

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION**

Ray Flasher II, as parent and next friend))	
of his minor daughter, R.F.,))	
)	
Plaintiff,))	Case No.
)	
vs.))	
)	
SEVIER COUNTY BOARD OF))	
EDUCATION a/k/a SEVIER COUNTY))	
SCHOOLS a/k/a SEVIER COUNTY))	
SCHOOL SYSTEM; and))	
DOES 1 through 50,))	
)	
Defendants.))	

COMPLAINT

The above-captioned Plaintiff, Ray Flasher II, as parent and next friend of his minor daughter, R.F. (“Plaintiff”), respectfully files this Complaint against Defendants, Sevier County Board of Education a/k/a Sevier County Schools a/k/a Sevier County School System and Does 1 through 50, (“Defendants”), and alleges as follows:

STATEMENT OF THE CASE

1. This action is posed for declaratory and injunctive relief. Defendants have violated (1) Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* (“Title IX”) and the regulations adopted thereto, and (2) the Equal Protection Clause of the

Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983, by illegally and intentionally denying Plaintiff's daughter the equal treatment and benefits that must necessarily accompany an equal opportunity to participate in athletics.

2. Defendants' denial of equal treatment and benefits constitutes intentional discrimination against the Plaintiff's daughter based solely on her gender. Specifically, Defendants have discriminated against Plaintiff's daughter in the following areas:

(1) funding of athletics; (2) provision of equipment and supplies; (3) scheduling of games and/or practice times; (4) travel and/or per diem; (5) assignment and/or compensation of coaches; (6) provision of locker rooms and/or facilities for both practice and competition; and (7) provision of training facilities and services.

3. This action seeks to redress the deprivation of Plaintiff's daughter's rights to receive the equal treatment and benefits which must necessarily accompany an equal opportunity to participate in interscholastic and other school-sponsored athletics. This action seeks a declaratory judgment that Defendants have violated Plaintiff's daughter's rights under federal law. This action further seeks an injunction requiring Defendants to immediately cease their discriminatory practices and to remedy the effects of their discriminatory practices.

4. Plaintiff seeks injunctive relief which, among other things, requires that Defendants provide Plaintiff's daughter with treatment and benefits equivalent to those provided to the boys' athletic teams at the Sevier County School System.

JURISDICTION AND VENUE

5. The Plaintiff's first claim arises under 20 U.S.C. § 1681, *et seq.* and its interpreting regulations. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4).

6. The Plaintiff's second claim arises under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4).

7. Jurisdiction for declaratory and other relief is invoked pursuant to 28 U.S.C. §§ 2201(a) and 2202.

8. Venue is proper pursuant to 28 U.S.C. § 1391(b). These claims arose in Sevier County, Tennessee, which is within the jurisdiction of this Court.

THE PARTIES

9. Plaintiff Ray Flasher II is the parent of R.F., a 15-year-old rising 10th grade student at Sevier County High School, in the Sevier County School System. R.F. is a talented athlete who participates in softball. She has endured the unequal treatment and benefits directed by the Sevier County School System toward its female athletes. Ray Flasher II and R.F. are residents of Sevierville, Tennessee, which is within the jurisdiction of this Court.

10. Defendant Sevier County School System is authorized by Tennessee law to operate and control Sevier County High School, where the Plaintiff's daughter is a student.

Therefore, Defendants' conduct is considered state action under 42 U.S.C. §1983. The Sevier County School System is located in Sevier County, Tennessee, and a substantial part of the events or omissions giving rise to this lawsuit occurred in Sevier County, which is within the jurisdiction of this Court. Since the passage of Title IX, the Sevier County School System has received and continues to receive federal financial assistance and the benefits therefrom. Therefore, all programs at the Sevier County School System, including athletics, are subject to the requirements of Title IX.

11. The named Plaintiff is ignorant of the true names and capacities of Does 1-50, but believes them to be employees of the Sevier County School System or members of the Sevier County Board of Education. Plaintiff will seek to amend this Complaint to set forth their true names and capacities when they are ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of these fictitiously named defendants is responsible in some manner for the discriminatory actions alleged herein and that each is a resident of the State of Tennessee and thus is subject to the jurisdiction of this Court.

GENERAL ALLEGATIONS
THE REQUIREMENTS OF TITLE IX

12. Title IX, enacted in 1972, provides in relevant part:

No 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.

20 U.S.C. § 1681(a). The Civil Rights Restoration Act of 1987 made Congress' intent plain that "program or activity," as used in Title IX, applies to any program or activity so long as any part of the public institution receives federal financial assistance. 20 U.S.C. § 1687. Thus, the Sevier County School System is subject to Title IX even if none of the funding for either its girls' or boys' athletic programs comes specifically from federal sources.

13. In 1975, the Department of Health, Education and Welfare (the predecessor of the United States Department of Education ("DOE")) adopted regulations interpreting Title IX. These regulations are codified at 34 C.F.R. Part 106 (the "Regulations").

14. With regard to athletic programs, §106.41(a) of 34 C.F.R. provides that interscholastic athletics are included within the "program or activity" requirements of Title IX:

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient . . .

15. 34 C.F.R. § 106.41 (c) specifies ten (10) factors that are to be considered in the determination of equal athletic opportunity:

1. Whether the selection of sports and levels of competition effectively accommodate the interest and abilities of members of both sexes;
2. The provision of equipment and supplies;
3. Scheduling of games and practice times;
4. Travel and per diem allowance;

5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms, practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

Another factor to be considered is a school's "failure to provide necessary funds for teams for one sex." *Id.*

16. In 1979, the office of Civil Rights of the Department of Education ("OCR") issued a policy interpretation of Title IX and the Regulations. This policy interpretation is found at 44 Fed. Reg. 71413 (1979) (the "Policy Interpretation").

17. The Policy Interpretation provides that, in order to comply with Title IX and 34 C.F.R. § 106.41(c), schools must provide equal athletic opportunities in three general areas: (1) awarding of scholarships (aimed primarily at the intercollegiate level); (2) participation opportunities (including both the number of opportunities and whether the selection of sports and the level of competition effectively accommodate the interests and abilities of members of both sexes); and (3) treatment and benefits. 44 Fed. Reg. at 71414.

18. Under both the Regulations and the Policy Interpretation, compliance in the area of equal treatment and benefits is assessed based on an overall comparison of the male and female athletic programs, including an analysis of factors (2) through (10) of 34 C.F.R.

§ 106.41 (c) listed above, and an analysis of whether the necessary funds are provided for teams of both sexes.

19. The Regulations require that sponsors of interscholastic and other school sponsored athletics (such as the Sevier County School System) take such remedial actions as are necessary to overcome the effects of gender discrimination in violation of Title IX. *See* 34 C.F.R. § 106.3(c). On information and belief, any remedial actions which Defendants have taken in the past have been insufficient to satisfy Defendants' obligations under Title IX.

20. The Regulations further require that sponsors of interscholastic and other school-sponsored athletics comply with the Regulations within three years of their effective date (which was July 21, 1975). Now, more than forty-seven (47) years later, Defendants have still not fully complied with Title IX.

THE U.S. CONSTITUTION

21. The Fourteenth Amendment to the United States Constitution requires that a state shall not "deny to any person within its jurisdiction the equal protection of the laws."

22. Under 42 U.S.C. § 1983, Defendants may be held liable for their actions in violating Plaintiff's daughter's rights under the Fourteenth Amendment.

INJUNCTIVE RELIEF

23. Plaintiff is entitled to injunctive relief to end Defendants' unequal, discriminatory and unlawful treatment of his daughter and other female student athletes at Sevier County High School. Because of Defendants' acts and omissions, Plaintiff's daughter continues to be deprived of the rights guaranteed to her by the United States Constitution and the laws of the United States. Failure to grant the injunctive relief requested will result in irreparable harm to Plaintiff's daughter in that Plaintiff's daughter's rights will be violated and that Plaintiff's daughter will never be able to participate in interscholastic and/or other school-sponsored athletics on an equal basis with her male classmates. Accordingly, Plaintiff does not have an adequate remedy at law for this harm. This threatened harm far outweighs any possible harm that granting injunctive relief might cause Defendants. Finally, the injunctive relief sought would in no way disserve the public interest but, on the contrary, would prevent discrimination based on gender and would promote the goal of full equality before the law.

ATTORNEYS' FEES

24. Plaintiff has been required to retain the undersigned attorneys to prosecute this action. Plaintiff is entitled to recover reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

FIRST CLAIM FOR RELIEF: TITLE IX
(Unequal Treatment and Benefits)
(Against the Sevier County School System Only)

25. Plaintiff realleges and incorporates herein by this reference paragraphs 1 through 24 inclusive of this Complaint.

26. The Sevier County School System, by its conduct, has violated Title IX by knowingly and deliberately discriminating against female students, including the Plaintiff's daughter, by failing to provide her with treatment and benefits which are comparable overall to the treatment and benefits provided to male athletes.

27. On information and belief, Plaintiff alleges that the Sevier County School System has failed to comply with Title IX by failing to provide his daughter and other female athletes with comparable treatment and benefits including, but not limited to, the following areas:

- (1) The Sevier County School System funds athletics in a manner that discriminates against Plaintiff's daughter and other female athletes. For example, the Sevier County School System routinely allows the infusion of more funds for boys' sports as compared to girls' sports. This includes more money for the baseball program at Sevier County High School as compared to the softball program at Sevier County High School.

(2) The Sevier County School System discriminates against Plaintiff's daughter and other female athletes in the provision of equipment and supplies. For example, the softball program at Sevier County High School and parents of softball players are required to purchase essential athletic equipment and supplies. The baseball program at Sevier County High School is provided numerous safety screens for the protection of its players and coaches. The softball program at Sevier County High School has only one protective screen for the entire program, for the protection of its players and coaches. The baseball program at Sevier County High School has a padded mobile batting practice cage for the safety of its players and coaches. The softball program at Sevier County High School has no mobile batting practice cage for the safety of its players and coaches. The baseball program at Sevier County High School is provided three pitching machines, one for each hitting lane in its indoor fieldhouse. One of these pitching machines is a state of the art machine with video and analytics capability. The softball program at Sevier County High School has a single pitching machine, which does not have video or analytics capability. The Sevier County High School softball program

also has no hitting lanes in an indoor fieldhouse in which to use their pitching machine, since it has no indoor fieldhouse.

- (3) The Sevier County School System discriminates against Plaintiff's daughter and other female athletes in the scheduling of games and/or practice times. For example, the Sevier County High School baseball program has exclusive control of the use of its facilities provided by the Sevier County School System. The Sevier County School System assigns the Sevier County High School softball program to a field at the city park, which it is required to share with city leagues, youth leagues and the public at large. In addition, the Sevier County High School baseball players are provided off-season training at its on-campus facility. The Sevier County High School softball players are required to do any off-season training at an old primary school gymnasium off campus. The softball program does not have exclusive control of the use of this off season training site, as the baseball program does of its on-campus facilities. The softball players, who are minor children, are at times required to find their own transportation to the off-season training site off-campus.
- (4) The Sevier County School System discriminates against Plaintiff's daughter and other female athletes in the provision of travel and/or per

diem. For example, the softball players at Sevier County High School are at times required to provide their own transportation for away games. Sevier County High School baseball players are provided bus transportation to away games more often than are Sevier County High School softball players. Sevier County High School football players are provided bus transportation to all away games. The Sevier County High School softball players also must at times provide their own transportation to their practices at the city park. This sometimes results in minor children driving vehicles containing other minor children to a school-sponsored activity. The Sevier County High School baseball players of course do not need to find transportation to their practices, since the Sevier County School System provides them a facility on campus for their use. Sevier County High School football players also have no need to search for transportation to their practices, since the Sevier County School System provides them a facility on campus as well.

- (5) The Sevier County School System discriminates against Plaintiff's daughter and other female athletes in the assignment and/or compensation of coaches. For example, on information and belief, the

baseball coaching staff at Sevier County High School is paid more than the softball coaching staff at Sevier County High School.

- (6) The Sevier County School System supplies superior access to superior locker rooms and/or facilities for both practice and competition, to boys as compared to girls at Sevier County High School. For example, the Sevier County School System provides on-campus practice and competition facilities to its Sevier County High School baseball players. Softball players at Sevier County High School are required to travel to an off-campus location at the city park for both practice and competition. The Sevier County High School baseball program has exclusive control of the use of its facilities. The Sevier County High School softball program uses a city park field that it shares with city leagues, youth leagues and the public in general. It not only does not have exclusive control of the use of the city park field, it has almost no control of the use of the field. Because of the location and exclusivity of control of use, the baseball program at Sevier County High School is able to charge a gate. The softball program at Sevier County High School is unable to charge a gate for its games because of the off-campus location of the field at the city park, the public access to the city park field, the requirement that the softball program

share the use of the city park field, and the lack of control of use of the field and the surrounding area. The on-campus baseball facility at Sevier County High School has a climate-controlled fieldhouse. The off-campus location provided for the Sevier County High School softball program has no fieldhouse. The Sevier County High School baseball fieldhouse contains 3 indoor hitting lanes for the use of the Sevier County High School baseball players. The Sevier County High School softball program has no indoor hitting lanes. The only hitting facility to which the Sevier County High School softball program has access is an outdoor cage with a bare concrete floor, over which they do not have exclusive control of use (as does the Sevier County High School baseball program) or even priority use. The on-campus Sevier County High School baseball fieldhouse has a spacious locker room. The Sevier County High School softball program has been provided a space for a locker room next to the concession stand at the city park. This space is much smaller than the baseball locker room and contains inferior amenities. For example, the baseball locker room has three sectional couches with a table and wall-mounted flat screen television where the baseball players can eat and relax in comfort. The softball locker room has 4 used wooden slab benches. The softball locker

room has no sectional couches, no table and no television. The Sevier County High School baseball program has a ping pong table for the amusement and relaxation of the Sevier County High School baseball players. The Sevier County High School softball program has no ping pong table, nor does it have any room to put a ping pong table if it had one. The lockable lockers in the baseball locker room are superior to the inferior lockers in the softball locker room, which have no lockable storage. The Sevier County High School baseball fieldhouse houses a weight room conveniently located near the locker room. The Sevier County High School baseball program has exclusive control of use of this weight room. The softball locker room has no weight room for the softball players' use, exclusive or otherwise, nor is there any room in that building for a weight room. The Sevier County High School softball program has no weight room. The Sevier County High School baseball fieldhouse has a large coaches' office which overlooks the hitting lanes. The softball coaches' office at the city park is a much smaller room with inferior amenities. The on-campus facilities provided by the Sevier County School System to the Sevier County High School baseball program has public restrooms located at the spectator seating, for game attendees' convenience. Attendees of

the Sevier County High School softball games at the city park must go to another field at the park for restrooms, which is much less convenient for attendees of softball games as compared to attendees of baseball games. The on-campus facility provided to the Sevier County High School baseball program includes a regulation competition field. The field assigned to the Sevier County High School softball program at the city park is not regulation. The on-campus Sevier County High School baseball facility has state-of-the-art LED field light fixtures. The field lights at the city park field used by the Sevier County High School softball program are older, inferior halogen light fixtures. The on-campus Sevier County High School baseball facility has security lights for the safety of the players, coaches and spectators. The city park field used by the Sevier County High School softball program has no security lights for the safety of the players, coaches and spectators. The on-campus Sevier County High School baseball facility has security cameras pointed toward it for the safety and security of the players, coaches, spectators and the facilities. The city park location provided for the Sevier County High School softball players' use has no security cameras for the safety and security of the players, coaches, spectators and the facilities. The on-

campus Sevier County High School baseball facility has a large, climate-controlled press box behind home plate. This press box is constructed of concrete block and wood, has windows and is fully enclosed with a lockable door. The field assigned by the Sevier County School System to the Sevier County High School softball program at the city park has no press box. The dugouts at the on-campus Sevier County High School baseball facility are fully enclosed, solid-wall dugouts constructed with painted concrete block. The dugouts at the city park field used by the Sevier County High School softball players are constructed with unpainted, slatted wood with gaps between the slats, and are not fully enclosed as these slatted wood walls have an approximately 12” gap at the bottom. The dugouts at the Sevier County High School on-campus baseball facility are in excellent repair. The dugouts at the city park field used by the Sevier County High School softball players are in general need of repair. The roofs on the softball dugouts are loose and have holes in them. The on-campus baseball dugouts have helmet cubicles. The city park softball dugouts have no helmet cubicles. The on-campus baseball dugouts have bat racks. The city park softball dugouts have no bat racks. The on-campus baseball dugouts have major league-type two-

tier benches. The city park softball dugouts have inferior slab benches. The on-campus baseball dugouts have whiteboards. The city park softball dugouts have no whiteboards. The on-campus baseball dugouts have major league-type screens in front of them. The city park softball dugouts are fronted with dog kennel-type floor to ceiling chain link fences. The on-campus baseball dugouts have electricity. The city park softball dugouts have no electricity. The on-campus Sevier County High School baseball facility has two bullpens, one for the Sevier County High School baseball team, and one for their opponents. The city park field assigned to the Sevier County High School softball program has no bullpens. The on-campus Sevier County High School baseball facility has a separate batting cage for the use of the visiting team. The city park field used by the Sevier County High School softball program has no batting cage for the use of the visiting team. The on-campus Sevier County High School baseball facility infield has high-quality infield material. The city park field used by the Sevier County High School softball program has inferior infield material. The on-campus Sevier County High School baseball facility has an infield tarp. The city park field used by the Sevier County High School softball program has no infield tarp. The

on-campus Sevier County High School baseball field has artificial turf in the home plate, pitching mound and dugout areas. The city park field used by the Sevier County High School softball program has no artificial turf. The Sevier County High School football program was recently provided a new turf field surface on its on-campus facility. The drainage at the on-campus Sevier County High School baseball field is superior to the drainage at the city park field assigned to the Sevier County High School softball program. The maintenance at the on-campus Sevier County High School baseball facility is superior to the maintenance at the city park field assigned to the Sevier County High School softball program. The on-campus Sevier County High School baseball facility has a windscreen on the sideline fences. The city park field used by the Sevier County High School softball program has no windscreen on the sideline fences. The on-campus Sevier County High School baseball facility has a warning track. The city park field used by the Sevier County High School softball program has no warning track. The outfield fence at the on-campus Sevier County High School baseball facility is of solid wall construction. The outfield fence at the city park field used by the Sevier County High School softball program is an inferior, chain link

fence. The Sevier County High School baseball outfield fence has a top rail protector. The outfield fence at the city park field used by the Sevier County High School softball program has no top rail protector. The Sevier County High School baseball outfield fence has large, easily readable distance signs. The distance signs on the outfield fence at the city park field used by the Sevier County High School softball program are small and difficult to read. The Sevier County High School baseball facility has a tall flag pole at the scoreboard location. The flag pole at the city park field used by the Sevier County High School softball program is a short piece of pvc pipe attached to the chain link outfield fence. The foul poles at the on-campus Sevier County High School baseball facility are superior to the foul poles at the city park field used by the Sevier County High School softball program. The Sevier County High School baseball facility has major league-type foul poles. The city park field used by the Sevier County High School softball program has inferior, short pipes for foul poles. The scoreboard at the Sevier County High School baseball facility is superior to the scoreboard at the city park field used by the Sevier County High School softball program. The Sevier County High School baseball scoreboard is a multi-inning scoreboard. The

scoreboard at the city park field used by the Sevier County High School softball program is not a multi-inning scoreboard. The Sevier County High School baseball scoreboard has a player-at-bat feature. The scoreboard at the city park field used by the Sevier County High School softball program has no player-at-bat feature. The program-specific signage on the Sevier County High School baseball scoreboard is superior to the signage on the scoreboard at the city park field used by the Sevier County High School softball program. The signage on the Sevier County High School baseball facility fences is superior to the signage on the field fences at the city park field used by the Sevier County High School softball program. The Sevier County High School baseball field has a Sevier County High School logo on the field near home plate. The city park field used by the Sevier County High School softball program has no Sevier County High School logo on the field near home plate, nor does it have any Sevier County High School logo at any other location on the field. The sound system at the Sevier County High School baseball facility is superior to the sound system at the city park field used by the Sevier County High School softball program, since the city park field has neither a sound system nor a press box in which to use a sound system

if the softball program had one. The Sevier County High School baseball facility has a sound system with large speakers mounted on the press box for use at the games. The only sound system used at any Sevier County High School softball game is a personal, portable unit with small attached speakers, loaned to the softball program for senior night. The spectator seating at the Sevier County High School baseball facility is superior to the spectator seating at the city park field used by the Sevier County High School softball program. The Sevier County High School baseball facility has a high backstop constructed of netting and poles. The city park field used by the Sevier County High School softball program has a short backstop constructed of inferior chain link. The Sevier County High School baseball facility backstop has a brick foundation. The backstop at the city park field used by the Sevier County High School softball program has no foundation. The Sevier County High School baseball backstop has padding to protect the players. The backstop at the city park field used by the Sevier County High School softball program has no padding for the protection of players. The on-campus Sevier County High School baseball facility has a concession stand at the spectator seating area for the convenience of patrons. The concession stand at the city

park is located beyond the left field fence of the field used by the Sevier County High School softball program, making it much less convenient for patrons of softball games as compared to patrons of baseball games. The Sevier County High School baseball program is provided superior, and more, secure storage at its on-campus facility than is provided to the Sevier County High School softball program at the city park field to which it is assigned.

- (7) The Sevier County School System discriminates against Plaintiff's daughter and other female athletes in the provision of training facilities and services. For example, baseball players at Sevier County High School are provided a weight training facility in the same fieldhouse which houses their locker room. Football players at Sevier County High School are also provided a weight training facility in the same fieldhouse which houses their locker room. Softball players at Sevier County High School are provided no weight training facility in an indoor fieldhouse, since they have no indoor fieldhouse. Softball players are not provided a weight training facility in the same building as their locker room, since the building which houses their locker room is too small for anything but their small locker room. Nor are softball players provided weight training facilities anywhere else. As

a further example, the Sevier County High School baseball players are provided superior access to medical trainers as compared to Sevier County High School softball players.

28. The imbalance in the treatment of female and male athletes at the Sevier County School System, as detailed above, demonstrates the Sevier County School System's intentional and conscious failure to comply with Title IX.

29. The Sevier County School System's conduct has persisted despite the mandates, words, content and intent of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and the Regulations, particularly 34 C.F.R. §§ 106.3(a) and 106.41(d), and the Policy Interpretation, promulgated therefrom.

30. The Sevier County School System's conduct violates the mandates, words, content and intent of Title IX, as well as the Regulations and the Policy Interpretation promulgated therefrom.

SECOND CLAIM FOR RELIEF: EQUAL PROTECTION
(Against All Defendants)

31. Plaintiff realleges and incorporates herein by this reference paragraphs 1 through 30 inclusive of this Complaint, including all of the factual allegations contained in paragraph 27 of this Complaint.

32. Defendants, by their persistent and widespread practices, customs, and deeply embedded traditional ways of carrying out their policies, through either action or inaction, have failed to provide Plaintiff's daughter with equivalent treatment and benefits

as they have the male athletes (as detailed above), and have purposefully and illegally discriminated against Plaintiff's daughter and other female students on the basis of gender, and have intentionally and illegally deprived them of their rights to equal protection secured by the Fourteenth Amendment to the United States Constitution.

33. Defendants have illegally failed and refused to remedy the unequal treatment and benefits received by Plaintiff's daughter and other female athletes as compared to male athletes at the Sevier County School System. Therefore, Defendants' actions constitute a knowing and illegal disregard for Plaintiff's daughter's constitutional rights.

34. Section 1983 of Title 42 of the United States Code provides, in part: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . .

35. When Defendants engaged in the improper actions described above, they were acting under color of law for purposes of the Equal Protection Clause of the United States Constitution and 42 U.S.C. § 1983. Under this section, the Defendants are liable for their violations of the Plaintiff's daughter's constitutional rights under the Fourteenth Amendment.

RELIEF REQUESTED

WHEREFORE, on each of his claims, Plaintiff respectfully prays that this Court:

A. Enter an order declaring that Defendants have engaged in a past and continuing pattern and practice of discrimination against female students, including Plaintiff's daughter, on the basis of gender in violation of Title IX and the regulations promulgated thereunder (including unequal treatment and benefits), and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

B. Issue a permanent injunction (a) restraining Defendants and their officers, agents, employees, successors and any other persons acting in concert with them, from continuing to maintain practices and policies of discrimination against Plaintiff's daughter on the basis of gender, and (b) requiring Defendants, immediately upon issuance of the injunctive order, to adopt and implement a budget and plan which corrects and remediates Defendants' violation of Title IX and the Fourteenth Amendment. Such a plan should include, among other things, providing Plaintiff's daughter and other female athletes with treatment and benefits comparable to those provided to male athletes at the Sevier County School System.

C. Grant an expedited hearing and ruling on the permanent injunction request in paragraph B above.

D. Award Plaintiff his reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

- E. Order such other and further relief as the Court deems appropriate.
- F. Designate that the trial take place before the U. S. District Court in Knoxville, Tennessee.

Dated: May 23, 2023

Respectfully submitted,

SCHILLER LAW FIRM

s/ Samuel J. Schiller

SAMUEL J. SCHILLER

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Counsel for Plaintiff

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Ray Flasher II, as parent and next friend of his minor daughter, R.F.

(b) County of Residence of First Listed Plaintiff Sevier
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Samuel J. Schiller-Schiller Law Firm, Suite 200
4113 Cumby Road, Cookeville, TN 38501 (931) 528-5050

DEFENDANTS

Sevier County Board of Education a/k/a Sevier County Schools a/k/a Sevier County School System, et al.

County of Residence of First Listed Defendant Knox
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Title IX of the Education Amendments of 1972 and the Equal Protection Clause of the United States Constitution.

Brief description of cause:
Defendants have failed to provide equal treatment, benefits, or opportunities to participate to Plaintiff's daughter as related to school-sponsored athletics.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: May 23, 2023 SIGNATURE OF ATTORNEY OF RECORD: s/ Samuel J. Schiller

FOR OFFICE USE ONLY

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee

Ray Flasher II, as parent and next friend
of his minor daughter, R.F.,

Plaintiff(s)

v.

Civil Action No.

SEVIER COUNTY BOARD OF EDUCATION
a/k/a SEVIER COUNTY SCHOOLS a/k/a SEVIER COUNTY
SCHOOL SYSTEM; and DOES 1 through 50,

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Mrs. Stephanie M. Huskey, Superintendent
Sevier County School System
226 Cedar Street
Sevierville, TN 37862

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Samuel J. Schiller
Schiller Law Firm
Suite 200 - 4113 Cumby Road
Cookeville, TN 38501

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual
place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is

_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:
designated by law to accept service of process on behalf of *(name of organization)* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee

Ray Flasher II, as parent and next friend
of his minor daughter, R.F.,

Plaintiff(s)

v.

Civil Action No.

SEVIER COUNTY BOARD OF EDUCATION
a/k/a SEVIER COUNTY SCHOOLS a/k/a SEVIER COUNTY
SCHOOL SYSTEM; and DOES 1 through 50,

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

John McClure, Chair
Sevier County Board of Education
226 Cedar Street
Sevierville, TN 37862

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Samuel J. Schiller
Schiller Law Firm
Suite 200 - 4113 Cumby Road
Cookeville, TN 38501

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual
place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:
designated by law to accept service of process on behalf of *(name of organization)* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: