev. Stat. Ann. §15:587.1, or any justified complaint of child abuse or neglect on file with the Louisiana Department of Children and Family Services.

The report shall be submitted to the Superintendent or his/her designee within twenty-four (24) hours of the arrest. However, if the employee is arrested on a Saturday, Sunday, or a legally declared school holiday such report shall be made prior to the employee next returning for his/her work assignment at a school. Such report shall be made by the employee or an agent of the employee regardless of whether he/she was performing an official duty or responsibility as an employee at the time of the offense. In addition, the employee shall report the disposition of any legal proceedings related to any such arrest, which shall also be made a part of any related files or records.

Any employee who fails to comply with these provisions shall be suspended with or without pay by the School Board if such employee is serving a probationary term of employment or if the provisions of law relative to probation and tenure are not applicable to the employee.

Any employee employed by the School Board who is a tenured employee of the School Board shall be subject to removal under applicable state laws for failure to comply with these provisions. Written and signed charges alleging such failure shall be brought against the employee.

Unless criminal charges are instituted pursuant to an arrest which is required to be reported as provided above, all information, records, hearing materials, and final recommendations of the school pertaining to such reported arrest shall remain confidential and shall not be subject to a public records request.

School employee, as used in this policy, shall mean any employee of the School Board, including teachers, substitute teachers, bus operators, substitute bus operators, or janitor, and shall include all temporary, part-time, and permanent school employees.

New Policy: September, 2006
Revised: November, 2007
Approved: March 4, 2008
Revised: September, 2008
Revised: September, 2009
Revised: November, 2011
Revised: June 7, 2016
Revised: July 5, 2022

Ref: 41 USC 8103 (*Drug-Free Workplace Requirements for Federal Grant Recipients*)
La. Rev. Stat. Ann. §§14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.5, 14:80, 14:80.1, 14:81, 14:81.1, 14:81.1.1, 14:81.2, 14:81.3, 14:81.4, 14:81.5, 17:15, 17:16, 17:81
Sylvester v. Cancienne, 95-0789 (La. App. 1st Cir. 11/9/95), 664 So.2d 1259
Howard v. West Baton Rouge Parish School Board, 2000-3234 (La. 6/29/01), 793 So.2d 153
Spurlock v. East Feliciana Parish School Board, 03-1879 (La. App. 1st Cir. 6/25/04), 885 So.2d 1225
Board minutes, 3-4-08, 10-6-09, 1-3-12, 6-7-16, 7-5-22

Rapides Parish School Board