

March 11, 2013

Principal
XXXX Elementary School
XXXXXXXXXX
XXXXXX, MO XXXXXX
Fax: XXX-XXX-XXXX

Re: Trace

Dear Ms. XXXXXXX:

We are writing on behalf of Trace¹, a fourth-grade student at XXXXX Elementary School, and his mother XXXXX. The school appears to be unlawfully infringing Trace's right to an appropriate and equal education under federal law in violation of both Title IX, 20 U.S.C. § 1681, and the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq. We urge you to take immediate action to remedy this unlawful discrimination.

When Trace informed his classmates that he identifies as a boy, in November of this school year, he was immediately suspended and barred from returning to school for approximately three weeks. That suspension as well as the school's treatment of Trace ever since then has been blatantly discriminatory and punitive. The school implemented an Individualized Education Plan (IEP) for Trace that has severely limited his ability to interact with his peers, segregating him from the general education students and restricting him to the special education classroom even during breakfast, lunch, and recess.

The school's disproportionate treatment of Trace, which began immediately upon the disclosure of his transgender status and continues to the present day, appears to be based on hostility towards his nonconforming gender identity and expression, in violation of Title IX. Title IX is the federal law that prohibits sex discrimination in all educational programs that receive federal financial aid. 20 U.S.C. § 1681. The U.S. Department of Education and the federal courts have made clear that schools violate Title IX when they discriminate against students for a perceived failure to conform to gender stereotypes. *See* U.S. Dept. of Ed., "Dear Colleague" letter (Oct. 26, 2010), *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>.

Additionally, the school's excessively punitive treatment of Trace appears to have violated the student's substantive and procedural rights to receive a Free Appropriate Public Education under both IDEA and Missouri's special education law, Mo. Ann. Stat. § 162.680. For example, both federal and state law make clear that an IEP for a student with a disability must provide that student with the least restrictive environment that can

¹ Because Trace is transgender and identifies as a boy, we will refer to him by his preferred name (Trace) and with male pronouns, rather than by his given name of XXXXX.

meet his or her needs. For a fourth-grade child with no diagnosed behavioral disorder or learning disability, total isolation from the general educational population in a locked classroom all day long cannot plausibly be the least restrictive alternative available.

Finally, it appears that you have engaged in retaliation against XXXX for her advocacy on her child's behalf, by filing baseless reports of child endangerment with the state. Retaliation is illegal under both Title IX and IDEA and such acts create further legal liability for you, the school, and the district.

We strongly encourage you and your staff to act promptly to reintegrate Trace with his peers in the school's general education classes and refrain from further unlawful discriminatory and retaliatory treatment against Trace and his mother. If this matter is not resolved satisfactorily at the IEP meeting on March 12, we will be considering all legal options, including a formal complaint to the U.S. Department of Education and a federal lawsuit against you, the school, and the XXXXX School District.

Please contact me if you have any questions. My telephone number is (415) 865-1076 ext. 304, and my email address is ilona@transgenderlawcenter.org.

Sincerely,

Ilona M. Turner
Legal Director

cc: XXXXX, Superintendent, XXXXX School District (fax XXX-XXX-XXXX)