



P.O. BOX 56157
NEW ORLEANS, LA 70156

MARJORIE ESMAN
EXECUTIVE DIRECTOR

KATIE SCHWARTZMANN
LEGAL DIRECTOR

August 12, 2009

Mr. Randy Schexnayder, Superintendent
Vermilion Parish School Board
220 S. Jefferson Street
Abbeville, Louisiana 70510
Via: U.S. Mail and Facsimile to (337) 898-0939

Mr. David Dupuis, Principal
Rene A. Rost Middle School
112 West 6th Street
Kaplan, La 70548
Via: U.S. Mail and Facsimile to (337) 643-7013

Re. Intention to Sex-Segregate Rene A. Rost Middle School

Dear Mr. Schexnayder and Mr. Dupuis:

It has come to our attention that Rene A. Rost Middle School, a public school in Vermilion Parish School District, has announced its intention to assign all students to single-sex classrooms. We are writing to alert you to our concerns regarding this arrangement and the serious legal problems it raises. We hope that upon consideration of the relevant federal law, the current plan for Rene A. Rost will be abandoned. Otherwise, given the imminence of the new school year, we will be forced to consider whether litigation is appropriate.

The proposed mandatory sex segregation blatantly violates Title IX and its implementing regulations. Title IX of the Education Amendments of 1972 provides "No person in the United States shall, on the basis of sex, be excluded from participation in . . . *any* education program or activity receiving Federal financial assistance." 20 U.S.C. § 1681(a) (*emphasis added*). The Supreme Court has held that this prohibition must be given "a sweep as broad as its language." *North Haven Bd. of Educ. v. Bell*, 456 U.S. 512, 521 (1983).

While recently amended Title IX regulations purport to permit some sex-segregation in coeducational schools, they explicitly disallow the mandatory segregation being contemplated by Rene A. Rost. The regulations state that single-sex classes or activities are permitted only when (among other criteria) "student enrollment in a single-sex class or extracurricular activity is *completely voluntary*." 34 C.F.R. § 106.34(b)(1)(iii) (*emphasis added*). We understand that Rene A. Rost does not intend to offer a equal coeducational alternatives to the sex-segregated classrooms. In short, the only way to reconcile the Rene A. Rost program with the applicable Title IX regulations is to assume that the regulations mean the opposite of what they explicitly say they mean. This would seem to be a high-risk legal strategy.

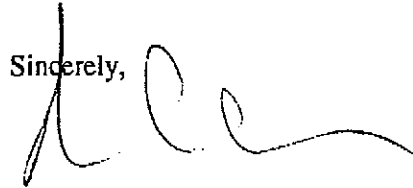


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The proposed sex segregation at Rene A. Rost also violates the Constitution. In *United States v. Virginia*, a case challenging the all-male admission policy at the Virginia Military Institute (VMI), the United States Supreme Court made clear that to comply with the Equal Protection Clause, a governmental actor must demonstrate an "exceedingly persuasive justification" for instituting single-sex education. *Virginia*, 518 U.S. 515, 540-42 (1996). The promise of the Equal Protection Clause is that individual men and women, and individual boys and girls, will not be classified according to generalized understandings of what is essentially "male" or essentially "female," whether those generalizations are accurate on average or not.

Ensuring equal educational opportunity should be a core principle for every community, and schools must be given the tools necessary to allow all students to succeed, regardless of their gender, race, or background. The ACLU is committed to promoting such equal opportunity. But sex segregation is not the way to achieve these shared goals. Should Rene A. Rost and the Vermilion Parish School Board continue to pursue this illegal and unconstitutional plan, we will be forced to seriously consider litigation. Please let us know your intentions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marjorie Esman', with a long horizontal flourish extending to the right.

Marjorie Esman
Executive Director



Randy Schexnayder
Superintendent

Robert Rizzuto
Assistant Superintendent
Curriculum & Instruction

Charlotte Waguespack
Assistant Superintendent
Administration & Personnel

VERMILION PARISH SCHOOLS

220 South Jefferson Street
P.O. Drawer 520
Abbeville, Louisiana 70511-0520
Phone (337) 893-3973

August 13, 2009

Board Members:

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Angela Faulk
District B
Dexter J. Callahan
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Ricky LaBouef
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Anthony Fontana
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District F
Chris Mayard
District G
Ricky J. Broussard
District H

FAX

PLEASE DELIVER THE FOLLOWING TO:

Ms. Katie Schwartzmann
Legal Director
American Civil Liberties Union
Of Louisiana

VIA FAX NUMBER: (888) 534-2996

Re: Vermilion Parish School Board
Rene' A. Rost - Sex Segregation
Our File: W-12.795

Dear Ms. Schwartzmann:

Pursuant to our telephone conversation of this morning, this will confirm that I have reviewed Ms. Esman's correspondence received in my office after hours on Tuesday and Wednesday of this week. I have also reviewed the legal references cited in her letter.

I have also had an opportunity to speak with you and the principal of Rene Rost Middle School, David Dupuis. The school's current curriculum provides for sexually segregated classes in grades 5-8 for the core curriculum subjects of math, science, English language arts, social studies and reading. There is also a coeducational section for these subjects at each grade level. Assignment has not heretofore been done on a voluntary basis.

The principal has agreed to send a letter to each parent on Monday advising them of their child's right to opt out of the segregated classes and choose assignment to the coeducational section. I will present this curriculum modification to the School Board for its approval at its next regularly scheduled meeting on August 20th. I anticipate no problems with their agreeing to follow the requirements of Title IX. The principal, School Board and I were simply unaware of the "voluntariness" provision. I assure you



Ms. Katie Schwartzmann
Legal Director
American Civil Liberties Union
Of Louisiana
August 3, 2009
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VIA FAX NUMBER: (888) 534-2996

that no one associated with the Vermilion Parish School System desires to act in violation of Federal or State law.

I am not directly involved in the curriculum aspects of the school system operation, but I will determine whether any other schools need to get in compliance. I will assure that the school board's directive sufficiently encompasses all school operations, and I will report to you on Friday, August 21st, confirming the board's actions, with supporting documentation.

I understand that you will extend the deadline for complying with the public records request.

Very truly yours,
**VERMILION PARISH SCHOOL
BOARD**


Calvin E. Woodruff, Jr.
Legal Counsel/Risk Manager
Direct line: (337) 898-5777
E-mail: woody@vrml.k12.la.us

Number of pages, including cover sheet: 2



P.O. BOX 56157
NEW ORLEANS, LA 70156

KATIE SCHWARTZMANN
LEGAL DIRECTOR

August 13, 2009

Vermilion Parish School Board
Attn. Mr. Woodruff
220 South Jefferson Street
Abbeville, Louisiana 70511

Via Facsimile to (337) 898- 5781

Dear Mr. Woodruff:

Thank you for your correspondence confirming that children in the Vermilion Parish School System will not be mandated to attend sex-segregated classes.

In order to establish that the parish's program is truly "voluntary" within the meaning of the Department of Education's Title IX regulations, we believe that you must draft your notification to parents as an option to "opt-in" to single-sex classes from co-educational classes, rather than the other way around. We believe that a system that creates segregated classes as the default would run afoul of the DoE Title IX regulations, and that such a framework would indicate that the segregation is not truly voluntary.

We also have remaining concerns about "voluntariness" of the sex-segregated classes, even with the "opt in" provision. We note that providing an "opt-in" is not alone sufficient to establish the voluntariness of the plan. Participation in a single-sex class is not voluntary if the available coeducational class is not equal to the single-sex class in the same subject. It is thus extremely important that the classes be taught in exactly the same manner, including using the same materials and curriculum. In order to determine compliance with this provision, we look forward to receipt of the public records we requested earlier this week. Please produce those to us by next Wednesday, August 19.

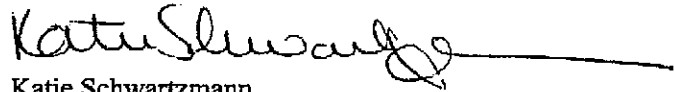
We further note that even if the schools provide perfect equality in the classes, which is something that we question whether they can even accomplish, the USDA Title IX regulations and HHS Title IX regulations, which are applicable here based on the Vermilion Parish School System's receipt of school lunch and Head Start funding, flatly prohibit any single-sex classrooms at all, and thus the legality of the program remains highly questionable. However, we are prepared to postpone this conversation until some point in the future, once we have reviewed the materials produced in response to our public records request.



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Thank you for your assistance in avoiding the need for us to seek a temporary restraining order tomorrow. I look forward to receipt of a draft of the letter to parents, as we discussed.

Sincerely,

A handwritten signature in black ink, appearing to read "Katie Schwartzmann", followed by a long horizontal line extending to the right.

Katie Schwartzmann
Legal Director



Rene A. Rost Middle School
112 W. 6th St.
Kaplan, LA 70548
Phone (337) 643-8545
Fax (337) 643-7013



David Dupuis
Principal

Phyllis Benoit
Assistant Principal

August 14, 2009

Dear Parents/Guardians,

Welcome to another school year at RRMS. We look forward to a positive and productive year. I would like to share with you a new program that we are implementing this year at Rost.

All students in grades 5 - 8 shall be allowed to elect between single sex classes or coeducational classes in the core subjects of reading, language, math, science, and social studies. This means that boys may be in one class, girls may be in another class, or boys and girls may be mixed for their core subjects. Students will be in coeducational classes for electives and physical education. Of course, all students will be taught by the same classroom teacher. For example, if Mrs. Hebert teaches sixth grade social studies, she will teach this subject to all sixth graders.

By law, we must give you the option to have your child in a single sex class or in a coeducational class. Please complete the form below so that we may place your child according to your wishes. We appreciate your consideration regarding this important matter. Please call if you have any questions.

Sincerely,

David Dupuis

I want my child (print child's full name) _____, to be in:

_____ single sex classes for core subjects and mixed classes for elective and P.E. only

_____ mixed classes for all seven subjects

Parent/Guardian Signature

Date

