

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

CASE NO.:

TOBY TOBIN,

Plaintiff,

v.

PINELLAS COUNTY SCHOOL DISTRICT;
FLORIDA STATE BOARD OF EDUCATION;
FLORIDA EDUCATION PRACTICES COMMISSION;
FLORIDA DEPARTMENT OF EDUCATION; and
MANNY DIAZ, JR., IN HIS OFFICIAL CAPACITY
AS COMMISSIONER OF EDUCATION.

Defendants.

_____/

COMPLAINT

COMES NOW, Plaintiff, TOBY TOBIN (hereinafter referred to as “Tobin” or “Plaintiff”), by and through undersigned counsel, and hereby files this Complaint against Defendants, PINELLAS COUNTY SCHOOL DISTRICT; FLORIDA STATE BOARD OF EDUCATION; FLORIDA EDUCATION PRACTICES COMMISSION; FLORIDA DEPARTMENT OF EDUCATION; and MANNY DIAZ, JR., IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF EDUCATION, and as grounds hereto states as follows:

JURISDICTION AND VENUE

1. Plaintiff brings claims arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e (“Title VII”), the Constitution of the United States brought pursuant to 42 U.S.C. §1983 (“Sec. 1983”), Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (“Title IX”), and the Constitution of the State of Florida for discrimination and retaliation based upon Plaintiff’s gender and protected speech and conduct relating to his gender.

2. This court has original jurisdiction over this matter insofar as the matter involves a federal question and civil rights.

3. This court has supplemental jurisdiction over Plaintiff’s claims arising under the Florida Constitution.

4. At all times material hereto, Plaintiff was a resident of Pinellas County, Florida, and is otherwise *sui juris*.

5. Defendant PINELLAS COUNTY SCHOOL DISTRICT [“PCSD”] has a principal place of business located at 301 4th St. SW Largo, FL 33770.

6. Defendant FLORIDA STATE BOARD OF EDUCATION [“BOE”] has a principal place of business located at 325 W. Gaines Street Rm 101, Tallahassee, FL 32399.

7. Defendant BOE is a corporate body established by the Florida

constitution. Fla. Const. Art. 9, § 2. It has seven members appointed by the Governor to staggered four-year terms, subject to confirmation by the Senate. Fla. Stat. § 1001.01. It must supervise the system of free public education. Fla. Const. Art. 9, § 2. It is the chief implementing and coordinating body of public education in Florida except for the State University System. Fla. Stat. § 1001.02. It appoints Defendant Commissioner of Education. Fla. Const. art. 9, § 2. It is the head of Defendant DOE. Fla. Stat. § 20.15(1). It assigns powers, duties, responsibilities, and functions to Defendant DOE. Fla. Stat. § 20.15(5).

8. Defendant FLORIDA DEPARTMENT OF EDUCATION [“DOE”] has a principal place of business located at 325 W. Gaines Street Rm 101, Tallahassee, FL 32399

9. Defendant DOE is created by Florida statute. Fla. Stat. § 20.15. It is located in the offices of Defendant Commissioner of Education. Fla. Stat. § 1001.20(2). It has the power and duty to assist in providing professional leadership and guidance and in carrying out the policies, procedures, and duties authorized by law or by Defendant State Board of Education or found necessary by it to attain the purposes and objectives of the Early Learning-20 Education Code. *Id.*

10. Defendant Manny Diaz, Jr. holds the office of Commissioner of Education which was established by the Florida constitution. Fla. Const. Art. 9, §

2. Defendant Commissioner of Education maintains a principal place of business in Tallahassee, Florida. Defendant Commissioner of Education is the chief educational officer of Florida. Fla. Stat. § 1001.10(1). Defendant Commissioner of Education serves as the Executive Director of Defendant DOE. Fla. Stat. § 20.15(2). Defendant Commissioner of Education is responsible for giving full assistance to Defendant DOE in enforcing compliance with the mission and goals of the Early Learning–20 education system, except for the State University System. Fla. Stat. § 1001.10(1). Defendant Commissioner of Education has the power and duty to organize, staff, and recommend a budget for Defendant DOE. Fla. Stat. § 1001.10(6). Defendant Commissioner of Education assigns powers, duties, responsibilities, and functions to Defendant DOE. Fla. Stat. § 20.15(5).

11. Defendant FLORIDA EDUCATION PRACTICES COMMISSION [“EPC”] has a principal place of business located at 325 W. Gaines Street Rm 101, Tallahassee, FL 32399.

12. Defendant EPC is established by Florida statute. Fla. Stat. § 1012.79(1). It has 25 members appointed by Defendant State BOE from nominations by Defendant Commissioner of Education and subject to Senate confirmation. Fla. Stat. § 1012.79(1). Its members serve for four-year staggered terms. Fla. Stat. § 1012.79(2). It is assigned to Defendant DOE for administrative purposes. Fla. Stat.

§ 1012.79(6)(a). Its property, personnel, and appropriations related to its specified authority, powers, duties, and responsibilities are provided to it by Defendant DOE. Fla. Stat. § 1012.79(6)(b).

13. Plaintiff worked for Defendants as a teacher in Pinellas County, Florida.

14. Venue is proper because Defendants' decisions and actions taken occurred within this District, and the events giving rise to this cause of action occurred in this District.

EXHAUSTION OF REMEDIES

15. Prior to initiating this Complaint, Plaintiff filed charges of discrimination with the Equal Employment Opportunity Commission ("EEOC") against Defendants PCSD, DOE, BOE, and EPC. (See true and correct copy of said charges attached hereto as [Exhibit 1](#)).

16. On July 1, 2024, the EEOC found cause relating to those charges and attempted reconciliation.

17. On July 22, 2024, after reconciliation failed with Defendants DOE, BOE, and EPC, the EEOC forwarded the charges against those parties to the United States Department of Justice for litigation review.

18. On August 13, 2024, after reconciliation failed with Defendant PCSD, the EEOC forwarded the charge against PCSD to the United States Department of

Justice for litigation review

19. On January 17, 2025, the United States Department of Justice issued its Notice of Right to Sue to Plaintiff for all four charges. (See true and correct copy of said Notice of Right to Sue attached hereto as [Exhibit 2](#)).

20. As such, Plaintiff has exhausted administrative remedies.

FACTUAL ALLEGATIONS

21. Plaintiff was employed by Defendants as a 5th Grade Teacher at Cross Bayou Elementary School in the Pinellas County School District from April 2021 to July 2023.

22. Plaintiff identifies as transmasculine, specifically as a transgender male.

23. Defendants were aware of Plaintiff's gender identity when they hired Plaintiff and during his time as a teacher.

24. Throughout his employment, Plaintiff requested that students and colleagues use the name "Mr. Tobin" and refer to him using "they/them" or "he/him" pronouns.

25. Plaintiff made these requests in good faith based on Plaintiff's gender identity.

26. These requests were necessary to ensure Plaintiff's personal comfort, safety, and well-being in the workplace.

27. Initially, Defendants did not take any formal action to restrict or deny Plaintiff's gender identity.

28. Plaintiff openly identified as a transgender male in school and used male pronouns.

29. Plaintiff was a highly-regarded teacher who consistently rated highly on evaluations.

30. Plaintiff was well-liked by students and faculty alike.

31. Plaintiff is unaware of any issues that resulted from Plaintiff's gender identity or requests to be identified by the proper name and pronouns.

32. In May 2023, the State of Florida enacted, and Governor Ron DeSantis signed, House Bill 1069 ("HB-1069"), which imposed certain restrictions on educational settings regarding gender identity and pronouns.

33. HB 1069 amends § 1000.21 of the Early Learning–20 Education Code to define "sex" to "mean[] the classification of a person as either female or male based on the organization of the body of such person for a specific reproductive role, as indicated by the person's sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth." Fla. Stat. § 1000.21(9). This definition of sex is sometimes called "biological sex" by some or "sex assigned at birth" by others.

34. Section 2 of HB 1069 creates § 1000.071 of the Early Learning–20 Education Code, which reads:

1000.071 Personal titles and pronouns. —

(1) It shall be the policy of every public K-12 educational institution that is provided or authorized by the Constitution and laws of Florida that a person’s sex is an immutable biological trait and that it is false to ascribe to a person a pronoun that does not correspond to such person’s sex. This section does not apply to individuals born with a genetically or biochemically verifiable disorder of sex development, including, but not limited to, 46, XX disorder of sex development; 46, XY disorder of sex development; sex chromosome disorder of sex development; XX or XY sex reversal; and ovotesticular disorder.

(2) An employee, contractor, or student of a public K-12 educational institution may not be required, as a condition of employment or enrollment or participation in any program, to refer to another person using that person’s preferred personal title or pronouns if such personal title or pronouns do not correspond to that person’s sex.

(3) An employee or contractor of a public K-12 educational institution may not provide to a student his or her preferred personal title or pronouns if such preferred personal title or pronouns do not correspond to his or her sex.

(4) A student may not be asked by an employee or contractor of a public K-12 educational institution to provide his or her preferred personal title or pronouns or be penalized or subjected to adverse or discriminatory treatment for not providing his or her preferred personal title or pronouns.

(5) The State Board of Education may adopt rules to administer this section.

35. Florida law does not define or set forth which titles and pronouns “correspond to” which sex; instead, § 1000.071 leaves those enforcing it to rely on

stereotypes about which titles and pronouns should be used by people whose sex is deemed female under the statute, and which should be used by people whose sex is deemed male under the statute. Therefore, under § 1000.071, titles like Mrs., Ms., and Miss and pronouns like she and her “correspond to” people whose sex is deemed female; titles like Mr. and pronouns like he and him “correspond to” people whose sex is deemed male; and titles like Mx. and pronouns like they and them, when used to refer to a single person, “correspond to” no one.

36. Sponsors of HB 1069, Governor DeSantis, and his administration justified HB 1069 in vague language about “protect[ing] children” from “indoctrination” and “woke gender ideology.”

37. HB-1069’s drafters ignored Supreme Court case law that clearly establishes its unlawfulness. According to Representative Stan McClain, who sponsored HB-1069, its drafters did not consult *Bostock v. Clayton County*, 590 U.S. 644, 140 S. Ct. 1731 (2020), which held that Title VII’s prohibition on discrimination based on sex includes discrimination based on gender identity.

38. Through the passage of laws such as HB-1069, Florida intentionally sends the state-sanctioned, invidious, and false message that transgender and nonbinary people and their identities are inherently dangerous, especially to children. Florida’s goal behind these laws is to stigmatize and demonize

transgender and nonbinary people and relegate them from public life altogether.

39. On August 22, 2023, Defendant BOE amended two administrative rules, Rule 6A-5.065 and Rule 6A-10.081, to require teachers to comply with HB-1069 and to subject teachers who violate HB-1069 to suspension or revocation of their educator certificate and to poorer performance evaluations.

40. Rule 6A-5.065 of the Florida Administrative Code sets forth the Florida Educator Accomplished Practices (“the Practices”). The Practices are “Florida’s core standards for effective educators” and “form the foundation for the state’s teacher preparation programs, educator certification requirements[,] and school district instructional personnel appraisal systems.” Fla. Admin. Code r. 6A-5.065(1)(a). “Each of the [P]ractices is clearly defined to promote a common language and statewide understanding of the expectations for the quality of instruction and professional responsibility.” Fla. Admin. Code r. 6A-5.065(2).

41. Defendant BOE amended the Practices to provide that, “[t]o maintain a student-centered learning environment that is safe, organized, equitable, flexible, inclusive, and collaborative, the effective educator consistently ... [a]dapts the learning environment to accommodate the differing needs and diversity of students while ensuring that the learning environment is consistent with s. 1000.071.” Fla. Admin. Code r. 6A-5.065(2)(a)(2)(h).

42. Rule 6A-10.081 of the Florida Administrative Code sets forth the Principles of Professional Conduct for the Education Profession in Florida (“the Principles”). They include ethical and disciplinary principles. Florida educators must comply with the disciplinary principles, and “[v]iolation of any of the[] [disciplinary] principles shall subject the [educator] to revocation or suspension of the individual educator’s certificate, or the other penalties as provided by law.” Fla. Admin. Code r. 6A-10.081(2).

43. Defendant BOE amended the disciplinary principles to provide that educators “[s]hall not violate s 1000.071.” Fla. Admin. Code r. 6A-10.081(2)(a)(14).

44. According to Defendant Commissioner of Education, the proposed rule amendments purportedly were steps toward “truth and sanity” and they would purportedly “empower” teachers by supposedly giving them “the freedom to keep order in the classroom and to keep distractions away and to create a high-quality learning environment.”

45. Defendant DOE must investigate potential violations of HB-1069 by teachers, see Fla. Stat. § 1012.796(1)(a), and advise Defendant Commissioner of Education of its findings, Fla. Stat. § 1012.796(3). Defendant DOE’s Office of Professional Practice Services conducts such investigations.

46. Defendant Commissioner of Education determines whether there is

probable cause of a violation of HB-1069. *See* Fla. Stat. § 1012.796(3). If there is probable cause, Defendant Commissioner of Education must file and prosecute a complaint against the teacher. Fla. Stat. § 1012.796(6). Defendant DOE's Office of Professional Practice Services pursues such disciplinary actions.

47. If there are disputed issues of material fact, an administrative law judge, assigned by the Division of Administrative Hearings of the Department of Management Services, must hear the complaint and make recommendations to the appropriate panel of Defendant EPC. Fla. Stat. § 1012.796(6).

48. A case concerning a complaint against a teacher must be reviewed, and a final order entered, by a panel composed of five members of Defendant EPC. Fla. Stat. § 1012.796(8)(a). The panel must conduct a formal review of the administrative law judge's recommendations, if any, and other pertinent information and issue a final order. Fla. Stat. § 1012.796(6).

49. Defendant EPC must either dismiss the complaint or impose penalties on a teacher for violating HB-1069, including denying the teacher's application for a certificate, revoking or suspending the teacher's certificate, imposing an administrative fine up to \$2,000 for each offense, placing the teacher on probation for which the teacher must pay the costs, restricting the authorized scope of the teacher's practice, reprimanding the teacher in writing in the teacher's file, and

barring the teacher, if the teacher's certificate has expired, from applying for a new certificate for up to ten years or permanently. See Fla. Stat. § 1012.796(7).

50. Defendant Florida DOE must maintain a disqualification list that includes the identity of each person who has been permanently denied an educator certificate or whose educator certificate has been permanently revoked and has been placed on the list as directed by Defendant EPC. Fla. Stat. § 1001.10(4)(b). Defendant Florida DOE maintains that list publicly online.

51. As a result of HB-1069, and the amendment to the administrative rules, Plaintiff was informed by his school administration that he would be required to refer to himself as "Ms. Tobin" in all professional settings, contrary to his gender identity.

52. Plaintiff was further informed that if any students or colleagues misgendered him, he would not be permitted to correct them.

53. Plaintiff attempted to work with the school district by voluntarily obtaining honorifics such as "lord" by purchasing a tract of land in Scotland or offering to go by "coach" as Plaintiff coached a swim team at an unaffiliated organization. Plaintiff also obtained the title of "minister" from the Universal Life Church and "count" from the Principality of Sealand.

54. Defendant did not allow Plaintiff to use any titles or pronouns other ones

that corresponded to the incorrect gender.

55. Defendants' directives undermined Plaintiff's identity, dignity, and ability to perform his job in a manner consistent with his personal and professional integrity.

56. Plaintiff was subjected to ongoing pressure to comply with the school district's instructions, which included misgendering himself and denying his own identity. Plaintiff repeatedly expressed that such actions were harmful and inconsistent with his gender identity.

57. As a result of Defendants' actions and failure to provide reasonable accommodation for his gender identity, Plaintiff was forced to resign from his position as a teacher at Cross Bayou Elementary School in July 2023.

58. The hostile work environment, coupled with Defendants' insistence on misgendering Plaintiff and denying him the ability to express his identity in the workplace, created an intolerable situation where Plaintiff had no other option but to resign.

59. Plaintiff's resignation was involuntary and constituted a constructive discharge.

60. Defendants' actions created an intolerable and discriminatory work environment, compelling Plaintiff to leave his position to preserve his dignity and

mental well-being.

COUNT I
GENDER DISCRIMINATION IN VIOLATION OF TITLE VII
(AGAINST DEFENDANTS PCSD, DOE, BOE, AND EPC)

Plaintiff incorporates by reference allegations 1 through 60 of this Complaint as if set forth fully herein.

61. Defendants PCSD, DOE, BOE, and EPC are employers as defined in Title VII.

62. Defendants have a policy, pattern, and practice of allowing harassing, discriminatory treatment.

63. During Plaintiff's employment, he experienced discrimination, including being forced to misgender himself, which led to his termination.

64. Defendants' policies and practices were discriminatorily motivated.

65. Defendants knew or should have known that Plaintiff was being discriminated against and being treated differently and more harshly than other similarly-situated employees by Defendants and their agents, employees and/or representatives.

66. By and through the conduct described above, Defendants permitted a pattern and practice of unlawful discrimination by permitting Plaintiff to be subjected to continuing discriminatory treatment on the basis of gender in violation of Title VII.

67. Plaintiff is informed and believes and based thereon alleges, that in addition to the practices enumerated above, Defendants may have engaged in other discriminatory practices which are not yet fully known. At such time as the discriminatory practices become known, Plaintiff will seek leave of court to amend the Complaint in this regard.

68. Plaintiff suffered disparate treatment including but not limited to termination.

69. Plaintiff has suffered damages as a result of Defendants' conduct, by and through its agents, employees and/or representatives.

70. Plaintiff has suffered damages including compensatory damages for wage loss, front pay, back pay, relocation expenses, pain and suffering, humiliation, loss of opportunities and the like, as a result of the Defendants' conduct, by and through its agents, employees and/or representatives.

71. As a further result of Defendants' conduct, Plaintiff has retained the undersigned law firm as his counsel.

72. Plaintiff requests that he be awarded reasonable attorney's fees and costs of suit pursuant to Title VII.

73. Plaintiff suffered damages and seeks damages for his general damages, compensatory damages, punitive damages, and prejudgment interest; that

Plaintiff be awarded reasonable attorney's fees and costs pursuant to Title VII; and, that Plaintiff be awarded such other relief as the Court deems just and proper.

COUNT II
RETALIATION IN VIOLATION OF TITLE VII
(AGAINST DEFENDANTS PCSD, DOE, BOE, AND EPC)

Plaintiff incorporates by reference allegations 1 through 60 of this Complaint as if set forth fully herein.

74. Defendants PCSD, DOE, BOE, AND EPC are employers as defined in Title VII.

75. Plaintiff engaged in protected activity when he asserted his rights and opposed Defendants' discrimination against him based on his gender identity.

76. Defendants took adverse action against Plaintiff, which resulted in the discharge of his employment.

77. Defendants took the adverse action because of Plaintiff's protected activity.

78. Plaintiff suffered damages because of the adverse employment action.

COUNT III
VIOLATION OF FIRST AND FOURTEENTH AMENDMENTS TO THE
UNITED STATES CONSTITUTION VIA 42 U.S.C. §1983
(AGAINST DEFENDANTS PCSD, COMMISSIONER OF EDUCATION,
BOE, AND EPC)

Plaintiff incorporates by reference allegations 1 through 60 of this Complaint as if set forth fully herein.

79. Defendants Commissioner of Education and PCSD, BOE, and EPC acting through their individual members violated rights secured to Plaintiff under the First and Fourteenth Amendments to the United States Constitution Commissioner while acting under color of state law.

80. Plaintiff engaged in protected speech on a matter of public concern by seeking to identify with the pronouns and honorifics of his choice.

81. Plaintiff was discharged from his employment.

82. Plaintiff's engagement in protected speech was a motivating factor in Defendant's decision to terminate his employment.

83. Plaintiff suffered damages as a result of the Defendant's actions.

COUNT IV
DISCRIMINATION IN VIOLATION OF TITLE IX
(AGAINST DEFENDANTS PCSD, DOE, BOE, AND EPC)

Plaintiff incorporates by reference allegations 1 through 60 of this Complaint as if set forth fully herein.

84. Plaintiff is a person within the meaning of Title IX.

85. Defendants PCSD, DOE, BOE, and EPC operate education programs or activities receiving federal financial assistance within the meaning of Title IX.

86. Plaintiff's termination, as a result of the enforcement of HB-1069, discriminates on the basis of sex within the meaning Title IX.

87. By enforcing HB-1069, Defendants, on the basis of Plaintiff's sex, excludes Plaintiff from participation in, denies Plaintiff the benefits of, and subjects Plaintiff to discrimination, under an education program or activity receiving federal financial assistance, in violation of Title IX.

88. Plaintiff suffered damages as a result of the Defendant's actions.

COUNT V
VIOLATION OF Art. 1, §4 FLORIDA CONSTITUTION
RIGHT TO FREE SPEECH
(AGAINST ALL DEFENDANTS)

Plaintiff incorporates by reference allegations 1 through 60 of this Complaint as if set forth fully herein.

89. Under the Florida constitution: "Every person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press."

90. Defendants violated Plaintiff's right to free speech under the Florida Constitution by restraining and abridging Plaintiff's right to express his gender identity and use of honorifics and pronouns of his choice.

91. As a result of Defendants' violation, Plaintiff suffered damages, including, but not limited to, discharge of employment.

COUNT VI
VIOLATION OF Art. 1, §23 FLORIDA CONSTITUTION
RIGHT TO PRIVACY
(AGAINST ALL DEFENDANTS)

Plaintiff incorporates by reference allegations 1 through 60 of this Complaint as if set forth fully herein.

92. Under the Florida constitution: “Every natural person has the right to be let alone and free from governmental intrusion into the person’s private life except as otherwise provided herein.”

93. Defendants violated Plaintiff’s right to privacy under the Florida constitution by intruding into Plaintiff’s private life to require that Plaintiff identify and use titles corresponding to “biological sex” or “sex assigned at birth.”

94. As a result of Defendants’ violation, Plaintiff suffered damages, including, but not limited to, discharge of employment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered in his favor against the Defendant as follows:

1. That Defendants be enjoined from enforcing their discriminatory laws and rules.
2. That Plaintiff be awarded general damages, compensatory damages, , and prejudgment interest;

3. That Plaintiff be awarded reasonable attorney's fees, litigation expenses, and costs pursuant to Title VII; Title IX, and Sec. 1983. *See* 42 U.S.C. § 1988.

4. That Plaintiff be awarded such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff further demands a trial by jury for all matters so triable.

Dated this 17th day of April 2025.

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