

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

EXHIBIT ONE

S.M., by and through next
friend, BENITA ROBERTS, *et. al.*,

Plaintiffs,

-v-

Case No. 3:11 CV-1052-MHT-CSC

TALLAPOOSA COUNTY SCHOOL BOARD, *et. al.*,

Defendants.

SETTLEMENT AGREEMENT

COME NOW THE PARTIES in the above styled cause, by and through their attorneys of record, and enter into this SETTLEMENT AGREEMENT.

1. The parties consent to the jurisdiction of this court pursuant to 20 USC 1681-1688, 28 US 1331 and 1343, 28 USC 1367 and 42 USC 1983.
2. The Plaintiffs shall dismiss with prejudice any and all claims asserted against Defendant LARRY E. CRAVEN named in his official capacity as the Superintendent of Education of the State of Alabama and his successors in office.
3. The Plaintiffs shall dismiss with prejudice any and all claims asserted against Defendants PHILIP BAKER in his official capacity as Superintendent of Tallapoosa County Board of Education, JOHN WILCOX in his official capacity as Assistant Superintendent of Education of Tallapoosa County Board of Education, MATILDA WOODYARD-HAMILTON in her capacity as Chairman and Member of the Tallapoosa

County Board of Education. MICHAEL CARTER, KAREN WHITE, MARTIN JOHNSON and RANDY ANDERSON in their official capacities as Members of the Tallapoosa County Board of Education; and JOE WINDLE and GLENDA MENNIFEE in their official capacities as principals of Dadeville Elementary School and Councill Middle School, respectively.

4. Without admitting liability or a specific violation of any Constitutional rights, DEFENDANT TALLAPOOSA COUNTY BOARD OF EDUCATION, by and through its duly appointed administration and staff, shall cause to be terminated the practice of same sex, gender based classes at the Councill Middle School and Dadeville Elementary School on or before FEBRUARY 1, 2012. This practice shall not only apply to academic classroom instruction but to lunch periods and recesses. The settlement agreement between the Defendants Tallapoosa County of Board of Education and the American Civil Liberties Union dated November 21st 2011 is attached hereto, made a part hereof and incorporated by reference herein verbatim.

5. The parties acknowledge that the facts are in dispute in this action, and that this "Settlement Agreement" represents a compromise of a disputed claim to avoid the costs and expense of extended litigation between the Defendants and Plaintiffs. Therefore, in consideration of the terms of this agreement, the ending of the litigation, and Plaintiffs' release of all claims against these Defendants arising out of any of the claims made by the Plaintiffs in this action, Case No. 3:11 CV-1052-MHT-CSC, the Defendants without admitting liability for the matters alleged in the complaint, do hereby consent that the

named Plaintiffs and their counsel, Hon. ERIC TAVARIS HUTCHINS are the "PREVAILING PARTY" in this action..

6. DEFENDANT TALLAPOOSA COUNTY BOARD OF EDUCATION shall pay to counsel representing the Plaintiffs, HON. ERIC TAVARIS HUTCHINS, the sum of \$12,000.00 as compensation for his services, including costs and expenses, on behalf of the Plaintiffs pursuant to 42 USC 1844.

7. The Plaintiffs agree to dismiss with prejudice any and all other claims for damages and violations of any Constitutional rights or privileges asserted, or that could be asserted, in this cause.

ENTERED this ____ day of January, 2012.

THE FOLLOWING HEREBY STATE THEY HAVE READ THE TERMS AND CONDITIONS OF THIS SETTLEMENT AGREEMENT AND HAVE EXECUTED HERewith UPON THE ADVICE OF AND CONSULTATION WITH COUNSEL

PLAINTIFFS:



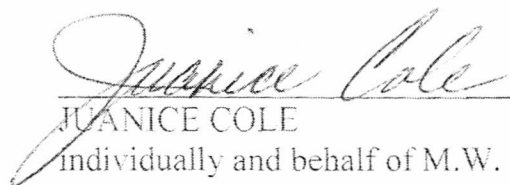
BENITA ROBERTS,
individually and on behalf of S.M.

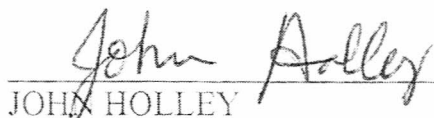



FRANCES L. ALLEN
individually and on behalf of D.H. and J.H.



JOHN HOLLEY
individually and on behalf of D.H. and J.H.



JUANICE COLE
individually and behalf of M.W.


JOHN HOLLEY
individually and on behalf of T.H.


CHUCHUNDRA HOLLEY
individually and on behalf of T.H.

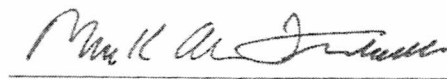
DEFENDANT:

TALLAPOOSA COUNTY BOARD OF EDUCATION


By: PHILIP BAKER
Its: Superintendent

APPROVED AS TO FORM AND CONTENT:


ERIC TAVARIS HUTCHINS, Esq.
Attorney for Plaintiffs


Mark Allen Treadwell
Attorney for Defendant

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement ("Agreement") is entered into this 21 day of November, 2011, by and between the American Civil Liberties Union Foundation Women's Rights Project; the American Civil Liberties Union Foundation of Alabama; and the Tallapoosa County Board of Education ("Board") (collectively, "the Parties").

In the 2010-2011 school year, and in prior school years, the Board has operated single-sex classes in Councill Middle School. The American Civil Liberties Union Foundation Women's Rights Project and the American Civil Liberties Union Foundation of Alabama have alleged that these programs constitute sex discrimination in violation of federal law. Because the Parties desire to resolve, compromise, and settle the controversies between them, on the terms and conditions set forth below, and in consideration of the mutual promises and releases contained herein, the Parties agree as follows:

1. Beginning in the 2012-2013 school year and for five years thereafter, the Board and each public school within the Tallapoosa County School District shall not provide any Single-Sex Activity. With the exceptions set out in paragraph (2) below, "Single-Sex Activity" means: providing any course or otherwise carrying out any education program or activity separately on the basis of sex; or requiring or refusing participation in any school, any course, or any education program or activity by any students on the basis of sex. "Education Program or Activity" includes, without limitation, all classes, extracurricular activities, recess, lunch, and physical education.

2. The above paragraph (1) does not apply to (a) separation of students by sex within physical education classes or activities for participation in wrestling, boxing, rugby, ice hockey, football, basketball, or other sports, the purpose or major activity of which involves bodily contact; (b) grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex; (c) portions of classes in elementary and secondary schools that deal primarily with human sexuality; (d) requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex; or (3) interscholastic or intramural athletics. This agreement does not modify the Board's existing legal obligations as to these activities.

3. If at any time subsequent to the 2016-2017 school year and prior to or during the 2021-2022 school year, the Board or any public school within the Tallapoosa County School District seeks to institute any Single-Sex Activity, at least 180 days prior to implementation of the Single-Sex Activity, the Board shall provide written notice via regular first class mail and electronic mail to representatives of the American Civil Liberties Union Foundation Women's Rights Project and the American Civil Liberties Union Foundation of Alabama. Such written notice shall provide the following: a description of the proposed Single-Sex Activity; the proposed purpose and rationale for instituting the proposed Single-Sex Activity; any data or analysis regarding the proposed Single-Sex Activity; a description of the proposed Single-Sex Activity's scope and its design; any minutes, transcripts, and recordings of any Board meetings discussing the proposed Single-Sex Activity; and

copies of any presentations, forms, letters or any other communications with parents or students regarding the proposed Single-Sex Activity.

4. Further, the Board agrees to provide within 30 days any public documents, as defined by the state Open Records Act, in response to a request for materials and documents related to the proposed school, class, program, or activity made by representatives of the American Civil Liberties Union Foundation Women's Rights Project and/or the American Civil Liberties Union Foundation of Alabama.

5. The Board further agrees that any time during the school years 2012-2013 through 2016-2017, representatives of the American Civil Liberties Union Foundation Women's Rights Project and/or the American Civil Liberties Union Foundation of Alabama may conduct noticed or unnoticed visits to Council Middle School or any other school operated by the Board for the sole purpose of verifying that no Single-Sex Activity is occurring in such school in violation of this Agreement.

6. As consideration for these commitments by the Board, the American Civil Liberties Union Foundation Women's Rights Project and the American Civil Liberties Union Foundation of Alabama each release the Board from any and all claims arising on their own behalf from sex-segregated/single-sex classes, programs, or activities in Tallapoosa County School District public schools during the 2011-2012 school year or prior school years, including administrative claims with the Office of Civil Rights of any federal executive agency, with the exception of any claims arising out of the breach of any provision in this agreement, as set out in paragraph (8) below.

7. Notwithstanding paragraph (6), neither the American Civil Liberties Union Foundation Women's Rights Project nor the American Civil Liberties Union Foundation of Alabama releases the Board from any claims that may arise from sex-segregated schools, classes, programs, or activities in Tallapoosa County School District public schools during the 2012-2013 school year or at any time thereafter.

8. Notwithstanding paragraph (6), the Parties do not release each other from any of their obligations under this Agreement. This Agreement shall be deemed breached and a cause of action accrued upon the commencement of any act, action, or conduct contrary to this Agreement, and in any such action, this Agreement may be pleaded by any of the Parties, including as a defense or as a counter-claim or cross-claim in such action.

9. It is understood that this Agreement is not to be construed as an admission of liability on the part of the Board.

10. The Parties declare and understand that no promises, inducements, or agreements not contained in this Agreement have been made to them, that this Agreement contains the entire agreement between the Parties, and that the terms of this Agreement are contractual and not merely a recital.

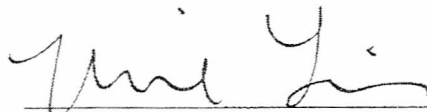
11. This Agreement contains the entire agreement between the Parties with respect to this subject matter and there are no agreements, understandings, representations or warranties between the Parties other than those set forth or referred to in this Agreement.

12. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

13. If any provision of this Agreement shall be determined to be invalid, illegal, or unenforceable for any reason, the remaining provisions and portions of this Agreement shall be unaffected and unimpaired, and shall remain in full force and effect, to the fullest extent permitted by applicable law.

14. This Agreement may be executed in counterparts, by either an original signature or signature transmitted by facsimile or other similar process and each copy so executed shall be deemed to be an original and all copies so executed shall constitute one and the same Agreement.

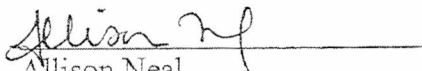
15. The undersigned represent that they have read and understood the terms of this Agreement prior to executing same.



Mie Lewis

American Civil Liberties Union Foundation
Women's Rights Project
125 Broad St. 18th Fl.
New York, NY 10004

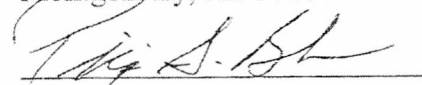
11-17-11
Date



Allison Neal

American Civil Liberties Union Foundation of
Alabama
207 Montgomery Street, Suite 910
Montgomery, AL 36104

11-18-11
Date



Philip S. Baker

Superintendent
Tallapoosa County Board of Education
125 N. Broadnax St. Suite 113
Dadeville, AL 36853

11/21/11
Date