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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

NOVA MADAY, )  
)  
Plaintiff, )  
)  
v. )  
)  
TOWNSHIP HIGH SCHOOL DISTRICT )  
211, )  
Defendant. )

Case No. 17 CH 15791  
Hon. Thomas R. Allen

**FIRST AMENDED COMPLAINT**

Nova Maday (“Nova”), by her attorneys John Knight and Ghirlandi Guidetti of the Roger Baldwin Foundation of ACLU, Inc., Jeffrey H. Bergman of Mandell Menkes LLC, and Neil Lloyd, Meredith R.W. DeCarlo, and Carly E. Weiss of Schiff Hardin LLP, for her First Amended Complaint against Township High School District 211 (“District 211” or “the District”) states as follows:

**INTRODUCTION**

1. Nova is a young woman who attended Palatine High School, which is administered by District 211. Nova graduated in 2018. She is suing District 211 for damages for violating the Illinois Human Rights Act by treating her differently from other girls solely because she is transgender.

2. During the 2017-2018 school year, pursuant to its policy regarding transgender students’ use of locker room facilities, the District denied Nova full and equal enjoyment of the girls’ locker room by placing limits on her use of the locker room to change into required clothing for participation in physical education (“P.E.”) class that were not put on non-transgender students. Specifically, the District told Nova that it would only allow her to use the

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girls' locker room if she dressed in a separate changing area, or "privacy stall," within the locker room, even though the District did not require other non-transgender girls to do so.

3. Because Nova objected to being treated differently from other girls because she is transgender, and feared being stigmatized because she was not allowed to use the locker room in the same manner as the other students, she obtained a waiver at the District's suggestion from the required P.E. class. However, had she been allowed to use the locker room in the same manner as other girls, she would not have sought a waiver, and would have participated in P.E. class.

4. The District's policy would have conspicuously separated Nova from her fellow students, and singled her out for differential treatment, by requiring her to dress separately from them in a separate area within the locker room. The District's actions signaled to Nova that she was not really a girl, and that she should feel ashamed of who she is and ashamed about her body. Her treatment by the District challenged Nova's identity and personhood, undermined her self-confidence, and revoked her membership from her peer group.

5. School administrators across the country recognize that it is harmful to transgender students to single them out by treating them differently than their peers, and that frequently raised hypothetical concerns and fears, including privacy concerns, about allowing transgender students to use locker rooms and restrooms are "wholly unfounded in practice." Brief of Amici Curiae School Administrators from Thirty-One States and the District of Columbia at 3, 11-16, *Gloucester County School Board v. G.G.*, 2017 WL 930055 (U.S. 2017). In contrast, school districts with policies that allow students to use the locker rooms that match the student's gender identity "enhance[] the educational experience for all students." *Id.* at 3.

6. District 211's discriminatory treatment of Nova constituted illegal discrimination on the basis of gender identity under the Human Rights Act. Nova seeks to recover damages and attorneys' fees for this violation of her rights.

7. In addition to the illegal discrimination described herein that took place during Nova's senior year (the 2017-2018 school year), the District illegally discriminated against Nova by denying her the full and equal enjoyment of the girls' locker room at Palatine High School for periods prior to her senior year. However, in this First Amended Complaint Nova only seeks to recover damages and attorneys' fees for the violation of her rights that took place during her senior year. During that academic year, the District required Nova to change in an area within the girls' locker room separate from all the other girls if she wanted to use the locker room to change for P.E. class, a requirement that the District did not impose on non-transgender girls.

### **JURISDICTION**

8. Nova celebrated her eighteenth birthday, and became a legal adult, on September 23, 2017. On September 8, 2016, while Nova was still a minor, her mother filed charge number 2017-CP-0498 on her behalf against District 211 with the Illinois Department of Human Rights ("IDHR"). The charge alleged that District 211 unlawfully discriminated against Nova in violation of the Illinois Human Rights Act, 775 ILCS 5/1-101, *et seq.* (the "Act") by denying her use of the girls' locker room because she is transgender.

9. On or about September 6, 2017, IDHR mailed its Notice of Dismissal for Lack of Substantial Evidence (the "Notice of Dismissal") to counsel for the parties. Because IDHR mailed the Notice of Dismissal to the wrong address for Nova and her mother's lawyers, Nova did not receive it until October 11, 2017. Nova's initial complaint in this matter was filed within

ninety (90) days of receipt of the Notice of Dismissal and was therefore timely under 775 ILCS 5/7A-102(D)(3).

10. Venue is proper in this Court because the civil rights violations complained of took place in Cook County. 775 ILCS 5/8-111(A)(1).

### **THE PARTIES**

11. The District is a school district located in Cook County that operates several high schools, including Palatine High School. Nova attended Palatine High School from the time she began the ninth grade in the fall of 2014 until she graduated in May of 2018.

12. Palatine High School is an Illinois public school located in Palatine, Illinois. Palatine High School serves students in grades nine through twelve.

13. Palatine High School is a “place of public accommodation” under the Act, since it is a high school. 775 ILCS 5/5-101(A)(11).

### **FACTS**

#### **A. Nova is Female and Transgender**

14. Nova is a young woman.

15. Nova is transgender, since her female gender identity does not match her designation as male at birth. While hospital staff identified her as male at birth, she has known since she was young that she is female. Nova lives and presents herself as female in all aspects of her life.

16. Nova is not any less female than her female peers because she is transgender.

17. Everyone has a gender identity, which is an established medical concept referring to a person’s deeply felt, inherent sense of being a particular gender (e.g., a girl or female). Most people have a gender identity that matches their gender-assigned at birth, but a transgender person’s gender identity does not match the gender they were assigned when born.

18. Nova first told her family she is a girl on March 29, 2014, before her freshman year at Palatine High School. She did so because she had been experiencing extreme distress from gender dysphoria, a serious and internationally-recognized medical condition experienced by many transgender persons in which the mismatch between a person's gender identity and gender assigned at birth causes them persistent and clinically significant distress. In March or April of 2014, Nova sought medical treatment and was diagnosed with gender dysphoria. She has received treatment for the condition since then.

19. Gender dysphoria is recognized by the American Psychiatric Association's Diagnostic & Statistical Manual of Mental Disorder (5th ed. 2013).

20. Being transgender, however, "implies no impairment in judgment, stability, reliability, or general social or vocational capabilities." Am. Psychiatric Ass'n, *Position Statement on Discrimination Against Transgender & Gender Variant Individuals* (2012), at <https://goo.gl/iXBM0S>.

21. With appropriate treatment, individuals with gender dysphoria can be cured of the condition and experience no clinical symptoms.

22. Around the same time that Nova was diagnosed with gender dysphoria, she began growing out her hair, and dressing and grooming consistent with the styles of other girls her age at her school. In September of 2014, Nova began presenting fully and exclusively as a girl outside of school by also using a traditionally feminine name, the female pronouns "she/her/hers," and using female restrooms in public places. In October 2016, Nova started hormone therapy.

23. The medical and scientific community has reached a consensus that the treatment of gender dysphoria is for girls who are transgender to live as girls, and for boys who are

transgender to live as boys. For certain transgender persons, treatment may also include hormone therapy and surgery. Every major medical and mental health organization in the United States supports this consensus regarding treatment, including the American Medical Association and the American Academy of Pediatrics.

24. Transgender persons' ability to live consistent with their gender identity is critical to their health and well-being. This includes the ability to use names and pronouns that are congruent with their gender identity, groom and dress according to norms typically associated with their gender, and the use of restrooms and locker rooms that match their gender identity. Denying persons, including students, the ability to live according to their gender identity puts them at serious risk of depression and even suicide; while persons who are transgender who are able to live consistently with their core identity are able to lead successful lives in all respects, including the ability to excel at school and work.

**B. Nova's Experience at District 211 and the District's Denial of Her Use of the Girls' Locker Room.**

25. Nova presented fully as a girl at school beginning in October 2014. At school, she used a female name and dressed and groomed in a style consistent with the way other girls at school dressed and groomed. She also used the girls' restrooms at school with incident from May 2016 until she graduated. Nova's teachers and peers referred to her by her female name and female pronouns since October 2014.

26. Beginning in the spring of her freshman year of high school, Nova and her mother made repeated requests of relevant officials at the District that the District allow her to use the girls' locker room to change her clothes for P.E. class, as non-transgender girls did. Each time up until she met with the District in July 2017, the District refused to let Nova use the girl's locker room at all.

27. Before Nova's senior year of high school on July 24, 2017, Nova and her mother met with District staff again to request that she be allowed to use the girl's locker room. During that meeting, the District for the first time offered Nova use of the girls' locker room, but only if Nova agreed to dress in what the District referred to as a "privacy area," which was an enclosed stall within the girls' locker room. Nova and her mother refused that offer because the District did not require non-transgender girls to dress in such a stall, separated from the other girls. Instead, at the District's suggestion Nova and her mother accepted a waiver from the P.E. requirement

28. The District denied Nova the full and equal enjoyment of the girls' locker room for her senior year of high school (2017-2018). Under Illinois law, all students in grades Kindergarten through 12 must take a P.E. class, unless granted a waiver. Nova wanted to participate in P.E. class, like other students. However, because the District refused to let her use the girls' locker room, Nova agreed to accept a P.E. waiver.

29. The policy that District 211 adopted in the 2017-2018 school year that would have required Nova to change in a separate area within the girls' locker room because she is transgender is different from the locker room policies and practices used by numerous other schools. Numerous schools in Illinois and nationally treat transgender students the same as non-transgender students with respect to locker room usage.

30. Nova's ability to live as a girl in all aspects of her life has been essential for treating her gender dysphoria. Before treatment, Nova had severe depression. Once her treatment began, Nova's depression improved, her high school grades improved in all her classes besides P.E., and she became more social. On the other hand, being excluded from the girls' locker room at Palatine High School by District 211 or forced to change in a separate area was extremely

upsetting for Nova, and caused her great anxiety. It made her feel like an outcast and something less than a real person; it was simply humiliating for her.

**CIVIL RIGHTS VIOLATIONS UNDER THE  
ILLINOIS HUMAN RIGHTS ACT**

**Count I: District 211 Denied Nova the Full and Equal Access of Its Facilities Because of Nova’s Gender-Related identity.**

31. Nova hereby incorporates by reference and re-alleges Paragraphs 1 through 30, as though fully set forth herein.

32. The Act is intended to prevent and eliminate discriminatory practices in places of public accommodation because of an individual’s gender-related identity. 775 ILCS 5/1-102(A). The Act prohibits discrimination on the basis of “sexual orientation,” which is defined to include “actual or perceived...gender-related identity, whether or not traditionally associated with the person's designated sex at birth.” 775 ILCS 5/1-103(O-1).

33. It is a civil rights violation under the Act “for any person on the basis of unlawful discrimination to...[d]eny or refuse to another the full and equal enjoyment of the facilities, goods, and services of any public place of accommodation.” 775 ILCS 5/5-102(A).

34. By requiring Nova to change her clothes within a separate enclosed area within the girls locker room during the 2017-2018 school year, instead of allowing her to change outside of such an area as other girls were allowed to do, the District refused, withheld from, and denied Nova the full and equal enjoyment of its facilities, namely the girls’ locker room at Palatine High School, based on her gender-related identity.

35. As a result of Respondent’s violation of the Act, Nova suffered substantial mental and emotional distress, as well as the stigmatizing injury and deprivation of personal dignity that accompanies the denial of equal access to a place of public accommodation.

WHEREFORE Plaintiff respectfully requests the following relief:



- A. Actual damages, including damages for emotional distress, for the injury and loss suffered by Nova;
- B. Interest on Nova's actual damages;
- C. An order mandating that District 211 pay Nova's and her mother's reasonable attorneys' fees and costs pursuant to 775 ILCS 5/8A-104(G); and
- D. Any additional relief that the Court deems just and appropriate.

DATED: March 12, 2019

Respectfully Submitted,

NOVA MADAY

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that he caused to be served PLAINTIFF'S FIRST AMENDED COMPLAINT on this 12th day of March, 2019, by email to the following persons:

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