

H.E., a minor, by, Hannah Edwards and David Edwards, her parents and natural guardians, and Hannah Edwards, and David Edwards,

Case Type: Discrimination  
Court File No.: \_\_\_\_\_  
Judge: \_\_\_\_\_

Plaintiffs,

**COMPLAINT  
AND DEMAND FOR A JURY TRIAL**

v.

Nova Classical Academy,

Defendants.

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**INTRODUCTION**

Plaintiff H.E., a transgender child, brings this action through and along with her parents and natural guardians, Hannah and David Edwards. The Edwardses enrolled their child in Nova Classical Academy because they believed it would be a good place for her to learn and thrive. When she began at Nova, in September 2015, H.E. presented as a gender non-conforming boy – a boy who prefers dress and activities that are commonly associated with girls. During her time at Nova, it became apparent that H.E. actually has a female gender identity. She socially transitioned everywhere but at Nova, and H.E. now identifies as a transgender girl.

The Edwardses began working with the school as soon as their daughter started at Nova to protect her from bullying and discrimination. They asked staff a number of concrete policy questions, and behind closed doors, they received answers that satisfied

them that the school policies conformed to the law. But each time the Edwardses arranged the most pedagogically appropriate response to gender-based bullying with Nova staff, the school board would delay it or yank it away, trying to appease parents who wanted Nova to discriminate against transgender and gender non-conforming students. This resulted in a school climate that fostered gender-based bullying. The Edwardses were forced by Nova's delay and inaction to advocate publicly for anti-bullying and gender-inclusive policies. This outed them to the community, and they experienced backlash and threats.

The school's continual delays and consistent undercutting of its staff's support for gender non-conforming and transgender students culminated in the school denying H.E. her right to socially transition at school. As a result, the Edwardses were forced to withdraw their daughter from Nova in the middle of the school year. David, Hannah, and H.E. continue to experience harm from the aftermath of the school's actions.

The Edwardses bring claims against Defendant Nova for gender identity discrimination in violation of the Minnesota Human Rights Act ("MHRA") and sex discrimination in violation of the St. Paul Legislative Code. The Edwardses seek to right the wrongs done to them and to require changes to Nova's policies and practices so that transgender and gender non-conforming children at Nova will no longer face discrimination in education simply because of who they are.

## **PARTIES**

1. Plaintiff H.E., a transgender minor child, files through her parents and natural guardians, Hannah and David Edwards. Plaintiffs Hannah and David Edwards file on

their own behalf. The Edwardses currently reside in Minneapolis, Minnesota.

2. Defendant Nova Classical Academy (“Nova” or “the school”) is a public charter school. The school is located at 1455 Victoria Way, St. Paul, MN 55102.
3. In 2015 and 2016, H.E. was a kindergarten student at Nova Classical Academy.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over all of the Edwardses’ claims in this Complaint, pursuant to Minn. Stat. § 484.01 and the Minnesota Human Rights Act, Minn. Stat. § 363A.33, and the St. Paul Code, § 183.202.
5. Defendant Nova Classical Academy is located in St. Paul, Minnesota, in Ramsey County, making venue proper in Ramsey County according to Minn. Stat. § 363A.33, Subd. 6, and the St. Paul Code, § 183.202.

### **ADMINISTRATIVE CHARGE AND PROBABLE CAUSE FINDING**

6. On March 24, 2016, the Edwardses filed a Charge of Discrimination with the Human Rights Division of the Department of Human Rights & Equal Economic Opportunity of the City of Saint Paul (“HREEO”), alleging the illegal conduct asserted in this Complaint against Nova.
7. On May 11, 2017, the Edwardses received notice that the HREEO had found probable cause to believe that Nova had unlawfully discriminated against their family. The HREEO found that Nova had violated the law by creating a culture where gender-based bullying was not seen as a serious issue and by denying H.E. the opportunity to transition socially at school. The HREEO noted that Nova had treated gender discrimination differently from race or disability discrimination.

8. The probable cause letter also highlighted the school's complete unwillingness to follow through on promises made to the family in a timely manner. It noted, "[a]t times, it is unclear whether the administration and Board runs the school or the parents."
9. The HREEO issued a Right to Sue Letter on June 7, 2017.

## **FACTUAL ALLEGATIONS**

### **Transgender Children**

10. A person's "gender identity" is their innate sense and deeply held understanding of their own gender, regardless of the sex assigned to them at birth.
11. "Gender expression" is a person's external appearance, characteristics, or behaviors stereotypically associated in our culture with a specific gender.
12. The term "gender nonconforming" refers to people whose gender expression differs from stereotypical gender binary expectations.
13. The term "transgender" is an umbrella term for people whose gender identity does not conform to that associated with the sex they were assigned by others at birth. By contrast, a "cisgender" person has a gender identity that does conform to the sex to which they were assigned by others at birth.
14. According to the most recent scientific research, children as young as three already have a strong sense of their gender identity, regardless of whether they are transgender or cisgender.
15. Transgender children in Minnesota schools are two to three times more likely to experience daily bullying than their cisgender classmates.

16. Nationally, studies have found that 77 percent of students who identify as transgender or gender non-conforming reported being harassed at some point between kindergarten and grade 12.
17. This targeted bullying has severe consequences for transgender and gender non-conforming children and their families.
18. More than half (55.4%) of all Minnesota transgender children have attempted suicide within the previous two years, according to the 2016 Minnesota Student Survey from the Minnesota Department of Education.
19. Nationally, research shows that transgender children are at high risk for suicidal thoughts and actions.
20. However, recent scientific studies suggest that this risk is reversed when transgender children are allowed to socially transition and live in a way that is consistent with their gender identity, with support from their parents and peers.
21. Gender transition before puberty doesn't require a medical intervention such as hormones or surgery. Instead, children may socially transition by using the name and pronouns they prefer. They may also wish to present their appearance and otherwise express their gender in ways typically associated with their gender identity. For example: A transgender girl may want to use a traditionally female name, be referred to as "she" or "her," and wear clothing and engage in activities traditionally associated with girls.
22. When transgender children are allowed to transition before puberty, research shows that these children have essentially the same levels of depression and only marginally

higher rates of anxiety than their cisgender siblings and other children their age.

### **Nova Classical Academy**

23. Nova is a public charter school in St. Paul, Minnesota. It is comprised of a lower school, which consists of kindergarten through fifth grade, and an upper school consisting of grades six through twelve.
24. During the time H.E. was a student at Nova, [REDACTED] was the executive director of Nova, and [REDACTED] was the principal of the lower school. [REDACTED] served as chair of the Board of Directors for the school.
25. As a St. Paul public charter school, Nova is required to comply with all state and city anti-discrimination laws.
26. Nova is a public charter school, and the Edwardses, like all parents, had to apply for their daughter, H.E., to enroll there. The school provides a “classical education” to students. The Nova website contains a description of the classical model and includes suggested further reading on this model; that further reading contains a book subtitled “A Guide to Catholic Home Education.”
27. Nova has a Board of Directors that governs the school, including managing the business and affairs of the school, setting policy for the school, and monitoring progress towards meeting student achievement.
28. Nova’s Board of Directors has established several committees, including committees to review and update school curriculum. Nova’s board has also established a Climate Committee that researches and recommends best practices for promoting a positive school environment.

29. The Edwardses decided to send their daughter to Nova because they believed it would allow their child to thrive. However, the mistreatment that eventually led the Edwardses to remove their daughter from Nova began soon after she started in September 2015 and continued for the entirety of her enrollment at Nova.
30. The Edwardses' child began kindergarten at Nova in September 2015. At this time, H.E. was presenting as a gender-nonconforming boy, meaning a boy who preferred clothing and activities that are often associated with girls. By the time the Edwardses felt the need to remove H.E. from Nova due to safety concerns, H.E. had socially transitioned everywhere except school. Among other things, this meant that she had begun using a female name and "she/her" pronouns, everywhere but at Nova.<sup>1</sup>

### **Anti-Bullying Month**

31. H.E. experienced bullying and hostility from the start of her time at Nova, and the Edwardses tried to work with staff to properly respond to such incidents and prevent them from reoccurring in the future.
32. In September 2015, the Edwardses met with school officials multiple times to discuss ways the school could ensure their child's experience at Nova was similar to any other child's experience.
33. The Edwardses had begun to hear stories from H.E. about negative comments that other students had made about her gender expression.
34. Concerned about ongoing bullying, in late September Hannah and David requested

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<sup>1</sup> Consistent with best respectful practices, this Complaint will refer to H.E. with she/her pronouns regardless of the time frame referenced.

- educational support for bullying prevention.
35. Coincidentally, anti-bullying month was approaching. School staff agreed to prepare a training specific to gender-identity and gender expression as part of the school's anti-bullying month.
  36. In early October 2015, H.E. told her parents that one or more classmates told her that she should not have pink shoes or a pink backpack because those are for girls.
  37. On October 12, 2015, David Edwards emailed the school to notify them about this incident. H.E.'s teacher told Mr. Edwards that she had spoken to the student who made the comments and would keep an eye on the situation.
  38. The Edwardses suggested, and the staff agreed, that an age-appropriate book, *My Princess Boy*, would be an excellent instructional support for classroom discussions about gender identity and expression.
  39. Instead of just having teachers read the book to students as soon as possible, as it would have done if race-based bullying had been the issue, Nova decided to first send a letter to families of children in grades kindergarten through fifth grade to inform them that there was a gender nonconforming student in the kindergarten and that students would be educated about gender identity and expression.
  40. The letter mentioned that *My Princess Boy* would be read as part of this anti-bullying discussion.
  41. The communication notifying parents of planned anti-bullying efforts was sent out on October 14, 2015.
  42. Immediately, controversy erupted in the larger school community, expressed in part



- through parent comments to the Nova school board.
43. The school board had a practice of publishing all comments it received from parents in the board packet that went out prior to every board meeting.
  44. Parents complained that reading a book about supporting gender non-conforming students as part of anti-bullying week was a “major curriculum change.”
  45. Some parents were explicit that they felt this book was “celebrat[ing] . . . [a] controversial moral difference.”
  46. Others, again characterizing the reading of this book as a “major curriculum change,” pointed to school policies requiring adoption of “major changes” to go through a lengthy school board process involving the Curriculum Committee followed by full school board approval.
  47. Some parents conflated reading a book about treating gender non-conforming children with kindness as “sex education” and noted that Nova had already decided that this would occur no earlier than the 5th grade.
  48. The school board immediately caved to this parental pressure, notifying parents on October 18, 2015, that *My Princess Boy* would not be read during anti-bullying month and would instead be sent to the Climate Committee of the school board for discussion and approval.
  49. At the time, ██████████ was the chair of the Climate Committee and chair-elect for the board as a whole.
  50. ██████████ met with David and Hannah and expressed reluctance about having teachers read *My Princess Boy* to Nova students.

51. Hannah and David were concerned that the result of this immediate reversal on anti-bullying instruction was that their child had been outed to the school committee as a gender non-conforming kindergartener without the proactive education that Nova had promised to implement to protect her.
52. Instead of reading *My Princess Boy* during anti-bullying month, students were given a Power Point presentation of the poem, “Play Free.” The Nova board insisted that students be invited to “opt out” of this presentation. Almost half of H.E.’s class opted out.
53. Minnesota state law requires schools to allow parents to review their child’s school curriculum, and at the direction of parents, “to make reasonable arrangements with school personnel for alternative instruction.” Minn. Stat. § 120B.20.
54. Nova has a Curriculum Opt Out Policy, available on its website, to implement this statute.
55. Nothing in the law or the Opt Out Policy requires Nova to invite parents to opt out of specific portions of the curriculum.
56. Highlighting certain types of curriculum, but not others, by inviting parents to opt out of that curriculum, sends a message that the highlighted curriculum is particularly controversial or less fundamental than other types of curriculum.
57. Highlighting that parents may opt out of curriculum designed to prevent bullying based on gender and gender expression undercuts the anti-bullying message and conveys that the school does not support gender inclusion.
58. The school ultimately gave in to the demands of a small, but vocal opposition to the

use of *My Princess Boy*. The Climate Committee recommended two other books to the school board that would serve as part of the anti-bullying curriculum. The Committee recommended that families be notified before either book was read to a class.

### **David and Hannah Educate Staff About Gender Identity**

59. Less than a week after Nova sent its first letter about *My Princess Boy*, David and Hannah made a presentation to Nova's staff. They wanted to educate Nova's staff about gender identity, gender expression, and their child specifically.
60. Hannah and David are both educators themselves, and licensed teachers in the state of Minnesota. Hannah is a Visual Arts teacher, and David is a Special Education teacher and instructor at the University of Minnesota.
61. In the presentation, David and Hannah talked about how their child's gender expression had evolved over time. They noted that at about age 2-3, H.E. had started to indicate a strong preference for toys and clothes stereotypically associated with girls.
62. Dressing up and playing pretend was one of H.E.'s favorite activities. Following the 2013 Super Bowl Half-Time Show performance by Beyoncé, H.E. would pretend to be Beyoncé, repeatedly watching the performance on DVR and dancing along with it.
63. H.E. started putting a blanket on her head and calling it her hair, looking at her reflection in the fireplace glass over and over.
64. For Halloween at age four, Hannah and David agreed to allow H.E. to wear two different costumes. At school, H.E. dressed up as the cowardly lion. For trick or treating, H.E. dressed up as Rapunzel, with long, blonde, braided hair and a dress.

65. H.E. had started experiencing bullying at her daycare because of her preference for stereotypically feminine clothing and activities. David and Hannah pulled her from that daycare and made other arrangements.
66. H.E. started regularly wearing dress-up princess and character dresses around ages 3 to 4. Hannah and David felt it had become less about pretending and more about presenting herself as a girl. When not wearing princess dresses or costumes, H.E. would fashion her own dresses, skirts, and hair from other clothing items such as Hannah's tank tops and scarves.
67. At around age 5, all H.E. wanted to wear at home were dresses. She would also beg to wear the dresses outside of the house. Finally, David and Hannah allowed her to pick her own clothing from the store. H.E. was so happy wearing her new clothes that Hannah and David immediately knew it had been the right choice.
68. H.E. would say things like, "In my heart I am just a girl;" "I am fierce just like Taylor Swift and Beyoncé;" and "I just felt shy of my other clothes. I feel comfortable with my new dresses." After seeing the movie "Inside Out," H.E. told David and Hannah that, "All of the emotions in my head are just girls."
69. Hannah and David explained to Nova staff that despite their knowledge about how happy H.E. was when she could just be herself, they were terrified as parents about the negative statistics for transgender children and teenagers at school. They told staff about Leelah Alcorn, a transgender girl who had been bullied at school and at home and then killed herself at age 16.
70. David and Hannah invited Nova staff to ask them any questions they had,

acknowledging that most of this information is new to most people. They encouraged staff to educate their students about gender identity, be proactive about addressing bullying based on gender identity, seek training, and support gender-inclusive school policies.

### **Nova's Uniform Policy**

71. At the end of October 2015, the Edwardses reported that another child had told their daughter that she could not wear a princess costume for Halloween because that costume was for girls.
72. The school sent additional communication to parents on November 11, 2015, acknowledging that the law required the school to act quickly to respond to any unfair treatment because of a protected ground. The communication also notified families that lower school students would receive information about gender identity.
73. Once again, Nova undercut the effectiveness of the anti-bullying curriculum by specifically inviting families to opt out of this lesson.
74. In November 2015, the Edwardses informed the school that their child would begin wearing the school's jumper to school.
75. Behind closed doors, Nova described the uniform policy as gender neutral. The school assured the Edwardses that their child could wear the jumper without violating any policy.
76. However, Nova's public communications did not reflect this. For example, school communications contained statements like, "girls may wear jumpers." That statement implies that *only* girls may wear jumpers. The Edwardses felt changing such language

would help prevent or limit questions or insults from other kindergarteners or the parents about H.E.'s and other children's' gender expressions.

77. The Edwards were particularly concerned because parents had publicly expressed a belief that only girls could wear the uniform jumper and that children who violated this policy should expect to be bullied by their peers. The Edwardses and other parents requested repeatedly that the school correct its communications regarding the uniform policy to reflect this gender-neutral approach.
78. The school refused to do so.
79. The school's refusal to correct its communications and its public silence on the issue in response to parent statements predictably caused H.E. harm. Later in the school year, H.E. reported that a classmate had told her she could not wear the jumper. H.E. told her father that this happened "mostly every day."
80. Nova staff did take some steps to address this privately, with the individual students involved.
81. However, Nova staff and the board appeared to lack the courage to forthrightly address this issue to the larger school community and refused to take any steps for months to clarify its uniform policies to the larger community.

### **Nova Exposes the Edwards Family to Hostility**

82. During October and November, the Climate Committee commenced its series of public meetings about *My Princess Boy* that had the effect of outing the Edwardses and their daughter.
83. The Edwardses would have preferred to advocate for their child in private. However,

beginning with their first meeting with Climate Committee chair [REDACTED] David and Hannah were told that the only way for the school to present preventative anti-bullying education on gender identity was to work through the public committee meetings.

84. In order to advocate for gender-inclusive policies and defend their daughter at these meetings, Hannah and David were forced to publicly comment
85. The Edwardses were then subjected to abusive and hostile comments from parents of students and people with no affiliation to the school.
86. On November 24, 2015, David Edwards emailed members of the school board to request that a gender inclusion policy be part of the agenda for the next Climate Committee meeting. The Edwardses expressed concern about comments by members of the school community and emphasized that this policy was necessary to ensure their child's safety at Nova.
87. **The Climate Committee Chair** told them that the committee's agenda was full, without a response to their concerns for H.E.'s safety.
88. David pointed out that the board's response indicated an indifference to the safety and rights of their child, and the board relented.
89. Nova sent out a notification to parents that it would begin a process to implement a new gender inclusion policy.
90. During this process, a small but vocal group of Nova parents and outside groups undertook a concerted effort to intimidate the Edwardses and convince the school to continue to violate anti-discrimination laws.

91. These groups commented at board meetings and in public forums, expressing their opposition to any gender-inclusive policies.
92. The Edwardses' experiences at Nova were tainted by this discriminatory dialogue taking place over a period of months and began to fear for their safety.
93. Parent comments that continued to be published in board packets prior to each board meeting became more and more hostile over time.
94. The Nova school board had to eventually abandon its long-standing practice of including all parent comments in full in the board packet, and started censoring portions of comments that were directed at individuals.
95. It used black highlighting to mark over these portions of comments to censor them; however, the censored comments were easily visible when copied and pasted.
96. On December 4, 2015, parents of Nova students began circulating an online petition that mischaracterized the St. Paul Public Schools Policy that the Edwards family proposed Nova should adopt. The petition was titled, "I oppose the mixed sex use of bathrooms and locker rooms at Nova Classical Academy."
97. Comments in signatures to the policy singled out the Edwards family: "First, it was about the reading of a book to stop bullying, now one family is demanding full implementation of a radical policy based on gender neutrality that is nothing short of a political agenda. I have two children at Nova. One BOY and one GIRL;" "So one gender confused child trumps the right to privacy for every girl at Nova?"
98. Other comments wildly mis-portrayed the policy in consideration: "I can't imagine a justifiable reason why a male student or faculty member needs to expose himself to



my daughters.”

99. Still other comments attempted to intimidate Nova staff: “Please suggest that staff who have voiced their personal opinions in public or spoken publicly against parent involvement in curriculum, which has caused division and mistrust in our school community, to consider employment elsewhere or start their own charter school.”
100. The petition and comments were published in full in the next board packet. The school did not publicly take a stance against these comments, leaving the impression that the board potentially endorsed them.
101. On January 12, 2016, an anti-LGBT group, the Minnesota Family Council (“MFC”), hosted a forum in Nova’s gymnasium about Title IX and Gender Identity. The event was hosted by “concerned Nova parents” and promised to allow those opposed to equal access for all students the opportunity to speak up publicly.
102. One parent who was opposed to transgender equality at Nova notified a St. Paul newspaper about the MFC meeting.
103. To balance these accounts that were hostile to transgender rights, and to support their child’s ability to receive a safe education at Nova, David and Hannah again felt forced to respond publicly, appearing on a local radio show.
104. Negative articles about the Edwards family were published on conservative blogs and websites.
105. One of these sites opposed to transgender children found and displayed a photograph of the then-five-year-old H.E. without permission.
106. The abusive online comments and fervent opposition to their daughter’s gender

identity and expression led the Edwardses to remove their information from the school's parent directory out of concerns for their safety and privacy.

107. By failing to clearly state its policies, and by requiring the school board to approve any action the staff took to support H.E., the school placed a burden on the Edwardses and their daughter to ensure their safety and to stand up for her right to equal access to education.
108. As the Board of Directors was considering the formal gender inclusion policy, the Edwardses again requested that the school clarify its positions in the interim on the rights of gender non-conforming and transgender students, including the uniform policy.
109. After nearly six months of the Edwardses' pleas for clarity, on January 25, 2016, [REDACTED] [REDACTED] the chair of the Board of Directors finally made a statement clarifying the uniform policy, stating that the law requires equal access to education for all students regardless of gender identity, and acknowledging the need for a gender inclusion policy.
110. At that same meeting, the school board created a task force to create a gender inclusion policy to present to the board for approval.
111. The Edwards family felt temporarily reassured by these actions.

### **H.E.'s Attempted Social Transition**

112. Throughout the year, the Edwardses communicated to the school that they would let the school know if their child expressed a female gender identity that was consistent, persistent, and insistent. The Edwardses, in waiting for their child to express her own

desire to transition socially, followed expert advice on children's gender identity and expression.

113. On February 11, 2016, the Edwardses notified the school that their child was a transgender girl. Reflecting that fact, she would need to begin using a female name and female pronouns at school as soon as possible. Understanding that the school – in order to minimize the risk of bullying – would need time to set up a process of introducing the concept of gender transition into the classroom, the Edwardses put off their daughter's social transition at school while she socially transitioned in all other parts of her life.
114. The Edwardses arranged to meet with school officials on Thursday, February 25, 2016, to finalize a transition plan. This meeting included the Executive Director of Nova, principal of the lower school, school attorney [REDACTED], the Edwardses, and their attorney Jill Gaulding.
115. In light of the history of the Nova board reversing staff decisions regarding gender inclusion issues, the Edwardses asked for reassurance that the staff had the authority to make decisions about H.E.'s transition plan. The school officials represented to the Edwardses that they did have this authority.
116. During the Thursday meeting, the school staff and the Edwardses finalized the process and materials that the teachers would use when H.E. began using a female name and pronouns at school the following week.
117. The group agreed on the content of a letter to be sent home to parents, talking points for a classroom discussion, and teachers' use of portions of the book *I am Jazz* as part

of that classroom discussion. The participants all agreed that this would be the most effective way to support H.E.'s transition and avoid bullying.

118. The agreed-upon initial letter would not invite parents to opt out of the educational component of this process. However, in the event that any parents did opt out, the group also agreed on the content of a letter and materials to be sent to any families who asked to opt out of classroom education.
119. At the conclusion of the meeting, **the principal of the lower school** and **the Executive Director of Nova** agreed to edit and send the Edwardses actual copies of the letter and talking points that would match this agreed-upon plan.
120. Once the plan was agreed upon, the Edwardses discussed it with their daughter. They wanted her to know how and when she would be able to transition at school. She frequently asked them questions such as, "When are you going to tell my teachers and my classmates that I'm a girl?" indicating that every day of delay was causing her distress.
121. Because H.E. had waited for some time and had already socially transitioned everywhere else in her life, Hannah and David let H.E. know that she would be able to transition at school the following week.
122. In the afternoon on Friday, February 26, David emailed **the principal of the lower school**, the **Executive Director of Nova**, and their child's classroom teacher to ask if the revisions were complete. He noted that H.E. "ha[d] started telling her classmates on her own on the playground . . ." and that one student had told her at recess that day that "boys" can't be called "she."

123. Shortly after David sent this email, after 5:00 pm on Friday, February 26, the school's attorney, [REDACTED] notified the Edwardses that the school was no longer willing to implement the agreed-upon plan. Though Nova's full position was not clear yet, [REDACTED] the school's attorney indicated that among other changes, the school would not allow the use of the book, *I am Jazz*, as part of the discussion of H.E.'s transition and that the school would invite parents to opt-out.
124. The Edwardses were very confused and concerned about this abrupt change. They had been discussing this plan with the school for almost a month, and believed they had come to a final agreement on Thursday about what was necessary to permit H.E. to transition successfully.
125. The timing of this news threw uncertainty into the plan for H.E. to transition the following week, and the Edwardses spent the weekend trying to get school officials to clarify Nova's position.
126. Board chair [REDACTED] emailed David and Hannah to let them know that he had been responsible for the last-minute change in direction. He wrote that, "I made the decision to not allow *Jazz* to be read. I made the decision to require the opt out provision to be listed in the communications to [parents]." He claimed he had done this to achieve the best outcome for the "entire school community, your family, [H.E.], the school leadership and the Board."
127. [REDACTED] The board chair also conveyed that there would be "no more response [or] communication on this topic this weekend from school leadership . . ." despite the fact that the transition had been scheduled to begin the following week.

128. In an email late Saturday, **the Executive Director of Nova** wrote to David that while he understood David was “disappoint[ed],” it was “always my intention to run this by the board chair before proceeding . . . He has concerns about the book being read next week.”
129. On Sunday, the Edwardses outlined their concerns with the change in plans in an email to **the school’s attorney**, **the principal of the lower school**, and **the Executive Director of Nova**.
130. David and Hannah pointed out that “[m]essing up this transition process is significant and has the potential to cause serious harm to our child if done incorrectly.”
131. The Edwardses objected to the school board chair coming in at the last minute to override a plan that the school staff had agreed was necessary to protect H.E. from further bullying or harassment.
132. Hannah and David noted that “[c]oncerns related to the parents at Nova with discriminatory attitudes toward transgender children should have no impact on the lesson that is delivered to students as part of [H.E.]’s transition. This process is about what is best for her, not accommodating, placating, or appeasing any other community members who might oppose compliance with gender equality law.”
133. Because the school had reneged on the original plan and had proposed no clear new plan to permit H.E. to socially transition, the Edwardses decided that they could not safely send their daughter to school on Monday, February 29.
134. The Edwardses begged school officials to meet with them to discuss the transition

- plan as soon as possible, and eventually Nova agreed to meet on Monday evening.
135. At the Monday evening meeting, Nova officials clarified what they would and would not do.
  136. Nova announced that it planned to use new classroom talking points. The new talking points did not let students know that repeatedly and deliberately using the wrong name and pronouns for H.E. would have consequences.
  137. Furthermore, Nova's revised plan no longer included any instructional component such as a reading of *I am Jazz*. Instead, the school principal instead planned to focus solely on the details of H.E.'s own story.
  138. This was not a safe choice. According to research, what works best to prevent bullying is general information about the existence of diversity, coupled with a message about proper behavior. It is far less effective, and indeed even harmful, to focus instead on a particular child's characteristics.
  139. Despite the lack of any curriculum or instructional content in the new transition plan, the letter Nova planned to send to parents would invite parents to "exercise the opt out provisions should you decide you do not want your child to be present in the classroom when this topic is discussed."
  140. Calling this a curriculum "opt out" was a misnomer. Under the new plan, there was no curriculum to opt out of. Instead, Nova was planning to invite parents to "opt out" of the bare information about H.E.'s identity as a girl – that is, inviting parents to prevent their children from hearing from school staff what H.E.'s name and pronouns were.

141. By insisting on a process that involved a prior invitation to “opt out” of H.E.’s transition, the school also would be introducing significant new delays, subjecting H.E. to harm and to additional bullying at a critical time.
142. Because parents were invited to “opt out” of having their children hear about H.E.’s name and pronouns, there would be some Kafkaesque results. The school’s opt out letter to be sent home with parents could not identify H.E. by name because of school privacy laws, so the school proposed to send a letter home to these parents that read in part, “Start calling her [student name] . . .” without any explanation about how the children of parents who had “opted out” of hearing H.E.’s name were supposed to figure out how to address H.E.
143. The Edwardses were shocked by the school’s new positions and upset that everything they had carefully negotiated with the school had been undone just before H.E.’s transition was scheduled to start.
144. Because David and Hannah believed that having a classroom announcement with detailed discussion focused solely on H.E. could be harmful, they asked if school officials would at least be willing to make a minimal statement to H.E.’s classmates that would allow her to transition that week as planned. The Edwardses suggested a statement along the lines of, “This is H.E. Please call her [name]. Please refer to her as ‘she’ and ‘her.’”
145. Nova rejected this plan, instead barring H.E. from coming to school as herself until they completed the process of inviting “opt outs” from the basic information about her identity.



146. During the Monday evening meeting, school attorney [REDACTED] also announced Nova's new position regarding staff's limited authority to respond to gender-based bullying. Contrary to the school's reassurances the previous week, [REDACTED] attorney stated that staff did not have the authority to take immediate action to prevent or remediate acts of gender-based bullying.
147. [REDACTED] The school's attorney stated that with regard to gender-based bullying, Nova would not permit its staff to act without board intervention.
148. [REDACTED] The school's attorney agreed that if a child was being bullied based on race that the staff would not need to acquire board approval before correcting the bullying or teaching students about race using appropriate educational materials.
149. But when it came to gender, [REDACTED] the school's attorney claimed that Nova couldn't respond in the same way because there was no consensus in the community regarding the right not to be bullied based on gender identity or expression.
150. Following the meeting on Monday, [REDACTED] the school's attorney confirmed all of Nova's positions in an email. She confirmed that Nova would continue to delay responses to gender-based bullying while it "educate[d] the community."
151. She also confirmed that Nova would not allow H.E. to simply come to school as herself, following a simple statement from staff to other students regarding H.E.'s new name and pronouns. Instead, H.E. would be prevented from transitioning while the school invited parents to "opt out" of having their children be present for any classroom notice about H.E.'s name and pronouns.
152. Because the Edwardses feared for their daughter's health and well-being if H.E.

couldn't transition as planned and if school staff could not intervene to prevent bullying directed at her, the Edwardses felt they had no choice but to withdraw their daughter from Nova and enroll her in a different school in the middle of the school year.

153. H.E. was hurt and upset by Nova's refusal to allow her to socially transition.
154. After she transferred schools, H.E. would explain, "I used to go to Nova, but they wouldn't believe me that I was a girl, or let me be a girl at school."
155. While H.E.'s new school is far more supportive of her, David and Hannah noticed changes with H.E. over the next year that they believe are a consequence of the botched plan to transition at Nova.
156. For example, during one meeting with her new school principal, H.E. cried and told her that she just "didn't know if she belonged in the world."

## **COUNT I**

### **GENDER IDENTITY DISCRIMINATION Minnesota Human Rights Act**

157. The Edwardses reallege the foregoing paragraphs as though fully set forth herein.
158. Defendant Nova engaged in gender identity discrimination by failing to appropriately prevent gender-based bullying and by denying H.E. the right to transition in violation of the Minnesota Human Rights Act, Minn. Stat. § 363A.08 Subd. 1 and 2, and Minn. Stat. § 363A.03 Subd. 42.
159. As a result of Defendant's discriminatory actions, Plaintiffs have suffered and will continue to suffer emotional anguish.
160. Plaintiffs also seek an award of their attorneys' fees and costs.

**COUNT II**

**SEX DISCRIMINATION  
St. Paul Legislative Code**

161. The Edwardses reallege the foregoing paragraphs as though fully set forth herein.
162. Defendant Nova engaged in sex discrimination by failing to appropriately prevent gender-based bullying and by denying H.E. the right to transition in violation of St. Paul Code § 183.05.
163. As a result of Defendant's discriminatory actions, Plaintiffs have suffered and will continue to suffer emotional anguish.
164. Plaintiffs also seek an award of their attorneys' fees and costs.

**JURY DEMAND**

165. Plaintiffs demand a jury trial on all claims for which a jury trial is available.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully pray:

- A. That the practices of Defendant complained of herein be adjudged, decreed and declared to violate the rights secured to Plaintiffs by the Minnesota Human Rights Act, Minn. Stat. § 363A.01 *et seq* and St. Paul Code § 183.01 *et seq*.
- B. That a permanent mandatory injunction be issued requiring that Defendant adopt practices in conformity with the requirements of the Minnesota Human Rights Act, Minn. Stat. § 363A.01 *et seq* and St. Paul Code § 183.01 *et seq*.
- C. That a permanent prohibitory injunction be issued prohibiting Defendant from engaging in the practices complained of herein.
- D. That the Court order Defendant to pay a civil penalty to the State of Minnesota

pursuant to Minn. Stat. § 363A.29.

- E. That the Court order Defendant to pay a civil penalty to the City of St. Paul pursuant to St. Paul Code § 183.24.
- F. That Plaintiffs be awarded compensatory damages in an amount to be established at trial, and treble damages pursuant to Minn. Stat. §§ 363A.33, 363A.29 and St. Paul Code §§ 183.202, 183.24.
- G. That the Court issue an order enjoining Defendant and its officers, agents, and employees from subjecting gender non-conforming and transgender children to differential treatment and from any retaliation against Plaintiffs for prior actions, or for bringing this action.
- H. That the court retain jurisdiction until the Court is satisfied that the Defendant has remedied the practices complained of herein and is determined to be in full compliance with the law.
- I. That the Court order Defendant to pay counsel for Plaintiffs their reasonable attorneys' fees and the costs and expenses of this action.
- J. That Plaintiffs be awarded such other and further legal and equitable relief as may be found appropriate, just, and equitable.
- K. In accordance with the requirements of Minn. R. Civ. P. 8.01, Plaintiffs state that they seek recovery of their reasonable damages in an amount greater than \$50,000.

Date: July 18, 2017

GENDER JUSTICE

s/ Christy L. Hall

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