

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

MICHELLE SELDEN, by and through her
next friends, DARREN SELDEN and
RHONDA SELDEN,

Plaintiff,

– against –

LIVINGSTON PARISH SCHOOL BOARD;
RANDY POPE, Superintendent of

next friends, DARREN SELDEN and 14401 Tm[(I)-5(S)-2(TR)-7(ICT OF)-5().c42 Tc 9.48of

PRELIMINARY STATEMENT

1. This action arises out of the unlawful sex discrimination of Defendants Livingston Parish School Board, Superintendent Randy Pope, Livingston Parish School Board President Malcolm Sibley, Livingston Parish School Board member Jeffrey Cox, Livingston Parish School Board member Louis Carlisle, Livingston Parish School Board member Milton Hughes, Livingston Parish School Board member Alton Leggette, Livingston Parish School Board member Keith Martin, Livingston Parish School Board member Claire Peak-Coburn, Livingston Parish School Board member Julius Prokop, and Principal Alan Joe Murphy in seeking to craft separate spheres for girls and boys attending Southside Junior High School, a public school to which students are assigned based on their place of residence. In the 2006-2007 academic year, Defendants plan to offer only sex-segregated classes at Southside Junior High School. Moreover, Defendants plan to provide classroom instruction in these sex-segregated classes tailored to reflect overbroad stereotypes and generalizations about differences between the genders. For instance, while girls will be taught “good character,” boys will be taught about “heroic” behavior and what it means to be a man. Students and parents will be offered no coeducational alternative to this program, which was in

3. Plaintiff seeks declaratory and injunctive relief to end the unlawful and discriminatory treatment of herself and all others similarly situated. She also seeks to ensure that she and all students at Southside Junior High School have the equal opportunity to participate in the school's academic offerings without regard to their gender and to receive instruction based on their individual strengths and needs, rather than stereotypes about the sort of education the "average boy" or the "average girl" wants or requires.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 20 U.S.C. §§ 1681 – 1688 and 28 U.S.C. §§ 1331 and 1343. The Court has jurisdiction over Plaintiff's state law claim pursuant to 28 U.S.C. § 1367(a).

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because, upon information and belief, all parties are residents of the Middle District of Louisiana and because all or a substantial part of the events giving rise to the claims in this action took place in the Middle District of Louisiana.

6. Declaratory relief is authorized pursuant to 28 U.S.C. § 2201 and 28 U.S.C. § 2202. A declaration of the law is necessary and appropriate to determine the respective rights and duties of the parties to this action.

PARTIES

7. Plaintiff Michelle Selden has attended public schools in Livingston Parish School District since 2000 and will be an eighth grade student at Southside Junior High

in the 2006-2007 school year. At that time, she will be assigned to all-female classes based on her sex and will be subject to gender-stereotyped educational techniques based on broad generalizations about girls' psychological and developmental capacities. She wishes to attend a public school where her educational experience is not determined by her sex.

8. Defendant Livingston Parish School Board is a political subdivision of the State of Louisiana, organized pursuant to L.S.A. R.S. § 7:51 *et seq.* for the purpose of providing public education to the school children of Livingston Parish, including Plaintiff. The School Board has the right and power to sue and be sued and is responsible for ensuring that the School District's programs comply with the United States and Louisiana Constitutions and federal law.

9. Defendant Randy Pope is Superintendent of Livingston Parish School District. He is the chief educational officer charged with supervision of all schools within the School District. Superintendent Pope is responsible for ensuring that all schools within the district comply with the United States and Louisiana Constitutions and federal law. He is sued in his official capacity.

10. Defendant Malcolm Sibley is President of Livingston Parish School Board. As President of the School Board, Mr. Sibley is responsible for ensuring that the educational programs provided in schools within the district comply with United States and Louisiana Constitutions and federal law. He is sued in his official capacity.

11. Defendant Jeffrey Cox is a member of Livingston Parish School Board. As a School Board member, Mr. Cox is responsible for ensuring that the educational

programs provided in schools within the district comply with United States and Louisiana Constitutions and federal law. He is sued in his official capacity.

12. Defendant Louis Carlisle is a member of Livingston Parish School Board. As a School Board member, Mr. Carlisle is responsible for ensuring that the educational programs provided in schools within the district comply with United States and Louisiana Constitutions and federal law. He is sued in his official capacity.

13. Defendant Milton Hughes is a member of Livingston Parish School Board. As a School Board member, Mr. Hughes is responsible for ensuring that the educational programs provided in schools within the district comply with United States and Louisiana Constitutions and federal law. He is sued in his official capacity.

14. Defendant Alton Leggette is a member of Livingston Parish School Board. As a School Board member, Mr. Leggette is responsible for ensuring that the educational programs provided in schools within the district comply with United States and Louisiana Constitutions and federal law. He is sued in his official capacity.

15. Defendant Keith Martin is a member of Livingston Parish School Board. As a School Board member, Mr. Martin is responsible for ensuring that the educational programs provided in schools within the district comply with United States and Louisiana Constitutions and federal law. He is sued in his official capacity.

16. Defendant Claire Peak-Coburn is a member of Livingston Parish School Board. As a School Board member, Ms. Peak-Coburn is responsible for ensuring that the educational programs provided in schools within the district comply with United States and Louisiana Constitutions and federal law. She is sued in her official capacity.

17. Defendant Julius Prokop is a member of Livingston Parish School Board. As a School Board member, Mr. Prokop is responsible for ensuring that the educational programs provided in schools within the district comply with United States and Louisiana Constitutions and federal law. He is sued in his official capacity.

18. Defendant Alan Joe Murphy is Principal of Southside Junior High School. He is charged with supervision and management of the school and its educational programs. Principal Murphy is responsible for ensuring that Southside Junior High School complies with the United States and Louisiana Constitutions and federal law.

CLASS ACTION ALLEGATIONS

19. The named individual Plaintiff brings this action on behalf of herself and the Plaintiff class pursuant to Fed. R. Civ. P. Rules 23(a) and (b)(2). The class consists of all present, potential, and future students at Southside Junior High School whose rights to equal educational opportunity without discrimination on the basis of sex are violated by the mandatory single-sex instruction based on overbroad gender stereotypes proposed for Southside Junior High School.

20. Numerosity. The size of the class is indefinite, and includes the approximately nine hundred (900) students currently enrolled at Southside Junior High School. In addition, an indefinite number of future and potential Southside Junior High School will be the victims of discrimination based on their sex so long as Defendants' current sex segregation policies continue.

21. Adequacy of Representation. The named Plaintiff will represent fairly and adequately the interests of the class defined above. Plaintiff's attorneys include

experienced civil rights counsel who have litigated cases, including class actions, involving similar issues and claims.

22. Common Questions of Law and Fact. Common questions of law and fact affecting the class are involved, including but not limited to actions and omissions by Defendants, who have denied the Plaintiff class equal access to educational opportunities on the basis of sex.

23. Typicality of the Claims of Class Representatives. The claims of the named Plaintiff are typical of the claims of the class as a whole. The named Plaintiff is a member of the class defined herein and has suffered, and will continue to suffer, discriminatory denial of equal access to educational opportunities. The named Plaintiff alleges that she and the members of the class she seeks to represent is and will be subject to discrimination based on sex due to the discrimination complained of in this action.

24. Injunctive and Declaratory Relief. Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate preliminary and permanent injunctive relief and corresponding declaratory relief with respect to the class as a whole.

STATUTORY FRAMEWORK

25. Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688, and federal regulations interpreting and implementing Title IX, 34 C.F.R. § 106.31 *et seq.*, prohibit schools receiving federal funding from excluding individuals from any educational program or activity based on their sex.

26. More specifically, Title IX regulations state, “*A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis.*” 34 C.F.R. § 106.34 (emphasis added).

27. Title IX regulations also state, “[A] recipient shall not, on the basis of sex . . . [p]rovide different aid, benefits, or services *or provide aid, benefits, or services in a different manner.*” 34 C.F.R. § 106.31(b)(2) (emphasis added).

28. Title IX regulations also state, “[A] recipient shall not, on the basis of sex . . . deny and person any such aid, benefit, or service.” 34 C.F.R. § 106.31(c).

JURY DEMAND

29. Plaintiffs demand a trial by jury on e

32. During the 2004-2005 school year, the Louisiana Department of Education's School Accountability System determined that Southside Junior High School demonstrated "Recognized Academic Growth."

33. During the 2004-2005 school year, Southside Junior High School received a Three Star Performance Level out of a possible five stars under the Louisiana Department of Education's School Accountability System.

34. During the 2004-2005 school year, Southside Junior High School students on average performed well above state and national averages on standardized tests.

35. Prior to the 2006-2007 school year, Southside Junior High School has been fully coeducational, offering exclusively coeducational classes and activities.

36. Michelle Selden has attended Southside Junior High School since she was in the sixth grade.

37. Michelle Selden does not have the option to attend any other public high school for eighth grade.

38. The first day of school for the 2006-2007 school year at Southside Junior High School is August 9, 2006.

Southside Junior High School's Sex Segregation

39. In mid-May 2006, Southside Junior High School hosted a meeting for parents of current and incoming students, which Rhonda Selden, mother and next friend of Michelle Selden, attended. At that meeting, the principal of Southside Junior High School, Defendant Alan Joe Murphy, informed the parents in attendance that in the 2006-2007 school year, Southside Junior High School would segregate its students by sex. He

stated that the decision had already been made and that Defendant Livingston Parish School Board backed this decision.

40. At this meeting, Mr. Murphy made a presentation on the differences between boys and girls and the rationale for adopting sex-segregated education at Southside Junior High School. This presentation included a discussion of the different ways that boys and girls “process” information and differences in boys’ and girls’ brain structure and brain maturation.

41. According to the PowerPoint slide show presentation by Mr. Murphy that evening, the purpose of sex segregation at Southside was to help “teachers and parents understand the neurological, developmental, and hormonal differences/similarities by gender in order to identify strengths and weaknesses of boys and girls.” Mr. Murphy explained that instruction in the single-sex classrooms would be “based on quantifiable differences between male and female adolescents supported by scientific educational research.”

42. Mr. Murphy also asserted that sex segregation would remove “unnecessary stressors” from students’ classroom experience.

43. According to Mr. Murphy, students could interact with members of the other sex at home, at church, and in school clubs and extracurricular activities.

44. Mr. Murphy briefly outlined the differences in the instruction that would be given to girls and to boys.

45. For instance, girls would receive character education and be subject to high expectations both academically and socially. Girls would be taught math through “hands-on” approaches. Field trips, physical movement, and multisensory strategies

would be incorporated into girls' classes. Girls would act as mentors for elementary school girls.

51. On information and belief, Defendants decided to segregate Southside Junior High by sex without consulting with students or parents about this approach.

Leonard Sax's Theories of Gender Difference

52. Defendants have referred to Dr. Leonard Sax's book *Why Gender Matters* as a resource on which they are relying in developing Southside Junior High School's sex-segregated program. They have also recommended it as a resource to parents.

53. Dr. Sax is a medical doctor with a Ph.D. in psychology who has styled himself an expert on and advocate for single-sex education. He does not perform scientific research and he does not have training in education.

54. In *Why Gender Matters*, Dr. Sax states that girls have more sensitive hearing than boys. Thus, he concludes, teachers should not raise their voices in talking to girls and must maintain quiet

Michael Gurian's Theories of Gender Difference

63. Defendants have referred to Michael Gurian's *Boys and Girls Learn Differently!* and his *The Boys and Girls Learn Differently Action Guide for Teachers* ("*Action Guide*") as resources on which they are relying in developing Southside Junior High School's sex-segregated program. They have also recommended the former as a resource to parents.

64. On information and belief, Southside Junior High School staff attended the Gurian Institute's 2006 Summer Institute from July 11-15, 2006, in Colorado Springs, Colorado.

65. Michael Gurian is a therapist, corporate consultant, and novelist. He does not perform scientific research. He has written several popular books asserting brain differences between males and females.

66. In the *Action Guide*, Mr. Gurian repeatedly asserts that differences in brain development and hormone secretion between boys and girls explain why gender stereotypes about differences in intelligence and learning style actually reflect real biological differences.

67. In the *Action Guide*, Mr. Gurian explains that boys face the most gender-based disadvantage in schools and that earlier writers and researchers who believed that girls were the targets of gender bias in schools failed to take account of biological differences between boys and girls or were motivated by an outside agenda.

68. In the *Action Guide*, Mr. Gurian asserts that boys are more likely to play sports than girls because of differences between male and female brains and that 100 percent female participation in athletics isn't neurologically or hormonally realistic.

69. In the *Action Guide*, Mr. Gurian states that boys in middle school should be provided with quick tension release strategies, both inside and outside the classroom, such as being given Nerf baseball bats with which to hit things.

70. In the *Action Guide*, Mr. Gurian explains that when young male elephants are brought up without parents, they begin killing rhinoceroses and trying to mate inappropriately, until alpha male elephants are introduced into their group. Mr. Gurian concludes that “alphas” must be brought in to manage students seeking to dominate.

71. In the *Action Guide*, Mr. Gurian explains that boys excel at abstract arguments, philosophical conundrums, and moral debates about abstract principles, because of their brain structure. Thus the male brain gravitates toward engineering, for example. Female brains favor concrete thinking.

72. In the *Action Guide*, Mr. Gurian explains that boys do better than girls at high level math and physics and this is unlikely to change because of differences in male and female brains. According to Mr. Gurian, boys are better than girls in math because their bodies receive daily surges of testosterone, which increases their spatial skills.

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77. All girls are not alike. Research demonstrates that the psychological differences between individual girls are far larger than any average psychological differences between girls and boys.

78. All boys are not alike. Research that the psychological

SECOND CLAIM FOR RELIEF
(Violation of Equal Protection Clause of the Fourteenth Amendment of the U.S.
Constitution, 42 U.S.C. § 1983)

85. Plaintiff realleges and incorporates, as though fully set forth herein, each and every allegation contained above.

86. By segregating all classes at Southside Junior High School by sex on the basis of overbroad and inaccurate generalizations about gender differences, Defendants have intentionally discriminated against Plaintiff and the proposed Plaintiff class on the basis of their sex in violation

91. Defendants engaged in such conduct intentionally, willfully, and in disregard of the rights of Plaintiff and the proposed Plaintiff class.

92. Plaintiff and the proposed Plaintiff class will suffer injury as a result of Defendants' illegal conduct.

PRAYER FOR RELIEF

Wherefore, Plaintiff, on behalf of herself and the proposed Plaintiff class, respectfully requests that this Court enter judgment in her favor:

- (1) Certifying the proposed

Dated: August 2, 2006

Respectfully submitted,

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