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SUPERIOR COURT  
OF NEW JERSEY  
CHANCERY DIVISION  
MORRIS COUNTY  
DOCKET  
NO.: \_\_\_\_\_

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MATTHEW J. PLATKIN,	:	
Attorney General of New Jersey,	:	CIVIL ACTION
and	:	
SUNDEEP IYER, Director,	:	<b>VERIFIED COMPLAINT</b>
New Jersey Division on Civil Rights,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
HANOVER TOWNSHIP BOARD OF	:	
EDUCATION,	:	
and	:	
HANOVER TOWNSHIP PUBLIC	:	
SCHOOLS,	:	
	:	
Defendants.	:	
	:	
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Matthew J. Platkin, Attorney General of the State of New Jersey (the “Attorney General”), and Sundeep Iyer, Director of the New Jersey Division on Civil Rights (the “Director,” and together with the Attorney General, “Plaintiffs”), by way of this Verified Complaint, hereby allege the following:

## **INTRODUCTION**

1. This case seeks to prevent potential harm to students in the Hanover Township school system resulting from unlawful discrimination by the Hanover Township Public Schools (“School District”) and Hanover Township Board of Education (the “Board”) (collectively, Defendants). Defendants have enacted a policy that unlawfully discriminates against students on the basis of gender identity, gender expression, and affectional or sexual orientation, in violation of the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -50, and could result in significant and irreversible harm to students if not enjoined.

2. On May 16, 2023, the Board passed Policy 8463 (the “Policy”), which singles out students on the basis of multiple LAD-protected characteristics.<sup>1</sup> Both the text of Policy 8463 and related Board discussions make clear that the policy targets students on the basis of gender identity, gender expression, and affectional or sexual orientation in clear violation of New Jersey law and policy.

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<sup>1</sup> The Attorney General and Director take no position on the Policy’s requirement of parental notification that may not implicate the LAD—for instance, any requirement that parents be notified of issues concerning substance use, alcohol use, firearms use, or other unlawful activity.

3. The Policy appears to violate the LAD on its face and is inconsistent with established guidance from the New Jersey Department of Education.

4. On May 17, 2023, Plaintiffs filed an administrative complaint with the Division on Civil Rights (“DCR”), alleging that Defendants have unlawfully discriminated against students on the basis of gender identity, gender expression, and affectional or sexual orientation, in violation of the LAD (the “Administrative Complaint”). The processing of this Administrative Complaint is ongoing.

5. Allowing Defendants to implement Policy 8463 while the underlying administrative proceeding is ongoing will irreparably harm LGBTQ+<sup>2</sup> students by requiring parental disclosure of their affectional or sexual orientation and/or gender identity or expression. “Outing” LGBTQ+ students against their will poses serious mental health risks; threatens physical harm to students, including risking increased suicides; and shirks the District’s duty to create a safe and supportive learning environment for all.

6. With this summary proceeding, Plaintiffs now seek temporary restraints and an interlocutory injunction, pursuant to N.J.S.A. 10:5-14.1, N.J.A.C. 13:4-11.3, and R. 4:52-1, to maintain the pre-Policy status quo while the Administrative Complaint is being resolved.

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<sup>2</sup> The term “LGBTQ+” is intended to include individuals who are gay, lesbian, bisexual, polysexual, pansexual, transgender, gender non-conforming, nonbinary, genderqueer, questioning, queer, or otherwise not straight and/or not cisgender.

7. Plaintiffs seek an order restraining and enjoining Defendants from implementing Policy 8463 or otherwise giving effect to the aspects of the Policy that violate the LAD—including its provisions regarding gender identity, gender expression, and affectional or sexual orientation—until such time as the litigation arising from the Administrative Complaint is resolved.

8. However, the order sought by Plaintiffs would permit Defendants to require parental notification where it is required by law, or where it is necessary due to a specific and compelling need not based on the student’s gender identity or expression, sexual orientation, transitioning status, or other protected characteristic, so long as the School District makes every effort to ensure that any disclosure is made in a way that reduces or eliminates the risk of re-disclosure and protects the student from harassment. Examples include where the school is required to inform parents about an incident of a bias-related crime. The order sought by Plaintiffs would continue to permit the School District staff to notify parents of material circumstances affecting their children in the same manner permitted prior to adoption of Policy 8463; however, Defendants may not define “material circumstances” to include a student’s gender identity or expression, sexual orientation, transitioning status, or other LAD-protected characteristic.

## JURISDICTION, VENUE, AND PARTIES

9. The Attorney General of New Jersey, having offices at 25 Market Street, Trenton, New Jersey, 08625 and 124 Halsey Street, Newark, New Jersey, 07102, is charged with enforcing the LAD, N.J.S.A. 10:5-1 to -50. The Attorney General is authorized to file a verified complaint with DCR and to bring enforcement actions for any violation of the LAD in the Office of Administrative Law, N.J.S.A. 10:5-8.2(b), 10:5-13, and is authorized to proceed against any person in a summary manner in the Superior Court of New Jersey to obtain an injunction prohibiting violations of the LAD. N.J.S.A. 10:5-14.1, N.J.A.C. 13:4-11.3, and R. 4:52-1.

10. The Director of the New Jersey Division on Civil Rights is charged with administering the LAD on behalf of the Attorney General. DCR, having offices located at 31 Clinton Street, Newark, New Jersey, 07102; 140 East Front Street, Trenton, New Jersey, 08625; 5 Executive Campus, Cherry Hill, New Jersey, 08002; and 1601 Atlantic Avenue, Atlantic City, New Jersey, 08401, is charged, inter alia, with preventing and eliminating discrimination in employment, housing, and access to public accommodations, as well as preventing interference with rights protected under the LAD. N.J.S.A. 10:5-4, 10:5-6, 10:5-12. This action is brought by the Director in his official capacity pursuant to the Director's authority under N.J.S.A. 10:5-14.1 and N.J.A.C. 13:4-11.3.

11. Defendant Hanover Township Public Schools is a public school district that serves students in kindergarten through grade 8 who reside in Hanover Township, New Jersey, including Hanover Township's Whippany and Cedar Knolls neighborhoods. The School District's principal office is located at 61 Highland Avenue, Whippany, NJ 07981.

12. Defendant Hanover Township Board of Education is a nine-member board authorized to set policy and oversee the fiscal and educational operation of the District. The Board's principal office is located at 61 Highland Avenue, Whippany, NJ 07981. The Board and the School District operate the Hanover Township public schools.

### **FACTUAL ALLEGATIONS**

#### **Defendants Issue Policy 5756 Concerning Transgender Students in Accordance with State Guidance and the LAD**

13. The LAD provides that it is the policy of the State of New Jersey to prevent and remedy unlawful discrimination in all its forms, see N.J.S.A. 10:5-3, including unlawful discrimination against LGBTQ+ students in schools and other places of public accommodation, see N.J.S.A. 10:5-5(l), -12(f).

14. The LAD provides, in relevant part, that it is unlawful discrimination for:

any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to

any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, ... on account of the ... gender identity or expression, affectional or sexual orientation . . . of such person...  
[N.J.S.A. 10:5-12(f) (emphasis added).]

15. The LAD defines a “place of public accommodation” to include “any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education or the Commissioner of Education of the State of New Jersey.” N.J.S.A. 10:5-5(l).

16. The LAD also prohibits “any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.” N.J.S.A. 10:5-12(e).

17. Consistent with the LAD, the Legislature instructed the Commissioner of the New Jersey Department of Education to develop and distribute to school districts guidelines concerning transgender students to “assist schools in establishing policies and procedures that ensure a supportive learning environment that is free from discrimination for transgender students, including students going through a gender transition,” with a particular focus on “confidentiality and privacy concerns, including ensuring that school personnel do not disclose information that may reveal a student's transgender status except as allowed by law, and advising schools to work

with the student to create an appropriate confidentiality plan regarding the student's transgender or transitioning status.” N.J.S.A. 18A:36-41.

18. In 2018, pursuant to this legislative directive, the State Department of Education published Transgender Student Guidance for School Districts (“State Guidance”). The Guidance recognizes that schools may not “subject individuals to differential treatment based on race, creed, color, national origin, ancestry, marital status, domestic partnership or civil union status, sex, affectional or sexual orientation, gender identity or expression, disability or nationality,” which is prohibited by the LAD. Michael Cert, Ex. D.

19. The State Guidance adopts a student-centered and individualized approach, instructing schools and school districts to “communicate openly, albeit confidentially, with students regarding their transgender status or gender identity,” encouraging school staff to “discuss with the student, and any other individuals at the student’s request, the risks associated with the student’s transgender status being inadvertently disclosed.” Ibid.

20. The State Guidance specifically instructs that “there is no affirmative duty for any school district personnel to notify a student’s parent or guardian of the student’s gender identity or expression.” Ibid.

21. Section 4 of the State Guidance, entitled “Confidentiality and Privacy,” provides that “[a] school district shall keep confidential a current, new, or



prospective student’s transgender status,” and instructs that “[s]chool personnel may not disclose information that may reveal a student’s transgender status except as allowed by law,” or “[d]ue to a specific and compelling need, such as the health and safety of a student or an incident of bias-related crime.” Ibid.

22. In 2019, the Hanover Township Board of Education unanimously adopted Policy 5756, titled “Transgender Students,” “to help school and district administrators take steps to create an inclusive environment in which transgender and gender nonconforming students feel safe and supported, and to ensure each school provides equal educational opportunities for all students, in compliance with N.J.S.A. 6A:7-1.1, et seq.” Michael Cert., Ex. C.

23. School Board Policy 5756 adopted a student-centered approach that focused on preventing unlawful discrimination and protecting student privacy, adopting much of the language of the State Guidance, including its “Confidentiality and Privacy” protections. Michael Cert., Ex. C.

**Defendants Issue Policy 8463 Concerning Parental Notification  
in Contravention of State Guidance and the LAD**

24. On March 6, 2023, Hanover Township Board of Education Vice President Marc Amoresano reported that the Board’s policy committee had discussed Policy 5756 and the “importance” of parental notification about transgender status.

25. On April 25, 2023, an attorney for the Board confirmed that a proposed version of the Policy requires notification to all parents by School District staff any time the school learns that a student is “gay.”

26. On May 16, 2023, the Hanover Township Board of Education adopted Policy 8463, titled “Parental Notice of Material Circumstances.”

27. When the Policy was adopted, Board Member Gregory Skiff announced that a primary purpose of the Policy was to remove subjective discretion from the Board’s policies, or, in other words, require staff members to make notifications without exercising personal judgment as to whether notification is appropriate or necessary in the particular circumstance.

28. Policy 8463 requires:

All school staff members (certified and non-certified personnel) and administrators shall take all necessary steps – including notifying appropriate school administrators (e.g., the Principal and/or his/her designee) – to immediately, fully and accurately inform a student’s parent(s) whenever such staff member is made aware of, directly or indirectly, any facts or circumstances that may have a material impact on the student’s physical and/or mental health, safety and/or social/emotional well-being, including, without limitation, the following: substance use; tobacco/vaping use; alcohol use; firearms; peer/academic/athletic pressures; school performance; eating disorders; suicide; self-harm; anxiety; depression; fatigue; isolationism / anti-social behaviors / social withdraw; truancy; theft; vandalism; unlawful activity; violent or aggressive behavior; preoccupation with anti-social music; pornography; sexual activity; sexuality; sexual orientation; transitioning; gender identity or

expression; gang affiliation; obsessive behaviors; familial/cultural challenges; harassment; intimidation; or bullying.

Where a staff member reasonably believes that such notification to a student’s parent(s) will place the student at risk of abuse or neglect as defined by N.J.S.A. § 9:6-1, the staff member and appropriate administrators shall immediately notify the Department of Children and Families, Institutional Abuse (DCF), Division of Child Protection and Permanency (DCPP), and/or the Hanover Township Police Department (HTPD) in accordance with the annual Memorandum of Agreement and/or as directed by the Superintendent, his/her designee and/or the Board’s legal counsel.

[Michael Cert., Ex. B (emphasis added).]

29. “Affectational or sexual orientation” and “gender identity or expression” are protected characteristics under the New Jersey Law Against Discrimination. See N.J.S.A. 10:5-12(f).

30. “Transitioning,” as it relates to gender identity or expression, is commonly understood to mean a process during which a person begins to live according to their gender identity, rather than the gender they were assigned at birth, and may, but need not, include changing one’s gender expression, including by changing one’s clothing, appearance, and name.

31. By expressly targeting students for disparate treatment based on their LAD-protected characteristics—including “sexual orientation; transitioning; gender identity or expression”—when defining the “facts or circumstances” that school staff must disclose to a student’s parents and to administrators in connection with any

concerns about the student’s health, safety, or well-being, the Policy constitutes unlawful discrimination in violation of the LAD.

32. In the alternative, even if the Policy is construed as neutral, it will actually and predictably have an unjustified disparate impact on LGBTQ+ students at Hanover Township schools, including by subjecting them to continuous surveillance and the threat of being “outed” if they have not made their gender identity, gender expression, and/or sexual orientation known to their parents or others.

33. The Policy directly contravenes the established guidance of the New Jersey Department of Education and the New Jersey Legislature’s stated intention that “school personnel [] not disclose information that may reveal a student’s transgender status except as allowed by law.” N.J.S.A. 18A:36-41.

34. A wealth of scientific literature demonstrates that LGBTQ+ students who are subjected to discriminatory policies and practices experience significant and irreparable harms, including higher rates of psychological distress, worse educational outcomes, and higher rates of suicide.

35. The Policy states that where that staff member “reasonably believes that such notification to a student’s parent(s) will place the student at risk of abuse or neglect, as defined by N.J.S.A. §9:6-1,” the staff member must notify the New Jersey Department of Children and Families, Institutional Abuse Investigative Unit, the

New Jersey Department of Children and Families Division of Child Protection and Permanency, and/or the Hanover Township Police Department.

36. N.J.S.A. 9:6-1 defines “abuse of a child” to be limited to select acts including “using excessive physical restraint on the child” and “willfully isolating the child from ordinary social contact under circumstances that indicate emotional or social deprivation.”

37. N.J.S.A. 9:6-1 defines “neglect of a child” to be limited to select acts including “willfully failing to provide proper and sufficient food, clothing, maintenance, regular school education as required by law, medical attendance or surgical treatment, and a clean and proper home.”

38. Even in the narrow circumstances where the “abuse or neglect” provision applies, it does not expressly exempt school staff from their obligation under the Policy to notify parents of their child’s sexual orientation, transitioning, or gender identity or expression.

39. Nor does requiring school district staff to report to these state agencies and law enforcement authorities any information concerning a student’s sexual orientation or gender identity serve any legitimate purpose.

40. On May 17, 2023, Plaintiffs filed the Administrative Complaint with DCR, alleging that Defendants have unlawfully discriminated against students on

the basis of gender identity, gender expression, and affectional or sexual orientation in violation of the LAD.

41. On the same day, Plaintiffs brought this summary proceeding seeking temporary restraints and an interlocutory injunction, pursuant to N.J.S.A. 10:5-14.1, N.J.A.C. 13:4-11.3, and R. 4:52-1, to maintain the pre-Policy status quo while the Administrative Complaint is being resolved.

42. Consistent with the academic literature, the “outing” of LGBTQ+ students without their consent while the Administrative Complaint is pending could cause drastic, irreversible harms to such students.

### **COUNT ONE**

#### **DISCRIMINATORY ENACTMENT OF POLICY 8463 IN VIOLATION OF N.J.S.A. 10:5-12(f) – GENDER IDENTITY OR EXPRESSION**

43. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

44. N.J.S.A. 10:5-12(f) makes it unlawful for any place of public accommodation to “discriminate against any person in the furnishing thereof” on the basis of that person’s actual or perceived “gender identity or expression.”

45. Defendants discriminated against Hanover Township students on the basis of their actual or perceived gender identity or expression by enacting Policy

8463 because students are singled out for disparate treatment based on their “transitioning” and their “gender identity or expression” under the policy.

46. Defendants further discriminated against Hanover Township students on the basis of their actual or perceived gender identity or expression by enacting Policy 8463 because the Policy will have a disparate impact on transgender, gender non-conforming, non-binary, and genderqueer students.

47. Policy 8463 is not necessary to achieve any substantial, legitimate, non-discriminatory interest.

48. By enacting Policy 8463, Defendants have engaged in conduct that violates the LAD, N.J.S.A. 10:5-12(f).

49. Plaintiffs are authorized to proceed in a summary manner in the Superior Court of New Jersey to obtain an injunction prohibiting violations of the LAD. N.J.S.A. 10:5-14.1, N.J.A.C. 13:4-11.3, and R. 4:52-1.

## **COUNT TWO**

### **DISCRIMINATORY ENACTMENT OF POLICY 8463 IN VIOLATION OF N.J.S.A. 10:5-12(f) – AFFECTIONAL OR SEXUAL ORIENTATION**

50. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

51. N.J.S.A. 10:5-12(f) makes it unlawful for any place of public accommodation to “discriminate against any person in the furnishing thereof” on the basis of that person’s actual or perceived “affectional or sexual orientation.”

52. Defendants discriminated against Hanover Township students on the basis of their actual or perceived affectional or sexual orientation by enacting Policy 8463 because students are singled out for disparate treatment based on their “sexual orientation” under the policy.

53. Defendants further discriminated against Hanover Township students on the basis of their actual or perceived affectional or sexual orientation by enacting Policy 8463 because the Policy will have a disparate impact on gay, lesbian, bisexual, polysexual, pansexual, and queer students.

54. Policy 8463 is not necessary to achieve any substantial, legitimate, non-discriminatory interest.

55. By enacting Policy 8463, Defendants have engaged in conduct that violates the LAD, N.J.S.A. 10:5-12(f).

56. Plaintiffs are authorized to proceed in a summary manner in the Superior Court of New Jersey to obtain an injunction prohibiting violations of the LAD. N.J.S.A. 10:5-14.1, N.J.A.C. 13:4-11.3, and R. 4:52-1.



**COUNT THREE**

**DISCRIMINATORY ENACTMENT OF POLICY 8463  
IN VIOLATION OF N.J.S.A. 10:5-12(e) –  
INCITING, COMPELLING AND COERCING VIOLATIONS OF THE LAD**

57. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

58. N.J.S.A. 10:5-12(e) makes it unlawful for any person to, among other things, “incite, compel, or coerce” the doing of any act that violates the LAD.

59. Defendants have violated the LAD on the basis of sexual orientation and gender identity or expression by enactment of the Policy.

60. By requiring staff members to make notifications that would violate the LAD, Defendants have engaged in conduct that violates N.J.S.A. 10:5-12(e).

61. Plaintiffs are authorized to proceed in a summary manner in the Superior Court of New Jersey to obtain an injunction prohibiting violations of the LAD. N.J.S.A. 10:5-14.1, N.J.A.C. 13:4-11.3, and R. 4:52-1.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs demand judgment against Defendants Hanover Township Board of Education and Hanover Township Public Schools, and that the Court grant the following relief:

a) Restraining and enjoining Defendants, pursuant to R. 4:52-2, from implementing Policy 8463 “Parental Notice of Material Circumstances” until such

time as the litigation before DCR arising from the Administrative Complaint is resolved.

b) Restraining and enjoining Defendants, pursuant to R. 4:52-2, from otherwise giving effect to the aspects of Policy 8463 that violate the LAD—including its specifications based on gender identity, gender expression, and affectional or sexual orientation—until such time as the litigation arising from the Administrative Complaint is resolved.

c) Permitting, notwithstanding any restraining or injunctive order entered by the court, Defendants to require parental notification where it is required by law, or where it is necessary due to a specific and compelling need not based on the student's gender identity or expression, sexual orientation, transitioning status, or other protected characteristic, so long as the School District makes every effort to ensure that any disclosure is made in a way that reduces or eliminates the risk of re-disclosure and protects the student from harassment.

d) Directing that this matter be heard in a summary manner pursuant to R. 4:67-1(a).

e) Affording Plaintiffs any additional relief the Court may deem just and equitable.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: /s/ James R. Michael  
James R. Michael  
Deputy Attorney General

Dated: May 17, 2023  
Newark, New Jersey

**CERTIFICATION OF COMPLIANCE**

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: /s/ James R. Michael  
James R. Michael  
Deputy Attorney General

Dated: May 17, 2023  
Newark, New Jersey

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, James R. Michael, Deputy Attorney General, is hereby designated as trial counsel on behalf of the Plaintiffs.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: /s/ James R. Michael  
James R. Michael  
Deputy Attorney General

Dated: May 17, 2023  
Newark, New Jersey

## VERIFICATION

I, Iris Bromberg, of full age, hereby certify as follows:

1. I am a Legal Specialist employed by the New Jersey Division on Civil Rights (“DCR”).

2. I have read the foregoing Verified Complaint and on my own personal knowledge and review of documents in possession of DCR, I know that the facts set forth herein are true and they are incorporated in this certification by reference, except for those alleged upon information and belief.

3. I certify that the above statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



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IRIS BROMBERG

Dated: May 17, 2023  
Newark, New Jersey