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**UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO**

SIERRA NORMAN,

Case no. 4:16-cv-163

Plaintiff,

v.

COMPLAINT

**CASSIA COUNTY JOINT SCHOOL
DISTRICT NO. 151, JEFF ROPER,
ROLAND BOTT, and GALEN SMYER,**

(JURY DEMANDED)

Defendants.

Sierra Norman complains because the defendants refused to let her run for Student Body President at Declo High School while she was a student there. There was no legitimate reason for excluding her. The defendants told Sierra that she couldn't run because she was not a full time student—even though she was a full time student according to the school district's own records. The only other student who petitioned to run, even by the defendants' pretextual logic, wasn't a full time student either. Only two things meaningfully distinguished the other student from Sierra, and they were the real basis of the defendants' decision: the other student was in LDS seminary, and he is male.

After Sierra complained about this discrimination, a Declo High School teacher exclaimed openly, to other faculty while at school, that someone should “Ray Rice” Sierra, encouraging the kind of brutal violence against women that pro football star Ray Rice had recently been caught perpetrating on video. The school district did virtually nothing, even after another teacher complained. Sierra was shunned afterward by Declo High School faculty and staff, was ridiculed by other students, and suffered for the remainder her senior year of high school because she stood up for her rights and for equal treatment under the law.

SUMMARY

1. Sierra Norman followed all the rules to get on the ballot for 2014–2015 Student Body President at Declo High School. She picked up a petition soon after they were available, collected all the signatures she needed, and turned it in on time to the right place.

2. Only one other student turned in a petition to run for Student Body President.

3. The morning after Sierra turned in her petition, the teacher coordinating the election told her that the school would not allow her name to be on the ballot because she was not a full time student. The constitution of the Declo High School student body said that “Students must be full time to hold major office.”

4. But, even as a prospective candidate, Sierra was a full time student. The school district’s records say so. In fact, the school district took funding from the State and its taxpayers calculated based on Sierra being a full time student. The school district confirmed in writing that Sierra was a full time student on multiple occasions.

5. The pretext that the school district used to exclude Sierra from the ballot was that she was taking online classes. Sierra was taking Advanced Placement (AP) classes and dual credit classes for college credit online because they were not all available at Declo High School. She

registered for those classes through Declo High School, and she took them through the Idaho Digital Learning Academy, which is a “partnership with Idaho school districts to offer online choices that would not otherwise exist.” Sierra was physically present at Declo High School, in the library, to participate in these online classes, and it was Declo High School—not IDLA—that assigned her grade for these classes. The point of IDLA is to “increase[] access and equity for students statewide.”

6. The other student—the one who *was* allowed on the ballot—was also taking online classes.

7. The difference between Sierra and the other student is that he went to LDS seminary, and he is male.

8. The defendants only cared about the student body constitution’s requirements when they wanted to, anyhow. The very same section that they used to keep Sierra off the ballot contained a number of requirements they completely ignored, including the deadline for candidate petitions.

9. The officials exploited the constitution as a pretext to favor the other student because of his religion and his gender, taking from Sierra an opportunity that she will never have again.

10. Because Sierra complained about her pretextual, discriminatory exclusion from the ballot, the defendants let Sierra suffer throughout the remainder of her senior year. Soon after she complained, a teacher at Declo High School exclaimed to other teachers that ‘someone needs to Ray Rice’ Sierra. He was alluding to Ray Rice, a pro football player in the news at that time for being caught on video violently attacking a woman and knocking her unconscious. Another teacher complained directly to the Declo High School principal and the school district

superintendent Smyer about this outrageous encouragement of violence against a female student. Neither the district nor the school conducted a diligent investigation of this complaint.

11. Sierra was shunned at school by teachers, staff, and students alike, all because she complained about being treated differently in violation of state and federal law.

PARTIES

12. Sierra Norman is now an adult, competent to bring this action. She is a citizen of the State of Idaho and currently a resident of Montgomery County, Pennsylvania, where she attends college. She was a full time student at Declo High School at all times relevant to this complaint.

13. The Cassia County Joint School District No. 151 is a political subdivision, body corporate and politic, and school district of the State of Idaho. The school district runs Declo High School, where Sierra was a student. The school district and Declo High School receive federal financial assistance, as they did at all times relevant to this complaint. They are subject to the requirements of Title IX. They are also educational institutions and subject to the requirements of the Idaho Human Rights Act, I.C. §§ 67-5901 through 67-5912.

14. Roland Bott is the Principal of Declo High School. He was the Principal of the school throughout the times relevant to this complaint. He was one of the school district officials who helped make and implement the decision to keep Sierra off the 2014–2015 Student Body President ballot.

15. Jeff Roper is a teacher at Declo High School, as he was at all times relevant to this complaint. He is one of the school district employees responsible for the student body government at that school. He's the person that collected the candidate petitions for 2014–2015 student body officer positions. And he is the one who called Sierra shortly after she submitted

her petition and told her she could not be on the ballot because she was not a full time student (even though she was).

16. Gaylen Smyer is the Superintendent of the Cassia County Joint School District No. 151, as he was at all times relevant to this complaint. He ratified the decision to exclude Sierra from the 2014–2015 Declo High School Student Body President ballot. He received the complaint that a Declo High School teacher had encouraged physical violence against Sierra soon after she complained about discrimination against her.

JURISDICTION AND VENUE

17. This Court has original jurisdiction under 28 U.S.C. § 1331 over the plaintiff's claims arising under federal law, as well as under 28 U.S.C. § 2201. Under 28 U.S.C. § 1367, this Court also has concurrent jurisdiction with the courts of the State of Idaho over claims arising under the Idaho Human Rights Act and the Idaho Constitution.

18. Venue is proper with this Court because all of the conduct and discrimination that Sierra complains about occurred in Idaho.

FACTS

19. Since she was little, Sierra had two goals for high school: to be her student body's president and to be her class's valedictorian. When she finally got her chance to meet the first goal, school officials refused to even put her name on the ballot.

20. The chance came—and went—at the end of April 2014. That week, Declo High School announced that juniors could pick up petitions to run for Student Body President (and Vice President and Secretary) from teacher Jeff Roper's room. Sierra picked up a petition to run for Student Body President, collected all the required signatures (twenty of them), and returned it on April 23, 2014, before the 3:20 p.m deadline. She followed all the rules.

21. The very next day, Roper called Sierra and left a voicemail. He said that Principal Bott and he had reviewed her petition. He claimed there was an “issue” with it because “you aren’t a full time student,” he said.

22. When Sierra called Roper back, he told her that her name would not be placed on the ballot. The Declo High School Student Body Constitution said that “Students must be full time to hold a major office.” Roper said the reason why Sierra could not be on the ballot was because she was not a full time student.

23. But this reason was just a pretext.

24. First of all, Sierra was a full time student when she turned in her petition. The school district Superintendent confirmed this in an email. The district even took funds from the State of Idaho based on Sierra being a full time student.

25. Second, if Sierra wasn’t a full time student, then the only other student who petitioned to be on the 2014–2015 Student Body President ballot wasn’t either.

26. Sierra was taking online classes when she turned in her candidacy petition. So was the other student who petitioned to run.

27. The other student who petitioned to run regularly left the school during class hours, so that he could attend LDS seminary during school hours. Sierra did not regularly leave the school during class hours. Sierra is not LDS.

28. Sierra is female. The student who was allowed on the ballot (and won the election unopposed) is male. The two Declo High School officials who decided that Sierra could not be on the ballot are both male. The district superintendent who ratified that decision is also male.

29. When Sierra and her mom asked the district to justify its decision, Roper confessed in an email that he and Bott “read the [Student Body] constitution several times” and then just

made up their minds that they would use “full time student’ requirement” to exclude Sierra from the ballot and election. They had never before looked at the full time requirement so closely in deciding whether to let a student run for office.

30. Roper and Bott apparently only started to read the Student Body Constitution so closely after they got Sierra’s petition to be on the ballot. Had they read it before then, they would have seen that, in the very same section as the “full time” student provision, the constitution requires that petitions to be on the Student Body President ballot must be filed during the last week of March. Roper and Bott didn’t even make the petitions available until late April. And they did not exclude the other student who petitioned to run for Student Body President because his petition was late and in violation of the constitution.

31. The plan text of the constitution only regulated the full time status of students actually holding major office, not candidates—in the year prior—for those offices. There was nothing in the Student Body Constitution that defined what a “full time” student was, either. There was nothing in the constitution, indeed, that prohibited Roper, Bott, or the school district from letting Sierra run. The other student, who was not only taking online classes but also leaving the school entirely for completely non-curricular purposes, was allowed to run for, to win, and to serve in a major office.

32. When Sierra’s mom asked Principal Bott to justify excluding Sierra, he said in an email that he and Roper looked to an Idaho High School Activities Association (IHSAA) rule that Bott contends required a student to be passing six of eight classes in order to participate in high school sports. Bott said that he and Roper decided that what “made sense” was to require that a student be enrolled in six of eight classes at Declo High School to hold a major office in the student body government.

33. Both Bott and Roper knew firsthand that Sierra qualified as a full time student under the IHSAA rule. Both of them knew that she was a cheerleader during her junior year, an extracurricular activity that, unlike student government, was actually governed by the IHSAA rules. The other student, who like Sierra was also taking online classes, did not qualify under the IHSAA rules any more than Sierra did. Plus, he was not in the school building at all for one class period, so that he could attend LDS seminary.

34. Bott has admitted in writing that he and Roper decided that LDS seminary class would be allowed to count towards full time student status. Under this policy, students qualify for major office candidacy even if they would otherwise not be eligible, so long as they are in LDS seminary.

35. Worse still, however, the school district's justification for excluding Sierra from the ballot was not lawful under Idaho law or the school district's own policies. Cassia County Joint School District policy no. 630 expressly protects students like Sierra, defined in that policy as "Dually enrolled Students": "A student who receives educational instruction outside a traditional public school classroom." Under the policy, all dually enrolled students are guaranteed "the same rights as all other students enrolled in this district" including, expressly, the rights of "full-time students."

36. The District has policy no. 630 because it must comply with state law, as Idaho is one of several states that provide robust protections to students who choose alternative curricula, such as home schooling or other alternative public school programs. Idaho state statute mandates that "any student participating in dual enrollment may enter into any program in the public school available to other students" I.C. § 33-203.

37. The school district's exclusion of Sierra from the ballot violated both its own policy no. 630 as well as I.C. § 33-203.

38. Sierra and her mom notified the district Superintendent, Gaylen Smyer, that Sierra had been refused ballot access. He ratified the decision and did not overturn it.

39. Sierra and her mom next notified the Board of Trustees that Sierra had been refused ballot access. After a meeting in executive session in May 2014, the Board ratified the decision and did not overturn it.

40. After Sierra complained about her ballot exclusion, school district officials coordinated their efforts to ensure that the Declo High School Student Body Constitution was amended to expressly exclude students like Sierra from holding major office in Declo High School student government, in violation of state law and school district policy.

41. Roper has since conceded that he and Bott "may have made the wrong decision" Bott has, too, allowed that the decision could have been "made in error." Yet, it was not until the next school year, five months later and after the ACLU announced that it was investigating, that Bott offered a letter of apology to Sierra.

42. This is not the first time Sierra has experienced discrimination by this school district. And she is far from the only student in the district who has experienced discrimination by this school district, either. The policies, practices, and personnel of the school district need to be remedied in ways that will improve the entire district for a long time to come.

43. Sierra complained both to the school district and publicly about the discrimination against her during the summer of 2014. On about September 10, 2014, the *Magic Valley Times-News* published an article about Sierra: "Student Barred from School Elections Due to Online Classes."

44. Soon after, Declo High School teacher and basketball coach Val Christensen told other teachers, in the school during school hours, that someone should “Ray Rice” Sierra. Ray Rice is infamous—and was especially controversial at that time—for having been caught on tape violently attacking his fiancée and beating her unconscious.

45. On September 17, 2014, another Declo High School teacher complained in writing to the school’s principal and the school district’s superintendent that another Declo High School teacher, named in the written complaint, said “something to the effect that ‘someone needs to Ray Rice’ Sierra.” The teacher’s written complaint expressly warned that “[t]his seems to be a blatant suggestion and approval of physical violence towards a student.”

46. The district did not notify Sierra or her parents about this complaint or that a teacher had encouraged brutal violence against her. Sierra and her parents only found out about it months later when they made a public records request to get more information about Sierra’s exclusion from the ballot. The district did not conduct any meaningful investigation, and its efforts to investigate were so informal that they did not generate a single record of any kind other than the teacher’s original written complaint.

47. Sierra suffered. She suffered throughout the remainder of her senior year in high school. She was shunned by nearly everyone in school, including nearly every teacher and almost every student. On many days, virtually nobody at school would speak with her at all.

48. The defendants were aware of teachers’, students’, and staff animus toward Sierra, and they were also aware that teachers, students, and other staff shunned and ridiculed Sierra after she complained about discrimination. The defendants, however, failed to take meaningful or appropriate remedial action.

49. Sierra timely filed a grievance and civil rights complaint with the school district about her ballot exclusion and the reprisals against her that followed. The school district has never conducted an investigation of Sierra's grievance and complaint, despite that its policies require one. The school district has never decided or otherwise resolved Sierra's grievance and complaint.

50. Sierra timely filed a charge of discrimination with the Idaho Human Rights Commission, charging the defendants with violations of the Idaho Human Rights Act. She received her notice of right to sue on about April 4, 2016, and timely commenced this action.

CLAIMS FOR RELIEF

1. Title IX (discrimination)

51. By excluding Sierra from the Student Body President ballot and by failing to take appropriate remedial action after a teacher encouraged male-on-female violence against Sierra or after Sierra was shunned at school, the defendants discriminated against Sierra on the basis of her gender.

52. On the basis of Sierra's sex, the defendants excluded Sierra from and denied her certain benefits of an education program covered by Title IX of the federal Education Amendments Act of 1972, as prohibited under 20 U.S.C. § 1681.

53. Sierra has suffered and will continue to suffer harm, including emotional distress and psychological damage and damage to her character and standing in the community, as a direct and proximate result of the defendants' violations of Title IX.

2. Title IX (retaliation)

54. Sierra engaged in protected activity when she complained about discrimination, and other conduct prohibited under Title IX, to the school district and its board of trustees.

55. Because Sierra complained about this discrimination and other illegal conduct, a teacher for the school district encouraged brutal physical violence against women—specifically against Sierra—while on school district property, during school hours, and to other school district employees.

56. Because Sierra complained about this discrimination and other illegal conduct, school district teachers, students, and staff shunned and ridiculed Sierra.

57. The defendants failed to take appropriate remedial action.

58. The defendants failure to take appropriate remedial action subjected Sierra to adverse action, because of her complaint of discrimination.

59. The defendants' acts and omissions would have dissuaded a reasonable person from making or supporting a charge of discrimination.

60. The defendants' acts and omissions amounted to retaliation prohibited by Title IX.

61. Sierra has suffered and will continue to suffer harm, including emotional distress and psychological damage and damage to her character and standing in the community, as a direct and proximate result of the defendants' violations of Title IX.

3. Idaho Human Rights Act (discrimination)

62. By excluding Sierra from the Student Body President ballot and by failing to take appropriate remedial action after a teacher encouraged male-on-female violence against Sierra or after Sierra was shunned at school, the defendants discriminated against Sierra on the basis of gender and also on the basis of religion.

63. On the basis of sex and also on the basis of religion, the defendants excluded, limited, and otherwise discriminated against Sierra, a student, in the terms, conditions, and privileges of an educational institution covered by the Idaho Human Rights Act, which is prohibited under

I.C. § 67-5909.

64. The defendants announced and followed a policy of denial or limitation of educational opportunities on the basis of religion or gender, which is prohibited under I.C. § 67-5909.

65. Sierra has suffered and will continue to suffer harm, including emotional distress and psychological damage and damage to her character and standing in the community, as a direct and proximate result of the defendants' violations of the Idaho Human Rights Act, including I.C. § 67-5909.

4. Idaho Human Rights Act (retaliation)

66. Sierra engaged in protected activity when she complained about discrimination, and other conduct prohibited under the Idaho Human Rights Act, to the school district and its board of trustees.

67. Because Sierra complained about this discrimination and other illegal conduct, a teacher for the school district encouraged brutal physical violence against women—specifically against Sierra—while on school district property, during school hours, and to other school district employees.

68. Because Sierra complained about this discrimination and other illegal conduct, school district teachers, students, and staff shunned and ridiculed Sierra.

69. The defendants failed to take appropriate remedial action.

70. The defendants failure to take appropriate remedial action subjected Sierra to adverse action, because of her complaint of discrimination.

71. The defendants' acts and omissions would have dissuaded a reasonable person from making or supporting a charge of discrimination.

72. The defendants' act and omissions amounted to retaliation and reprisals in violation of the Idaho Human Rights Act, including Idaho Code § 67-5911.

73. Sierra has suffered and will continue to suffer harm, including emotional distress and psychological damage and damage to her character and standing in the community, as a direct and proximate result of the defendants' violations of the Idaho Human Rights Act, including I.C. § 67-5911.

**5. Equal Protection (42 U.S.C. § 1983),
including both individual and *Monell* liability**

74. By excluding Sierra from the Student Body President ballot and by failing to take appropriate remedial action after a teacher encouraged male-on-female violence against Sierra or after Sierra was shunned at school, the defendants discriminated against Sierra on the basis of gender and also on the basis of religion.

75. By excluding Sierra from the Student Body President ballot and by failing to take appropriate remedial action after a teacher encouraged male-on-female violence against Sierra or after Sierra was shunned at school, the defendants also selectively enforced requirements, even had they been valid, in an arbitrary and discriminatory way against Sierra. The defendants likewise treated Sierra differently, as a "class of one," without adequate justification under the Constitution's equal protection guarantees.

76. The defendants' acts and omissions, including their discrimination and selective enforcement, violated Sierra's right to equal protection of the laws, guaranteed by the Fourteenth Amendment to the United States Constitution.

77. The acts of the defendants deprived Sierra of her particular rights under the United States Constitution.

78. The defendants acted pursuant to expressly adopted official policy or longstanding

practice or custom of defendant Cassia County School District or Declo High School.

79. At the time of these events, the defendants were all state actors acting under the color of state law, and they acted and purported to act in the performance of official duties.

80. At the time of these events, the defendants all had final policymaking authority from the defendant Cassia County School District concerning these acts.

81. The defendants Cassia County School District, its Superintendent Smyer, and its board of trustees, also ratified defendants Roper's and Bott's acts and the basis for them. The defendant Cassia County School District and its Superintendent Smyer knew of and specifically approved of defendant Roper's and Bott's acts.

82. The defendant Cassia County School District's training policies were also not adequate to train its employees to handle the usual and recurring situations with which they must deal. The defendant Cassia County School District was deliberately indifferent to the obvious consequences of its failure to train its employees adequately, and the failure of the School District to provide adequate training caused the deprivation of Sierra's rights.

83. Sierra has suffered and will continue to suffer harm, including emotional distress and psychological damage and damage to her character and standing in the community, as a direct and proximate result of the defendants' acts, omissions, and deliberate indifference to her rights.

6. Idaho Constitution

84. By excluding Sierra from the Student Body President ballot and by failing to take appropriate remedial action after a teacher encouraged male-on-female violence against Sierra or after Sierra was shunned at school, the defendants discriminated against Sierra on the basis of gender and also on the basis of religion. The defendants likewise denied Sierra rights, privileges, and capacities on account of her religious opinions.

85. By excluding Sierra from the Student Body President ballot and by failing to take appropriate remedial action after a teacher encouraged male-on-female violence against Sierra or after Sierra was shunned at school, the defendants also selectively enforced requirements, even had they been valid, in an arbitrary and discriminatory way against Sierra. The defendants likewise treated Sierra differently, as a “class of one,” without adequate justification under the Constitution’s equal protection guarantees.

86. The defendants’ acts and omissions, including their discrimination and selective enforcement, violated Sierra’s rights under the Idaho Constitution, including the guarantees of equal protection of the laws under Article I, Section 2, and the guarantees against being denied rights, privileges, or capacities on account of religious opinions under Article I, Section 4.

87. Sierra has suffered and will continue to suffer harm, including emotional distress and psychological damage and damage to her character and standing in the community, as a direct and proximate result of the defendants’ acts, omissions, and deliberate indifference to her rights.

PRAYER FOR RELIEF

The plaintiff respectfully requests that the Court enter judgment in her favor, against the defendants, and award the following relief:

1. Monetary damages to fairly and reasonably compensate the plaintiff for the deprivation of her rights, including compensatory (including for emotional distress and reputational harm), consequential, and presumed damages;
2. A declaration that defendants violated Sierra’s constitutional rights and her rights under Title IX and the Idaho Human Rights Act.
3. Any other appropriate injunctive or declaratory relief;
4. Pre-judgment and post-judgment interest at the highest lawful rate;

5. Attorneys' fees, costs, and other expenses of this action;
6. Any other relief that justice allows.

JURY DEMAND

The plaintiff demands a jury trial on all issues.

DATED this 19th day of April, 2016.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION
OF IDAHO FOUNDATION

_____/s/_____
Richard Alan Eppink
Attorney for the Plaintiff