

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

NOVA MADAY ¹ ,)	
)	
Plaintiff,)	Case No.
)	
v.)	
)	
TOWNSHIP HIGH SCHOOL DISTRICT)	
211,)	
Defendant.)	

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Nova Maday (“Nova”), by her attorneys John Knight and Ghirlandi Guidetti of the Roger Baldwin Foundation of ACLU, Inc., and Jeffrey H. Bergman of Mandell Menkes LLC, for her complaint against Township High School District 211 (“District 211” or “the District”), states as follows:

INTRODUCTION

1. Nova is a female high school senior who is suing District 211, the school district that runs her school, Palatine High School, for violating the Illinois Human Rights Act by treating her differently from other girls solely because she is transgender.

2. The District has denied Nova use of the girls’ locker room to change into required clothing for participation in physical education (“P.E.”) class while permitting all other non-transgender girls to use the locker room to change.

¹ Nova Maday is not the plaintiff’s current legal name. Rather, the plaintiff’s current legal name is the male name she was assigned at birth. However, she has filed a petition, which is currently pending before this Court, to legally change her name to Nova Maday and has used the name Nova at school and in the community since October 2014.

3. More recently, the District told Nova that it would allow her to use the girls' locker room, but only if she agreed to dress in an unspecified private changing area within the locker room, even though the District does not require other girls to do so.

4. Nova would like to participate in P.E. as other students are required to do.

5. Like students at many other high schools across the country, students attending P.E. classes at Palatine High School change into gym shorts and t-shirts without fully undressing or showering.

6. Students at Palatine High School changing for P.E. generally do not completely undress for class and take measures to preserve their privacy while changing.

7. Like many other students, Nova is modest about her body and would takes steps to avoid other students seeing her body in the locker room.

8. Like other students, Nova values privacy and would use the locker room to discretely change her own clothes and not observe anyone else's changing habits or bodies.

9. Under the District's policy, however, Nova must be conspicuously separated from her fellow students and singled out for differential treatment by being required to dress separately from them, either in a separate facility or in a separate area within the locker room. The District's actions signal to Nova that she is not really a girl and should feel ashamed of who she is and about her body, in particular. Her treatment by the District challenges Nova's identity and personhood, undermines her self-confidence, and revokes her membership from her peer group.

10. In order to take P.E., the District would separate Nova from her peers and single her out by requiring her to change in a separate area. As a result, for both her Junior and her Senior years up until the date of this complaint, she has accepted a waiver from participating in P.E.

11. District 211's discriminatory treatment of Nova constitutes illegal discrimination on the basis of gender identity under the Human Rights Act. 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.

12. Among other relief, Nova asks the Court to enter a cease and desist order that would allow her to use the girls' locker room to change for P.E. on the same terms as other girls and take P.E. before her last semester of school begins on January 9, 2018.

JURISDICTION

13. Nova celebrated her eighteenth birthday, and became a legal adult, on September 23, 2017. On September 8, 2016, Nova was still a minor, so 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.

14. 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. This complaint is filed within ninety (90) days of receipt of the Notice of Dismissal and is therefore timely under 775 ILCS 5/7A-102(D)(3).

15. 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

16. The District is a school district located in Cook County that operates several high schools, including Palatine High School. Nova has attended Palatine High School since she began the ninth grade in the fall of 2014 and is currently in the twelfth grade for the 2017-2018 school year.

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

18. 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

19. Nova is a young woman.

20. 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.

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

22. 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 transgender people's gender identity fails to match the gender they were assigned when born.

23. Nova first told her family she was 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.

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

25. 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>.

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

27. 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. Since September of 2014, Nova has presented 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.

28. 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.

29. 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 Denial of Girls' Locker Room Usage

30. Nova has presented fully as a girl at school since October 2014. At school, she uses a female name and dresses and grooms in a style consistent with the way other girls at school dress and groom. Also, Nova's teachers and peers have referred to her by her female name and female pronouns since October 2014.

31. Nova uses the girls' restrooms at school without incident. She delayed using the girls' restrooms until May 2016, however, because of her concern that the District's requirement that she dress for gym separately from all the other girls would encourage one or more of them to challenge Nova's use of the girls' restrooms.

32. In May 2015, Nova met with a school counselor to discuss her transition within the school environment and whether she could use the girls' locker room. The counselor told Nova she could not use the girls' locker room, which the Director of Student Services confirmed.

33. In June 2015, Nova's mother spoke with the school counselor about Nova's transition and about her locker room usage for P.E. in the fall of 2015. The counselor offered to allow Nova to use the private restroom in the nurse's office to change for P.E. class. Nova agreed to dress separately from the other girls, because the District had excluded her from the girls' locker room.

34. Soon thereafter, Nova's mother requested that the District list Nova's gender as female and reflect her female name in her school records. The District at first said that it was unable to make those changes, but then informed Nova on October 1, 2015 that it would do so.² At that time, the District also issued Nova an updated student identification card reflecting her female name and gender.

35. During the beginning of her sophomore year in fall 2015, Nova began to experience anxiety, depression, and worsening of her gender dysphoria related to the requirement that she dress separately from all the other girls for her P.E. class. As a result, her P.E. grade rapidly declined.

36. From November 2015 until June 2016, Nova's mother emailed, spoke by phone, and met with District 211 administration and Nova's P.E. teacher several times regarding Nova's performance and grade in P.E. and the harmful emotional impact her experience dressing for P.E. was having on her. In addition, Nova and her mother repeatedly renewed their request for Nova to be able to use the girls' locker room.

² District records indicate that it did not actually make the change until November 18, 2015.

37. On November 3, 2015, for example, Nova's mother emailed the school counselor and Director of Student Services about a notice she had received from the District discussing the federal Department of Education ("ED") investigation of the District for discriminating against another transgender student ("Student A") who attended another high school operated by the District. In the notice, the District referred to private changing stations in locker rooms and stated that transgender students may use the locker room that matches their gender identity if they use "individual measures of privacy." Nova's mother asked if Nova would now be allowed to use the girls' locker room. The Director responded that it was not possible to install privacy areas at Palatine High School so Nova would not be able to use the girls' locker room.

38. Again on December 3, 2015, Nova's mother emailed the District to ask whether the December 2, 2015 ED settlement regarding Student A would mean that Nova would finally be allowed to use the girls' locker room. The Director of Student Services told Nova's mother that the settlement only applied to Student A and would not extend to any other student in the District.

39. Nova's mother called the Director of Student Services on January 3, 2016 regarding Nova's ongoing problems with P.E. The District still refused to allow Nova to use the girls' locker room, but instead offered an alternate private locker room that would remain locked until Nova requested that school staff let her in to dress for P.E. class and to let her in again after class to change out of her gym clothing.

40. Nova began using the separate locker room on February 1, 2016, and soon ran into difficulties. On February 2, she found that the locker containing her belongings had been replaced. Nova went to the school office to ask the Director of Student Services what had happened to her gym clothes. After talking with several other District staff members, Nova learned that her locker had been replaced by other lockers, but no one was sure where the old lockers had been moved.

41. Nova and District staff spent several minutes trying to locate the locker, which they finally found on the school's loading dock. Nova retrieved her clothes and changed. However, by the time Nova made it to P.E. class, the period was halfway over. Even though Nova was late because of the District's actions in moving her locker, the P.E. teacher told her she would be required to complete the full set of class exercises in the remaining class time, which she was unable to do.

42. On February 3, 2016, the day after her locker was placed on the loading dock, Nova went back to using the restroom in the nurse's office to change for P.E. However, from February through May 2016, Nova's P.E. teacher changed the location of class approximately once per week and posted a notice inside the girls' locker room informing the other girls of the change. Nova was not allowed to enter the girls' locker room and the P.E. teacher did not tell her where P.E. class would be held, so Nova frequently had to wander around the school to find out where her P.E. class was being held, causing her to miss a significant amount of class time.

43. Isolating and singling out Nova from the other girls by forcing her to dress separately for P.E. and requiring her to at times wander the halls looking for where her class was being held were extremely upsetting experiences for Nova. These experiences worsened her anxiety level and further impacted her P.E. grade.

44. After Nova's mother contacted the Director of Student Services about the P.E. teacher's failure to advise Nova of the location of her P.E. class, the Director had a notice board installed outside of the girls' locker room where the P.E. teacher could post notice of the location for P.E. each day. However, the P.E. teacher rarely posted such a notice, so Nova continued to face the embarrassment and missed class time from having to search out where her P.E. class was being held.

45. On May 12, 2016, Nova's mother emailed Nova's P.E. teacher to explain Nova's difficulty with class and tried to work on a solution to make it possible for Nova to complete the class with a passing grade.

46. Nova's mother also emailed the Director of Student Services on May 13, 2016, regarding the guidance from the federal Departments of Education and Justice regarding the application of Title IX to transgender students ("Title IX guidance"). She wanted to know whether this guidance would mean that Nova would finally be able to use the girls' locker room. The Director followed up by phone and said the District would not be following the guidance.

47. The following day, May 14, 2016, Nova met with the Director of Student Services to once again request use of the girls' locker room. She informed him that she could not use the nurse's office anymore because of the extreme anxiety using it caused her.

48. From early May 2016 until the end of the school year in June, Nova's P.E. teacher grew increasingly hostile towards Nova, exacerbating Nova's anxiety. The teacher repeatedly told Nova that she would fail P.E. unless she did make-up sessions, and minimized Nova's experience of discrimination. The P.E. teacher's comments further upset Nova, making it even more difficult for her to participate in P.E. class.

49. On May 19, 2016, Nova's mother called the Director of Student Services to express her disappointment in the P.E. teacher's treatment of Nova, and asked that he talk with the P.E. teacher. The Director of Student Services assured Nova's mother that Nova would not have to repeat P.E., and that he would talk with the teacher about the situation.

50. The next day, on May 20, 2016, the P.E. teacher confronted Nova about her grade again, and said she would need to attend make-up sessions in order to pass the class. Nova told her what the Director had said the day before: that she would be able to pass P.E. so long as she

participated in class. The P.E. teacher said she had not heard from the Director but would follow up with him.

51. The P.E. teacher also asked why Nova was having a hard time participating. Nova explained the anxiety she experienced by being separated from all the other girls and forced to dress separately in the nurse's office. The teacher minimized the impact Nova's segregation should have on her, suggested that Nova had brought the problem on herself, and implied that she could simply dress with the boys. The teacher then suggested that Nova could keep her regular clothes on for P.E. for the rest of the school year, rather than changing for gym. Not dressing for gym, Nova explained, would only make her stand out more than she already does, since all the other girls in her class would be in their P.E. clothes.

52. Later that day, Nova told her mother about her conversation with the P.E. teacher. Nova's mother then emailed the Director of Student Services to request a meeting.

53. On May 23, 2016, Nova's mother met with the Director of Student Services, the school counselor, the P.E. teacher, and the Chair of the P.E. Department to discuss Nova's treatment by the P.E. teacher, and again requested that Nova be allowed to use the girls' locker room. This time, the Director told her that he had no authority to grant Nova permission to use the girls' locker room.

54. Nova's mother emailed the District administration on June 17, 2016, to again request that Nova be allowed to use the girls' locker room for the upcoming 2016-2017 school year.

55. Counsel for the District and for Nova spoke by phone on June 17, 2016 about Nova being able to use the girls' locker room. Nova's counsel advised the District's lawyer that Nova

wanted to be able to use the girls' locker rooms, but if the District intended to refuse that request she would accept a gym waiver as an alternative.

56. On July 1, 2016, the District Superintendent emailed Nova's mother regarding Nova's need to use the girls' locker room. Rather than affirming Nova's right to use the girls' locker room, the Superintendent said the District would discuss the possibility of a waiver of Nova's requirement to participate in P.E.

57. On August 11, 2016 District staff met with Nova and her mother and offered Nova a waiver from P.E. class, rather than allowing her to use the girls' locker room,

58. Close to a year later, Nova and her mother met with District staff on July 24, 2017. 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 an unspecified privacy area. Nova and her mother refused that offer because the District does not require non-transgender girls to dress in a privacy area. Instead, Nova and her mother accepted another waiver from the P.E. requirement.

59. The District has denied Nova the use of the girls' locker room for her sophomore (2015-2016), junior (2016-2017), and senior years (2017), up until the filing of this complaint. Under Illinois law, all students in grades Kindergarten through 12 must take a P.E. class, unless granted a waiver. Nova wants to participate in P.E. class, like other students. However, because the District has refused to let her use the girls' locker room, Nova has agreed up to now to accept a P.E. waiver.

60. District 211's position that Nova should be required to change in a separate area within the 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.

61. Based on her conversations with other girls, Nova believes that as a general matter the other girls at her high school do not fully disrobe when changing in the locker rooms for P.E. and take steps to minimize the chance that other girls will see their bodies. Nova would do the same.

62. On information and belief, no non-transgender student at District 211 was required to use a separate facility to dress for P.E. class from the common locker room used by the other students of the same gender or forced to use a separate changing area within the locker room.

63. 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. Since her treatment began, Nova's depression has improved, her grades have gotten better in all her classes besides P.E., and she has become 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 has been extremely upsetting for Nova, and causes her great anxiety. It makes her feel like an outcast and something less than a real person; it is 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.

64. Nova hereby incorporates by reference and re-alleges Paragraphs 1 through 63, as though fully set forth herein.

65. 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).

66. 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).

67. Respondent refused, withheld from, and denied Nova the full and equal enjoyment of its facilities, namely the girls’ locker rooms, based on her gender-related identity.

68. As a result of Respondent’s violation of the Act, Nova has 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:

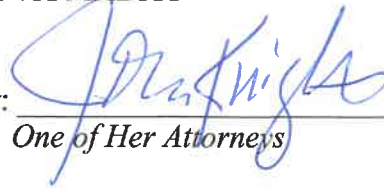
- A. The entry of an order directing District 211 to cease and desist from discriminating on the basis of gender-related identity by refusing transgender students, including but not limited to Nova, to use the locker rooms consistent with their gender identity and on the same terms as other students (i.e., without restrictions);
- B. The entry of an order directing District 211 to cease and desist from all other violations of the Act;
- C. Actual damages, including damages for emotional distress, for the injury and loss suffered by Nova;
- D. Interest on Nova’s actual damages;
- E. 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
- F. Any additional relief that the Court deems just and appropriate.

DATED: November 30, 2017

Respectfully Submitted,

NOVA MADAY

By:



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