

No. 1-18-0294

In the
Appellate Court of Illinois
First Judicial District

NOVA MADAY,

Plaintiff-Appellant,

v.

TOWNSHIP HIGH SCHOOL DISTRICT 211,

Defendant-Appellee,

and

STUDENTS AND PARENTS FOR PRIVACY,
a voluntary unincorporated association,

Intervenor-Appellee.

Appeal from the Circuit Court of Cook County, Illinois,
County Department, Chancery Division, No. 17 CH 15791.
The Honorable **Thomas R. Allen**, Judge Presiding.

**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF OF
THE ILLINOIS SAFE SCHOOLS ALLIANCE
IN SUPPORT OF PLAINTIFF-APPELLANT AND REVERSAL**

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MOTION FOR LEAVE TO FILE BRIEF OF *AMICUS CURIAE*

Pursuant to Illinois Supreme Court Rule 345, the Illinois Safe Schools Alliance respectfully requests leave to file the accompanying *amicus curiae* brief in support of Plaintiff-Appellant Nova Maday and reversal of the Circuit Court. In support of this motion, *amicus* states as follows:

IDENTITY AND INTEREST OF *AMICUS CURIAE*

1. The Illinois Safe Schools Alliance (the “Alliance”) is a non-profit organization that promotes safety, support, and healthy development for lesbian, gay, bisexual, transgender, and questioning (“LGBTQ”) youth in Illinois schools and communities through advocacy, education, youth organizing, and research. The Alliance works with school districts throughout Illinois to draft and implement transgender inclusive policies, as well as advocates for gender inclusivity in schools, LGBTQ-affirming curriculum, and bullying prevention.

NEED FOR *AMICUS* PARTICIPATION

2. Transgender students in Illinois and throughout the country frequently experience harassment and discrimination in their everyday lives. One manifestation is school policies that prohibit transgender students from using restrooms, locker rooms, and other sex-specific facilities that match their gender identity. The medical and scientific consensus is that such exclusionary policies, like the locker room policy adopted by Defendant-Appellee Township High School District 211, stigmatize and cause social and psychological distress to transgender students.

3. The *amicus* brief shares stories of individual transgender students from Illinois that illuminate this conclusion. These stories reveal how Nova and other

transgender students in Illinois will suffer serious and enduring harms if this Court interprets the Illinois Human Rights Act to permit Township High School District 211 to single out Nova and treat her differently than other female students solely because she is transgender.

4. As detailed in the *amicus* brief, the transgender students who attended high schools with exclusionary policies had starkly different experiences from those students whose schools supported their transition and affirmed their gender identity. Students who were denied the use of sex-specific facilities consistent with their gender identity – or whose use of those facilities was restricted because they are transgender – felt stigmatized, ostracized, and forcibly “outed” as transgender. These students also suffered significant social, psychological, and educational setbacks. Their schools further failed to support them in other ways, such as failing to address bullying incidents and refusing to refer to the students by their correct names and pronouns.

5. In contrast, students whose schools adopted inclusive policies had positive experiences after coming out as transgender. These supportive environments, which treated transgender students the same as cisgender¹ students, permitted the transgender students to excel and succeed, socially, psychologically, and educationally.

6. The transgender student stories recounted in the *amicus* brief demonstrate the very real impact that school policies, like the locker room policy adopted by Township High School District 211, have on Illinois transgender students, like Nova. These student stories offer a unique perspective and specific insights that can assist this Court beyond what the parties will provide. The *amicus* brief also provides context for

¹ Cisgender is a term for people who are not transgender and whose gender identity matches the sex that they were assigned at birth.

the potential impact of this Court's ruling on *amicus*' constituency of schools and students, as well as the public, in balancing the equities of Nova's motion for preliminary injunction against Township High School District 211.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Illinois Safe Schools Alliance respectfully requests leave to file the accompanying *amicus curiae* brief in support of Plaintiff-Appellant Nova Maday and reversal of the Circuit Court. A proposed Order is attached hereto.

Dated: March 23, 2018

Respectfully submitted,

The Illinois Safe Schools Alliance

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INTEREST OF *AMICUS CURIAE*

The Illinois Safe Schools Alliance (the “Alliance”) is a non-profit organization that promotes safety, support, and healthy development for lesbian, gay, bisexual, transgender, and questioning (“LGBTQ”) youth in Illinois schools and communities through advocacy, education, youth organizing, and research. The Alliance works with school districts throughout Illinois to draft and implement transgender inclusive policies, as well as advocates for gender inclusivity in schools, LGBTQ-affirming curriculum, and bullying prevention.

INTRODUCTION

Transgender students in Illinois and throughout the country frequently experience harassment and discrimination in their everyday lives. One manifestation is school policies that prohibit transgender students from using restrooms, locker rooms, and other sex-specific facilities that match their gender identity. The medical and scientific consensus is that such exclusionary policies, like the locker room policy adopted by Defendant-Appellee Township High School District 211, stigmatize and cause social and psychological distress to transgender students. This brief shares stories of transgender students in Illinois that further support this conclusion. These stories reveal how Plaintiff-Appellant Nova Maday and other transgender students in Illinois will suffer serious and enduring harms if this Court interprets the Illinois Human Rights Act to permit Township High School District 211 to single out Nova and treat her differently than other female students solely because she is transgender.

As discussed herein, the transgender students who attended high schools with exclusionary policies had starkly different experiences from those students whose schools

supported their transition and affirmed their gender identity. Students who were denied the use of sex-specific facilities consistent with their gender identity – or whose use of those facilities was restricted because they are transgender – felt stigmatized, ostracized, and forcibly “outed” as transgender. These students also suffered significant social, psychological, and educational setbacks. Their schools further failed to support them in other ways, such as failing to address bullying incidents and refusing to refer to the students by their correct names and pronouns.

In contrast, students whose schools adopted inclusive policies had positive experiences after coming out as transgender. These supportive environments, which treated transgender students the same as cisgender¹ students, permitted the transgender students to excel and succeed, socially, psychologically, and educationally.

Courts in Illinois and throughout the country also have increasingly recognized the serious harms caused by isolating, stigmatizing, and discriminating against transgender students, like Nova. *Amicus* urges this Court to do the same and reverse the Circuit Court’s denial of Nova’s motion for preliminary injunction against Township High School District 211.

ARGUMENT

I. Sex, Gender Identity, And Transgender Individuals

The medical and scientific consensus is that “sex” is not simply a matter of what is recorded on a birth certificate based on a doctor’s evaluation of the baby’s appearance at

¹ Cisgender is a term for people who are not transgender and whose gender identity matches the sex that they were assigned at birth.

birth.² Sex is “not determined by any single criterion” and multiple factors are relevant, including “[h]ormonal sex,” “secondary sex characteristics,” “[p]ersonal sexual identity,” and “gender,” which “may be, or possibly may become, other than what is recorded on the person’s birth certificate.” *In re Heilig*, 816 A.2d 68, 73, 79 (Md. 2003); see *Schroer v. Billington*, 577 F. Supp. 2d 293, 306-07 (D.D.C. 2008) (crediting testimony “accepted in the relevant scientific community” that there are multiple “factors that constitute a person’s sex”).³

Every person has a gender identity, which refers to an individual’s internal knowledge of their own gender. See NCTE FAQs at 2. Unlike cisgender individuals, the gender identity of a transgender individual does not correspond to the sex assigned to them at birth. See *id.* at 1-2; see also *Whitaker by Whitaker v. Kenosha Unified Sch. Dist.*, 858 F.3d 1034, 1048 (7th Cir. 2017) (“[b]y definition, a transgender individual does not conform to the sex-based stereotypes of the sex that he or she was assigned at birth”). “A person is defined as transgender precisely because of the perception that his or her behavior transgresses gender stereotypes.” *Glenn v. Brumby*, 663 F.3d 1312, 1316 (11th Cir. 2011). There are 1.4 million transgender adults in the United States. See NCTE FAQs at 1.

Transgender individuals may realize they are transgender at any time in their lives. See *id.* “Trying to repress or change one’s gender identity doesn’t work; in fact, it can be

² See Nat’l Center for Transgender Equality, *Frequently Asked Questions About Transgender People*, at 1 (July 2016), available at http://www.transequality.org/sites/default/files/docs/resources/Understanding-Trans-Full-July-2016_0.pdf (hereinafter, “NCTE FAQs”).

³ See also *In re Lovo-Lara*, 23 I&N Dec. 746, 753 (BIA 2005) (“reliance on the sex designation provided on an individual’s original birth certificate is not an accurate way to determine a person’s gender”); *Rentos v. Oce-Office Sys.*, No. 95-cv-7908-LAP, 1996 WL 737215, at *6 (S.D.N.Y. Dec. 24, 1996) (recognizing the “multitude of factors that the medical community has deemed to be relevant in identifying an individual’s gender”).

very painful and damaging to one’s emotional and mental health.” *Id.* During or after the realization that they are transgender, some transgender individuals suffer from gender dysphoria, a medical condition characterized by serious emotional distress caused by the difference between the gender they were thought to be at birth and the gender they know themselves to be. *See id.* at 5. Treatment often includes a social transition where the transgender individuals begin to live their lives in accordance with their gender identity. *See id.* Significantly, this transition process includes using gender-specific facilities, like restrooms and locker rooms, as well as acceptance and recognition by their schools, work, families, and communities, in accordance with their gender identity. *See id.* at 5-6. “All major medical organizations in the United States recognize that living according to one’s gender identity is an effective, safe and medically necessary treatment for many people who have gender dysphoria.” *Id.* at 5. When allowed to socially transition, transgender youth experience “high self-worth” and “normative levels of depression,” in contrast to the “lower self-worth” and “markedly higher rates of anxiety and depression” among transgender youth with dysphoria who have not socially transitioned.⁴

II. Schools That Refuse To Treat Transgender Students In Accordance With Their Gender Identity Cause Them Serious Harm.

School administrations, like Township High School District 211, that refuse to treat transgender students in accordance with their gender identity in all respects cause real and lasting harm to transgender students. “[W]hile being transgender is not in itself an illness, many transgender people need to deal with physical and mental health problems [such as

⁴ Lily Durwood *et al.*, *Mental Health and Self-Worth in Socially Transitioned Transgender Youth*, 56(2) J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 116, 120 (2017), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5302003/>.

gender dysphoria, anxiety, and depression] because of widespread discrimination and stigma.” NCTE FAQs at 5. “[T]hese conditions are not *caused* by having a transgender identity: they’re a result of the intolerance many transgender people have to deal with.” *Id.* at 6 (emphasis in original).

An affirming and supportive school environment, which treats transgender students the same as cisgender students, is critical to helping transgender students live healthy and fulfilling lives. *See id.* at 6. In 2016, the National Education Association found that it is “essential to the health and well-being of transgender people for them to be able to live in accordance with their internal gender identity in all aspects of life,” including access to sex-specific spaces, such as restrooms and locker rooms.⁵ The “stigma and isolation” transgender students feel when they are “singled out and forced to use” separate facilities “contribute to and exacerbate [their] mental-health challenges” and “impair [their] ability to focus on learning.” *Bd. of Educ. of Highland Local Sch. Dist. v. U.S. Dep’t of Educ.*, 208 F. Supp. 3d 850, 871, 878 (S.D. Ohio 2016). For example, to avoid the embarrassment and stigma of having to use single-user facilities, transgender students will often entirely avoid using the restrooms at school, leading to discomfort and harmful medical consequences, such as severe dehydration, urinary tract infections, and kidney infections.⁶ In addition,

⁵ Nat’l Educ. Ass’n, *Legal Guidance on Transgender Students’ Rights*, at 24 (June 2016), available at https://www.nea.org/assets/docs/20184_Transgender%20Guide_v4.pdf.

⁶ *See, e.g.*, Jody L. Herman, *Gendered Restrooms and Minority Stress: The Public Regulation of Gender and its Impact on Transgender People’s Lives*, 19 J. PUB. MGMT. & SOC. POL’Y 65, 75 (Spring 2013), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Gendered-Restrooms-and-Minority-Stress-June-2013.pdf>; Mark A. Schuster *et al.*, *Beyond Bathrooms — Meeting the Health Needs of Transgender People*, 375(2) NEW ENG. J. MED. 101, 101 (July 14, 2016), available at <http://www.nejm.org/doi/full/10.1056/NEJMp1605912>.

“mistreatment in school ha[s] a lasting effect . . . and [is] correlated with a number of negative outcomes including higher rates of sex work, incarceration, homelessness, smoking, drug and alcohol abuse, HIV and attempted suicide.”⁷

Indeed, courts have increasingly recognized the serious harms caused by isolating, stigmatizing, and discriminating against transgender students based upon the expression of their gender identity. *See, e.g., G.G. ex. rel. Grimm v. Gloucester Cnty. Sch. Bd.*, 822 F.3d 709, 728 (4th Cir. 2016), *vacated on other grounds*, 137 S. Ct. 1239 (2017) (citing expert testimony that “put[ting] [a transgender student] in the humiliating position of having to use a separate facility, thereby accentuating [the student’s] ‘otherness’” and contributing to the “shame of being singled out and stigmatized in [the student’s] daily life . . . is a devastating blow . . . and places [the student] at extreme risk for immediate and long-term psychological harm”); *Whitaker*, 858 F.3d at 1045 (citing expert testimony that use of facilities consistent with a transgender student’s gender identity “is integral to [the student’s] transition and emotional well-being,” and that school policy, “which identified [the student] as transgender and therefore, ‘different,’ . . . place[d] [the student] at risk for experiencing life-long diminished well-being and life-functioning”); *Highland*, 208 F.

⁷ Jaime M. Grant *et al.*, *Injustice at Every Turn: A Report of the Nat’l Transgender Discrimination Survey*, Nat’l Center for Transgender Equality, at 46 (2011), *available at* http://www.transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf; *see also* *Whitaker*, 858 F.3d at 1051; Sandy E. James *et al.*, *The Report of the 2015 U.S. Transgender Survey*, Nat’l Center for Transgender Equality, at 9 (Dec. 2016), *available at* <http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf>.

Supp. 3d at 878 (finding that a transgender student would be irreparably harmed absent a preliminary injunction allowing her to use facilities consistent with her gender identity).⁸

III. Stories From Transgender Students Regarding The Effects Of School Policies And Practices On Their Lives.

The below stories are from transgender students in Illinois high schools. Their experiences highlight how transgender students, like Nova, suffer real damage to their educational, emotional, social, and mental well-being when they are subjected to exclusionary policies, like the locker room policy challenged in this case. In contrast, transgender students' academic potential and social, emotional, and psychological health are dramatically improved when schools treat them consistently with their gender identity in all respects.

A. Exclusionary School Policies Significantly Impair Transgender Students' Educational Experiences And Social And Mental Health.

The following transgender students faced school administrations that prohibited them from living in accordance with their gender identity while at school. The exclusionary school policies caused the transgender students to endure social, psychological, and educational setbacks. These stories demonstrate how Nova and other Illinois transgender students will suffer serious harms if this Court permits Township High School District 211 to single out Nova and treat her differently than other female students solely because she is transgender.

⁸ Moreover, courts have repeatedly rejected privacy-based arguments, such as the claim advanced in this case by Township High School District 211, that the government should protect cisgender students from having to share facilities with transgender students, as an insufficient basis to justify exclusionary policies. *See, e.g., Whitaker*, 858 F.3d at 1052-53; *Highland*, 208 F. Supp. 3d at 877; *Dep't of Fair Empl't & Housing v. Am. Pac. Corp.*, No. 34-2013-00151153-CU-CR-GDS, 2014 WL 2178570, at *4 (Cal. Super. Ct. Mar. 13, 2014).

1. Grayson Alexander of Springfield, IL

Grayson Alexander is an 18-year-old male who is transgender. Grayson graduated from Springfield High School, District 186 in 2017 and is currently a freshman at Loyola University Chicago. He is studying political science, history, and statistics and hopes to pursue a career in politics or advocacy. A recent photo of Grayson is below.



Grayson came out as transgender to his family in eighth grade and then, with their support, began his social transition by using his male name and pronouns the summer before high school. Prior to the start of the academic year, Grayson and his parents also reached out to his high school administration to inform them about his transition and obtain permission from the school's disciplinary officer for him to use the boys' restrooms. But that permission did not last very long.

Shortly into his freshman year of high school, Grayson and another transgender student were leaving the boys' restroom in the school's common area when they were stopped by a security guard who threatened the other student with detention. Grayson then spent the rest of that day sitting outside of the principal's office, where he listened to the

principal, disciplinary officer, and security guard debate the right of transgender students to use the schools' restrooms consistent with their gender identity.

Ultimately, Grayson was told he would no longer be allowed to use the boys' restrooms. Grayson was restricted to use only one single stall restroom located near the gym and far away from his classes. This significantly impacted Grayson's health and well-being, as he had to dramatically restrict his intake of liquids and hold his bladder for up to 12 hours on days when he had after school activities. In addition, other students noticed that Grayson was using a separate changing area for gym class, which forcibly outed him to those not otherwise aware of his transgender identity.

The school administration also forcibly outed Grayson by failing to change the roll call for his classes to reflect his correct male name, which resulted in both teachers and students referring to him by the wrong name and pronouns. This made Grayson feel further isolated and caused his grades to suffer. Grayson felt that most of his teachers viewed him as weird and kept their distance from him. Grayson also learned that another teacher had ranted about him to another class as a "girl walking in boys' clothing." Although that teacher did not refer to Grayson by name, all the students knew that the teacher was talking about Grayson. Grayson experienced further backlash when he tried to join the school's German Club, where a student called him by the wrong name and demanded that Grayson show him his "legal papers."

Throughout his freshman and sophomore year of high school, Grayson felt the school administration was sending the message that transgender people are not valued and do not matter. The transgender student with whom Grayson was stopped when leaving the boys' restroom (discussed above) ultimately faced a severe bullying situation and dropped

out of the high school to be homeschooled. This made Grayson very upset because students should not be scared to go to school and he thought that the school administration would implement measures to protect transgender students from bullying.

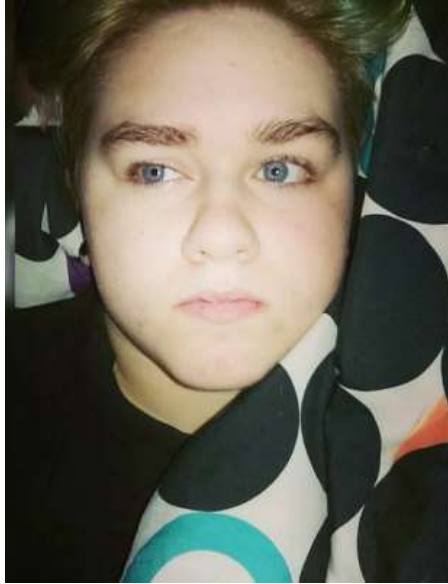
Luckily, Grayson's high school experience began to improve his junior year when the school district hired a new superintendent who had a more positive view on the treatment of transgender students. Finally, Grayson was given permission to use the boys' restrooms, and his name was changed on the official school roster. This was a "hallelujah moment" for Grayson, as restrooms became something he used, rather than something he had to worry about. Grayson could finally feel normal at school, though the administration still did not adopt an official policy supporting all transgender students. Yet, with the school's increased support, Grayson's academic performance greatly improved, and he earned straight A's his senior year. Students who previously teased him became neutral or even sympathetic towards him, and Grayson felt like nobody cared about his transgender identity anymore. In addition, it was Grayson's experience that his use of the boys' restrooms was of no consequence to other students, who treated him no differently than a cisgender male sharing a communal boys' restroom with more than 100 other people.

In stark contrast to his high school experience, Grayson's college experience has allowed him to come out on his own terms and thrive socially and emotionally. Loyola University Chicago gave him the choice to room with a student of whatever gender he felt most comfortable. Grayson now shares a dorm room with a male student and uses the men's communal restrooms without any objections or backlash. In fact, he has made lots of friends and serves as the president of his resident hall council.⁹

⁹ Source: February 11, 2018 Telephone Interview. Photograph included with permission.

2. Tegan France of Casey, IL

Tegan France is a 16-year-old male who is transgender and who previously attended Martinsville Jr./Sr. High School in rural Central Illinois. Tegan loves working out and was a star player on his youth football team. He hopes to pursue a career as a police officer. A recent photo of Tegan is below.



Tegan and his parents have known that he is transgender at least since he was three-years-old. Early on, Tegan wanted to shop for boys' clothing and underwear and try to stand up to urinate like his father. From the start, Tegan's parents were supportive and allowed him to present as male through his clothing and toy selections, as well as by regularly using the male public restrooms with his father.

Last year, in the middle of his eighth grade year, Tegan's parents informed the school administration that Tegan is transgender. In a meeting with the superintendent and several teachers, Tegan's parents requested that he be referred to by male pronouns and permitted to use the boys' restrooms and locker rooms. The school administration agreed, and Tegan began using the boys' restrooms and locker rooms. Tegan found this to be a

liberating experience and an affirmation of who he is. He felt that “a weight had been lifted off” his shoulders, and he was happier than he had been in a long time. He felt that other male students did not care that Tegan was using the male facilities.

However, about a week later, some parents formed a petition to bar Tegan from using the boys’ restrooms and locker rooms. This made Tegan feel humiliated and ashamed. Despite his parents and other families trying to fight the petition, the school board ultimately passed a policy requiring Tegan to use the girls’ restrooms and locker rooms or otherwise use a separate stall in the nurse’s office far away from Tegan’s classes or a separate stall off the gym that was not well-maintained. Tegan felt degraded and like an outcast.

Then, shortly after Tegan’s story became public through the local news, Tegan’s family faced more devastating backlash from the community. Tegan’s family received a notice that their rent was inexplicably doubling, and they were then evicted from the home where they had lived for four years. Also a few weeks after the news story, Tegan’s father was mysteriously fired from his job. Tegan’s family was forced to move out of Martinsville, to nearby Casey, which has a different high school. But Tegan did not enroll in the new school district and is now homeschooled because he did not want to go through this distressing experience again. Tegan’s experience with the Martinsville school administration caused Tegan to fall far behind in his classes, suffer severe anxiety, and face other emotional and mental issues.¹⁰

¹⁰ Source: February 17, 2018 Telephone Interview. Photograph included with permission.

3. Jonell M. of the Western Suburbs of Chicago, IL

Jonell M. is a 16-year-old female who is transgender. Jonell is a junior in high school in the western suburbs of Chicago, where she is a percussionist in the school's jazz and concert bands. A recent photo of Jonell is below.



During her sophomore year of high school, Jonell came out as transgender to her family, who were immediately supportive. Jonell's sister helped Jonell present as female through new clothing and makeup, and Jonell's mother promptly reached out to the school's guidance counselor. Jonell's mother wanted to help smooth Jonell's transition and was particularly concerned about whether the school would allow Jonell to use the girls' restrooms and locker rooms. Her mother's concerns were well-founded.

Jonell's school has denied Jonell use of the girls' restrooms and instructed her to use a separate restroom in the social worker's office. Jonell explains that this makes her feel "stigmatized" and "outed" and has forced her to hold her bladder or stop drinking as much during school hours. Continuing to use the boys' restrooms is not an option for Jonell as it would be "humiliating."

Jonell's school administration also outed and humiliated Jonell by denying her use of the girls' locker rooms. Instead, Jonell is required to use a separate, gender-neutral locker room, which is much smaller and not up to par with the girls' and boys' locker rooms used by other students. This makes Jonell feel horrible and believe that the school considers her to be a monster who does not belong and cannot be around other students. The isolating locker room experience triggers her gender dysphoria and causes her to take longer to change her clothes, which often results in Jonell arriving late to class. It also increases her anxiety, hurts her academic performance, and makes it difficult for her to get through each school day.

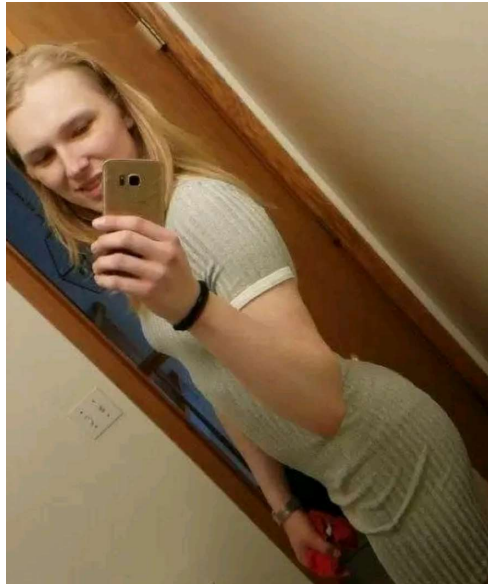
Most recently, Jonell's school ostracized her during an overnight band trip. The chaperones refused to allow Jonell to share a hotel room with other female students and only permitted her to room with male students or alone. The fact that she was not being treated as a female was very upsetting to her. After Jonell elected to stay in her own hotel room (as then, according to Jonell, it would "technically be a girls' room"), her room was not placed on the floor with the other girls and instead was on the floor with all the boys. Jonell was distraught and cried in her room most of the night. Eventually, the band director came and sat with Jonell to make sure she did not hurt herself from the devastating experience.¹¹

4. Athena O'Rourke of Lockport, IL

Athena O'Rourke is a 19-year-old female who is transgender. Athena graduated from Lockport Township High School, District 205, in 2017 and is currently a freshman at

¹¹ Source: February 15, 2018 Telephone Interview. Photograph included with permission.

Joliet Junior College. She is very interested in science and politics and is pursuing a degree in mechanical engineering. A recent photo of Athena is below.



Although assigned the male gender at birth, early on, Athena knew that “something was off” and that she did not identify as male. Athena came out as transgender to select friends during her sophomore year and then to her mother and stepfather during her junior year.

Before her senior year of high school, Athena began her transition with the support of the Gender & Sex Development Program at the Ann & Robert H. Lurie Children’s Hospital of Chicago. Athena also emailed her high school administration to inform them about her transition. Specifically, Athena requested that the school change her name and gender in the official records, issue her a new school ID card, and allow her to use the girls’ restrooms and locker rooms. Unfortunately, Athena’s school did not react positively.

Athena’s high school administration did not respond to her email. Instead, they notified her that they would discuss any accommodations on the first day of school. As a result, Athena began her senior year with the wrong name and gender marker in the school

records. Although Athena had emailed all her teachers to request that they use her correct name and pronouns, her name remained incorrect on the attendance sheets, which caused substitute teachers to call her by the wrong name and out her to the class.

Athena also was forced to begin her senior year without permission to use the girls' restrooms. Athena had to just "deal with it" and not use the restroom until she got home from school in order to avoid conflict and potential discipline by the staff since Athena did not have an official school ID card conforming to her gender identity. This impacted her ability to focus in her classes and increased her anxiety.

In addition, Athena was forced to begin her senior year without permission to use the girls' locker rooms. The school required her to use a locker in the middle of the boys' locker room, retrieve her gym clothes, go change in a private restroom down the hall from the boys' locker room, and then return to the boys' locker room to lock up her clothes. This made Athena feel unsafe and outed, and she would receive lots of stares from the boys in the locker room. Athena had to repeat this stigmatizing and inconvenient routine after gym class as well and, even though she had a pass to leave gym class early, she was often late to her next class.

A few months into her senior year, after a lawyer assisted her by sending a letter to the high school, the school finally changed Athena's name and gender in the official records, issued her a new school ID card, and granted her access to the girls' restrooms. However, the school still refused to allow her to use the girls' locker rooms. Instead, the school installed a locker in the single-user restroom down the hall from the regular locker rooms. Athena was completely secluded from the other students, and everyone called this "the transgender bathroom."

Beginning the second semester of her senior year, Athena was finally permitted to use the girls' locker rooms, but was forced to change in a completely separate area that was walled-off and curtained-off from the other girls. The area between Athena and the other girls also was patrolled by teachers. This daily segregation made Athena feel terrible.

Second semester of her senior year is also when the season began for the girls' track and field team. After Athena was cleared to participate by the Illinois High School Association (IHSA), Athena began to join her teammates in using the girls' athletic locker room at her school. Athena found this experience to be liberating, and her teammates were completely supportive. However, after just two days of using the girls' athletic locker room, a parent complained and Athena lost equal use of that facility. The school informed her that she would be required to change in a separate, curtained-off area, like they were mandating her to do for gym class. This was very distressing to Athena. Rather than be segregated from her teammates, Athena chose to show up to school in the morning already wearing her track clothes and not change for practice after school. The repeated exclusionary policies and practices at Athena's high school also made Athena depressed and negatively impacted her grades. She found it hard to concentrate on her course work, while at the same time facing daily discrimination and harassment at school.¹²

B. Supportive School Policies And Administrations Dramatically Improve Transgender Students' Lives And Educational Experiences.

In stark contrast to Grayson, Tegan, Jonell, and Athena, the following transgender students attended supportive high schools. Among other things, administrations adopted inclusive policies and supported their transgender students as they navigated their social

¹² Source: February 23, 2018 Telephone Interview. Photograph included with permission.

and medical transitions. These stories reveal the importance of treating transgender students the same as cisgender students and why Township High School District 211 should be enjoined from singling out Nova and treating her differently than other female students.

1. Avery Kaplan of Evanston, IL

Avery Kaplan is a 16-year-old male who is transgender and who is a junior at Evanston Township High School, District 202. Avery enjoys photography and writing, and he hopes to pursue a career in photojournalism. A recent photo of Avery is below.



Although assigned the female gender at birth, Avery realized in elementary school that he did not identify as female. Avery came out as transgender to his family in seventh grade and then to his school and friends at the beginning of eighth grade.

Even though Avery was the first transgender student to transition at Haven Middle School, District 65, the administration was very supportive and wanted to create a welcoming environment for Avery and any other transgender students. For example, the administration quickly implemented diversity trainings for all of its teachers and provided

Avery and other students with access to a psychologist to navigate any issues associated with his transition. If any of the teachers or students failed to refer to Avery by his male name and pronouns, the principal or psychologist immediately stepped in. Echoing that support, several of Avery's friends formed the "Avery Defense Squad" to correct any students who misgendered him. Avery believes that, because the administration treated him with so much dignity, it set the tone for the rest of the school to do the same. With that support, Avery could navigate school with more confidence, which led to improvements in his grades and health.

The support Avery received in middle school also gave him the confidence to fight for permission to use the boys' locker rooms in high school. Although Evanston Township High School used Avery's correct name and gender marker in the official records, and although the school assigned him to an all-boys gym class, the school initially required him to use a gender-neutral locker room. That "third" locker room was older than the regular boys' and girls' locker rooms and was off in a corner. It also lacked any locks, and the janitorial staff would frequently use it to cut from one wing of the building to another. This made Avery feel unsafe, othered, and like a burden.

Fortunately, last spring, the school board passed a new policy that grants students full use of the locker rooms that match their gender identity. Avery now regularly uses the boys' locker rooms, where he feels confident, affirmed, and safe. He has less anxiety about being transgender and can focus on normal high school activities, like taking the PSAT and working a part-time job as a busboy/dishwasher at a local burger restaurant. Avery believes that his presence in the boys' locker rooms is not an issue for other students because "teens

changing in front of each other is weird in general,” but no more uncomfortable because a transgender student is sharing the facilities.¹³

2. P.C. of the Western Suburbs of Chicago, IL

P.C. is a 15-year-old male who is transgender. P.C. is a sophomore in high school in the western suburbs of Chicago, where he works on the school’s tech crew and auditorium staff. He also is involved in the media program, which broadcasts school news and sporting events.

During junior high, P.C. realized that he is transgender, and he came out to his mother at the end of his eighth grade year. With her support, P.C. began to present as male, by using his male name and pronouns, dressing in more traditionally masculine clothing, and taking hormones. Also during the summer before P.C. began high school, his mother contacted his high school administration to inform them about his transition. The high school’s principal and assistant principal were very open and receptive. Among other things, the principal supported P.C. by staying after hours to officially change P.C.’s name and gender in the school’s system.

P.C.’s high school also supported P.C. by allowing him to use the boys’ restrooms and locker rooms. This was very important to P.C. because he did not want to be looked at as “just the transgender kid” or “the weird kid” who used a separate, gender-neutral facility. He wanted “to be like any other boy” at the school. And, ultimately, that is how he was treated. Following the lead of the principal, the school’s staff supported P.C.’s transition, and the other students were not unhappy or uncomfortable with P.C.’s use of the male facilities. Like any other male student, P.C.’s use of male facilities does not create any

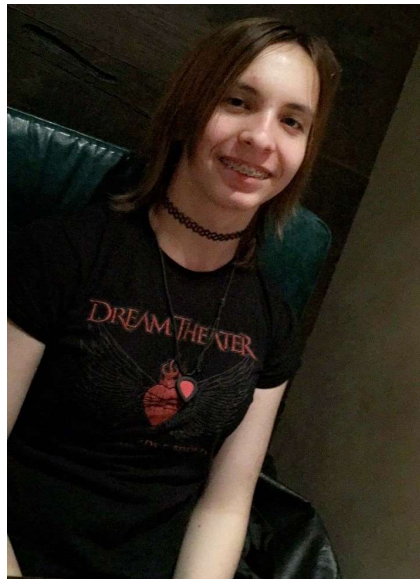
¹³ Source: February 16, 2018 Telephone Interview. Photograph included with permission.

privacy issue for other students. In P.C.’s words, he is just “going to the bathroom to pee” or “using the locker room to change.” But, most importantly, using those male facilities makes P.C. “feel normal” and has significantly reduced his anxiety.

Thanks to the school’s support, P.C.’s transition has been much easier than he expected. He is more confident and in a better mental state than he was a year ago. P.C. is thriving academically and is taking honors classes this year and next year. P.C. also will be attending an overnight trip with his school’s youth and government club, where he will be sharing a room with three other boys and completely accepted as male.¹⁴

3. Avi S. of Peoria, IL

Avi S. is a 15-year-old female who is transgender. Avi recently attended Elmwood Senior High School, District 322, before returning to homeschooling. She is an avid musician, who plays multiple instruments, including the guitar in her church’s global worship band. She also enjoys fencing. A recent photo of Avi is below.



¹⁴ Source: February 15, 2018 Telephone Interview.

Last year, during her sophomore year of high school, Avi came out as transgender to her family and friends. With their support, Avi began her transition by using her female name and pronouns. Then, the summer before her junior year, Avi purchased new clothing to match her gender identity and began wearing makeup. Avi also informed her school administration about her transition and that she would begin her junior year presenting as female.

Initially, the principal suggested that Avi use a single-user restroom instead of the school's gender-specific facilities. But Avi was not comfortable with that option because she did not want to be isolated from and treated differently than the other girls. She thought that this would send a message to the students and the staff that she was different and could be treated differently. The school's principal and superintendent responded that Avi would need to obtain permission from the school board to use the female facilities. Luckily, just days before the start of her junior year, the school board granted that permission. The principal also changed Avi's name in the school records.

Knowing that she had the support of the school's administration, Avi felt more confident in her gender identity. In particular, she found it affirming to be able to use the girls' restrooms and locker rooms and to have control over the decision whether or not to use those facilities. This led to a dramatic improvement in Avi's school attendance and grades.¹⁵

4. Tyler Saam of St. Charles, IL

Tyler Saam is an 18-year-old male who is transgender and who is a senior at St. Charles North High School, District 303. Tyler will be heading off to college next year to

¹⁵ Source: February 16, 2018 Telephone Interview. Photograph included with permission.

study political science and pre-law, with the goal of becoming a lawyer. A recent photo of Tyler is below.



Tyler came out to his friends and family as transgender in the middle of his freshman year of high school. With their support, he began presenting as male, by cutting his hair shorter, dressing in more traditionally masculine clothes, and using his male name and pronouns.

Shortly before beginning his sophomore year, Tyler informed his high school administration that he is transgender by sending emails to each of his teachers requesting that they use his male name and pronouns. They were all very receptive and, in particular, the gym teachers, assistant principal, and principal gave Tyler permission to use the boys' locker rooms. Tyler found it comforting to know that he had the school's support and the ability to use the facilities that match his gender identity. As a result, Tyler's mental health improved, and he felt less anxiety and depression throughout the school day. Tyler was able to focus on being very involved in extracurricular activities, including the Debate Team, the National Art Honor Society, and the Gay-Straight Alliance Club, for which he

serves as President. Tyler believes that, without use of the boys' restrooms and locker rooms, he would not have excelled in his extracurricular activities because he would not have stayed after school.

Now a senior, Tyler regularly uses the boys' restrooms and locker rooms and has had very positive experiences, without any harassment or bullying. He notes that he is respectful of his classmates' privacy when using those facilities and that he is not there to look at other students' bodies. Tyler's school administration apparently agrees. Recently, and following Tyler's urging, the school district officially included gender identity and sexual orientation protections in the School Board Policy Manual. Tyler is thrilled to know that he has helped blaze the trail for other transgender students to be protected in the future with these official safeguards.¹⁶

5. Jordon Eason of Chicago, IL

Jordon Eason is an 18-year-old male who is transgender and who graduated from the Chicago High School for the Arts in 2017. Jordon currently is a freshman at Monmouth College, where he is pursuing a degree in neuroscience.

Jordon came out as transgender to his friends, family, and teachers during his sophomore year of high school. In particular, he sent emails to all of his teachers asking them to refer to him using male pronouns. Jordon's teachers were supportive of his transition and would correct other students if they misgendered Jordon during class.

That year, Jordon also sought assistance with his transition from the medical staff of the Howard Brown Health Center. Because Jordon is male and had a masculine appearance, he felt increasingly out of place using the girls' restrooms, which students also

¹⁶ Source: February 19, 2018 Telephone Interview. Photograph included with permission.

used to change for dance classes. Jordon's school agreed and gave him a key to use a restroom for students with disabilities on the first floor of the building. However, most of Jordon's classes were located far away on the third floor, so Jordon's use of that restroom caused him to arrive late to class. That segregated, single-user facility also made Jordon feel isolated and strange, like his school did not know what to do with him.

Beginning his junior year of high school, Jordon used the boys' restrooms on his own accord and without any issues from the other students. Although the dean of student affairs repeatedly warned Jordon that he did not have permission to use the boys' facilities, Jordon's teachers continued to be supportive of his transition and talked to the dean so that Jordon would not get disciplined for using the facilities that matched his gender identity. Jordon appreciated the advocacy of his teachers and felt accepted for who he is. Jordon also believes that the respect that his teachers provided him set an example for the other students to do the same.

Like his high school teachers, Jordon's college administrators have been supportive of his gender identity. Monmouth College gave Jordon the choice to room with a student of the gender with which he felt most comfortable, and he now shares a dorm apartment with another male student. Jordon is also currently training to compete on the Monmouth men's track team next year.¹⁷

CONCLUSION

These stories demonstrate the very real impact that school policies, like the locker room policy adopted by Township High School District 211, have on Illinois transgender students, like Nova. When schools are unsupportive and exclusionary, transgender students

¹⁷ Source: February 25, 2018 Telephone Interview.

struggle socially, medically, psychologically, and educationally. But when schools treat their transgender students consistently with their gender identity in all respects, including with respect to locker room use, they have much better outcomes. The supportive schools, which treated transgender students the same as cisgender students, fostered environments that allowed transgender students to succeed in their educations and promoted their social and mental well-being. For these reasons, *amicus* respectfully urges this Court to reverse the Circuit Court.

Dated: March 23, 2018

Respectfully submitted,

The Illinois Safe Schools Alliance

By: /s/ Julia R. Lissner
Counsel for *Amicus Curiae*

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) & (b) and Rule 345. The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 26 pages.

/s/ Julia R. Lissner

Julia R. Lissner

NOTICE OF FILING and PROOF OF SERVICE

In the Appellate Court of Illinois
First Judicial District

NOVA MADAY,)	
)	
<i>Plaintiff-Appellant,</i>)	
)	
v.)	
)	
TOWNSHIP HIGH SCHOOL DISTRICT 211,)	
)	No. 18-0294
<i>Defendant-Appellee,</i>)	
and)	
)	
STUDENTS AND PARENTS FOR PRIVACY,)	
a voluntary unincorporated association,)	
)	
<i>Intervenor-Appellee.</i>)	

The undersigned, being first duly sworn, deposes and states that on the 23rd day of March, 2018, there was electronically filed and served upon the Clerk of the above court the Motion for Leave to File the *Amicus Curiae* Brief of The Illinois Safe Schools Alliance in Support of Plaintiff-Appellant and Reversal, along with the *Amicus Curiae* Brief, and that on the same day, a pdf of same was e-mailed to the following counsel of record:

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Within five days of acceptance by the Court, the undersigned states that 6 paper copies of the Brief of *Amicus Curiae* bearing the court's file-stamp will be sent to the above court.

/s/ Julia R. Lissner

Julia R. Lissner

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/ Julia R. Lissner

Julia R. Lissner

Case No. 18-0294
IN THE APPELLATE COURT OF ILLINOIS, FIRST DISTRICT

NOVA MADAY,
Plaintiff-Appellant,
v.
TOWNSHIP HIGH SCHOOL DISTRICT 211,
Defendant-Appellee,
and
STUDENTS AND PARENTS FOR PRIVACY,
a voluntary unincorporated association,
Intervenor-Appellee.

On Appeal from the Circuit Court of Cook County, Illinois,
County Department, Chancery Division,
Case No. 17-CH-15791
The Honorable Thomas R. Allen

ORDER

This cause coming to be heard on the **Motion For Leave to File *Amicus Curiae***
Brief Of The Illinois Safe Schools Alliance In Support of Plaintiff-Appellant And
Reversal, due notice having been given, and the Court fully advised in the premises;

IT IS HEREBY ORDERED that the motion is:

GRANTED _____

DENIED _____

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ENTERED:

Justice

Justice

Justice