

November 13, 2013

La Feria School Board  
P.O. Box 1159  
203 East Oleander Avenue  
La Feria, Texas 78559

VIA EMAIL AND FIRST CLASS MAIL

Dear Members of the La Feria School Board,

You have refused to include a formal photograph of Jeydon Loreda, a transgender senior at La Feria High School, in the La Feria yearbook because he wishes to wear a tuxedo — attire you allow non-transgender male students to wear without incident. On behalf of the Southern Poverty Law Center, (“SPLC”) which has been retained to investigate your refusal to allow Jeydon’s tuxedo photograph in the yearbook, I write to inform you that unless you provide prompt assurances that you will allow Jeydon’s tuxedo photograph to appear in the La Feria yearbook, SPLC will commence legal action to remedy the constitutional violations suffered by our client.

### **The La Feria Independent School District Is Discriminating Against Jeydon**

Jeydon has grown up in the La Feria Independent School District (“LFISD”), where he has been a student for the past nine years. In that time, he has never had a disciplinary issue. Jeydon is transgender, meaning that though he was assigned a female gender at birth, he now identifies as male. Jeydon’s gender is acknowledged to be male by his family, his friends, and his mental health professional. As explained in our earlier attempts to resolve this matter absent threat of suit, all major medical and mental health organizations accept transgenderism and recognize that gender identity, not biology, determines a person’s gender.

In a meeting with Superintendent Villarreal on September 30, 2013, Jeydon’s mother, Stella Loreda, expressed her desire that Jeydon appear in his formal wear photograph wearing a tuxedo. Superintendent Villarreal told Ms. Loreda that featuring Jeydon’s tuxedo photograph in the La Feria yearbook would offend “community standards” and that Jeydon’s photograph would only be included if he wore stereotypically feminine attire such as a drape or blouse. He said that if Jeydon had a problem, that he could “appeal it to the school board.”

Under La Feria Policy FNG(Local),<sup>1</sup> complaints alleging discrimination based on gender by the Superintendent must be investigated according to La Feria Policy FFH(Local).<sup>2</sup> On Page 5 of this Policy

---

1 La Feria ISD Policy FNG(Local), STUDENT AND PARENT COMPLAINTS/GRIEVANCES, *available at* [http://pol.tasb.org/Policy/Download/256?filename=FNG\(LOCAL\).pdf](http://pol.tasb.org/Policy/Download/256?filename=FNG(LOCAL).pdf).

2 La Feria ISD Policy FFH(Local), STUDENT WELFARE, FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION. *available at* [http://pol.tasb.org/Policy/Download/256?filename=FFH\(LOCAL\).pdf](http://pol.tasb.org/Policy/Download/256?filename=FFH(LOCAL).pdf).

it explains, “[a] report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.” Thus, the appropriate procedure for addressing discrimination on behalf of the Superintendent is direct appeal to the School Board. On October 30, Jeydon wrote to Superintendent Villarreal: “[t]his email is a request to be put on the agenda for the next school board meeting, so that we may come to a conclusion on the issue.” Jeydon was not placed on the agenda at that meeting, and was instead told to fill out a FNG disciplinary grievance form, a form meant to apply to differences in opinion regarding disciplinary actions. In addition, the format of that complaint procedure is determined by the Superintendent. This content and process is inappropriate to Jeydon’s discriminatory exclusion from the yearbook. At the time Jeydon received Superintendent Villarreal’s request to fill out the FNG form, SPLC notified all LFISD Board Members that the appropriate action would be to put Jeydon’s request on the meeting agenda, but SPLC heard nothing back.

On November 11, at the next meeting of the La Feria School Board, Jeydon was represented by his counsel. Both Jeydon and his mother and spoke at the open comment portion of the meeting, where they explained Jeydon’s commitment to the community and his desire to be featured in the yearbook wearing a tuxedo. The meeting then went into closed session, but no determination was made concerning his appearance in the yearbook. Following the meeting, L. Hayden Mora, a representative of the Human Rights Campaign, asked the President of the School Board, Mr. Briones, why there had been no decision. Mr. Briones told Mr. Mora “there is no decision tonight. . . if there is no action item, we don’t act on it tonight.” Superintendent Villarreal then stepped in and told Mr. Mora that there was no formal timeline. He then referenced the original inappropriate disciplinary FNG grievance form, saying that “that was the only formal way to address it.” The FNG form, which Superintendent Villarreal requested Jeydon fill out in order to get his issue addressed, is substantively inappropriate given that the discrimination has occurred on the very part of the Superintendent himself. Regardless of the inappropriate disciplinary nature of the FNG form, the decision maker in the FNG process, at least in the initial stages, is the Superintendent himself, the very person who discriminated against Jeydon in the first place — discrimination the School Board condones, and in fact participates in, by refusing to take swift action to remedy.

### **Disallowing Jeydon’s Tuxedo Photograph Violates the Fourteenth Amendment**

The Supreme Court of the United States holds that when a policy at a public school discriminates against a person based on their sex, the classification must serve “important governmental objectives.”<sup>3</sup> Here, there is no important governmental objective served by refusing to allow Jeydon’s tuxedo portrait in the La Feria yearbook.

By refusing to include Jeydon’s tuxedo photo, LFISD denies Jeydon an opportunity offered to all other boys in the District — the opportunity to be featured in the yearbook in gender-appropriate clothing. This denial is *solely because* Jeydon does not fit Superintendent Villarreal and the Board’s stereotypes concerning sex and gender. This stands in clear violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. In a case where a school district refused to allow a *female* student to wear a tuxedo, the court held that the refusal could violate the Equal Protection Clause and refused to dismiss the suit when the District argued there was no liability.<sup>4</sup>

### **Disallowing Jeydon’s Tuxedo Photograph Violates the First Amendment**

Jeydon wore a tuxedo in his formal photograph because doing so “felt right.” It is an expression of his

---

<sup>3</sup> *United States v. Virginia*, 518 U.S. 515, 533 (1996).

<sup>4</sup> *Sturgis v. Copiah Cnty. Sch. Dist.*, 2011 WL 4351355 (S.D. Miss. Sept. 15, 2011).

male gender, just like any other boy. Under decisions by the Supreme Court, Jeydon has the right to express his views freely, so long as that expression does not “materially and substantially disrupt the work and discipline of the school.”<sup>5</sup>

Here, Jeydon wishes only to wear a tuxedo in his yearbook photo, an expression that in no way disrupts the work and discipline of the school. In *McMillen v. Itawamba Cnty. School Dist.*, 702 F.Supp.2d 699, 701 (N.D. Miss. 2010), a female high school student in Mississippi wanted to bring a same-sex date to prom and wear a tuxedo. The school denied these requests because doing so could “push people’s buttons.” *Id.* When the student sued the District, the Court held that the student’s effort to “communicate a message by wearing a tuxedo and to express her identity through attending prom with a same-sex date” was “the type of speech that falls squarely within the purview of the First Amendment.” *Id.* at 705. Ultimately, the District paid \$35,000 in damages to the student and over \$80,000 in fees to the student’s attorneys.<sup>6</sup>

### Disallowing Jeydon’s Tuxedo Photo Violates Title IX

Title IX of the Education Amendments of 1972 (Title IX) mandates that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”<sup>7</sup> In a recent letter reprimanding a school district that discriminated against a young person like Jeydon, who while assigned female at birth, identified as man, the United States Department of Justice, Civil Rights Division and the United States Department of Education, Office for Civil Rights explained that “[a]ll students, including transgender students and students who do not conform to sex stereotypes, are protected from sex-based discrimination under Title IX...”<sup>8</sup> Here, Jeydon is denied the opportunity to appear in the yearbook wearing gender appropriate clothing because of outdated and incorrect sex stereotypes, in clear violation of Title IX.

### Disallowing Jeydon’s Tuxedo Photograph Violates La Feria’s Own Anti-Discrimination Policies

LFISD’s internal policies require that Jeydon’s tuxedo photograph be included in the yearbook. LFISD Policy FB (Legal), “Equal Educational Opportunity” explicitly prohibits discrimination on the basis of sex.<sup>9</sup> It requires that “[n]o officer or employee of the District shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student’s race, religion, color, sex, or national origin.” *Id.* In addition, LFISD Local Policy FFH, “Student Welfare, Freedom from Discrimination, Harassment, and Retaliation,” states “[t]he District prohibits discrimination, including harassment, against any student on the basis of race, color, religion, gender, national origin, disability, or any other basis prohibited by law.”<sup>10</sup> The policy defines “Gender Based Harassment” as “physical, verbal, or nonverbal conduct based on the student’s gender, the student’s expression of characteristics perceived as stereotypical for the student’s gender, or the student’s failure to conform to stereotypical notions of masculinity or femininity.” Refusing to allow Jeydon’s photograph

5 *Tinker v. Des Moines Indep. Cmty. School Dist.*, 393 U.S. 503, 506 (1969).

6 *McMillen v. Itawamba Cnty. School Dist.*, 702 F. Supp.2d 699 (N.D. Miss. 2010) (order assessing and awarding attorney’s fees and expenses), available at [http://www.aclu.org/files/assets/Order\\_McMillen\\_Attorney\\_Fees\\_Award.PDF](http://www.aclu.org/files/assets/Order_McMillen_Attorney_Fees_Award.PDF)

7 20 U.S.C. § 1681(a).

8 Letter to the Arcadia Unified School District, DEPARTMENT OF EDUCATION AND DEPARTMENT OF JUSTICE, July 24, 2013. available at <http://www.justice.gov/crt/about/edu/documents/arcadialetter.pdf> at 2.

9 La Feria ISD Policy FB(Legal), EQUAL EDUCATIONAL OPPORTUNITY. available at [http://pol.tasb.org/Policy/Download/256?filename=FB\(LEGAL\).pdf](http://pol.tasb.org/Policy/Download/256?filename=FB(LEGAL).pdf).

10 La Feria ISD Policy FFH(Local), STUDENT WELFARE, FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION. available at [http://pol.tasb.org/Policy/Download/256?filename=FFH\(LOCAL\).pdf](http://pol.tasb.org/Policy/Download/256?filename=FFH(LOCAL).pdf).

in the yearbook unless he conforms his gender expression to Superintendent Villarreal and the Board's stereotypes concerning sex and gender is precisely the conduct prohibited by LFISD internal policy.

**Conclusion**

Please confirm in writing by 5 p.m., **Thursday, November 21st**, that you will allow Jeydon's tuxedo photograph to appear in the La Feria yearbook. Without prompt and meaningful action to remedy the constitutional violations suffered by our client and to compensate him for the harm caused by the District's decision, we intend to file a federal lawsuit seeking full redress, including but not limited to injunctive and declaratory relief, damages, and attorneys' fees and expenses.

Thank you for your careful attention to this important matter.

Sincerely,



Alesdair Ittelson  
Skadden Fellow/Staff Attorney  
Southern Poverty Law Center