

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Ocala Division

B.N.S.,

Plaintiff,

v.

**SCHOOL BOARD OF LAKE
COUNTY, FLORIDA; SUSAN
MOXLEY; and MOLLIE
CUNNINGHAM,**

Case No: 5:13-cv-205-Oc-22PRL

Defendants.

_____/

FINAL ORDER

On May 1, 2013, Plaintiff B.N.S., a minor by and through parent Erica Silberstein, filed suit against Defendants SCHOOL BOARD OF LAKE COUNTY, FLORIDA (“Lake County School Board”); SUSAN MOXLEY, in her official capacity as Superintendent of the School District of Lake County, Florida, and MOLLIE CUNNINGHAM, in her official capacity as Principal of Carver Middle School. Plaintiff wanted to start a Gay-Straight Alliance (“GSA”) student club at Carver Middle School. The parties contend that until the filing of this lawsuit, Defendants had not offered to recognize the club as an official student club at Carver Middle School with all attendant benefits afforded to other noncurricular clubs. The parties contend that Plaintiff asserted that Defendants’ non-recognition of the club violated her legal rights afforded to her pursuant to the federal Equal Access Act, 20 U.S.C. §§ 4071-4074, as well as the First and Fourteenth Amendments to the United States Constitution.

Also on May 1, 2013, Plaintiff filed an “Emergency Motion for Temporary Restraining Order and Motion for Preliminary Injunction” (“Emergency Motion”) (DE 2), in which she

attempted to allege a factual and legal basis for preliminary relief. The Court scheduled a hearing on the Emergency Motion for Monday, May 6, 2013. (DE 4).

On May 2, 2013, the parties filed a “Joint Motion to Approve Consent Order” (DE 6) in which the parties requested that the Court (1) approve and enter an agreed consent order (“Consent Order”), and (2) cancel the hearing on the Emergency Motion. (DE 6). The Court entered the Consent Order on the same day, (1) ordering Defendants to allow Plaintiff to form a GSA at her school (the injunction to expire on June 7, 2013), (2) preventing Defendants from taking retaliatory action against any student or faculty member for their involvement in the GSA, and (3) canceling the hearing on the Emergency Motion. (DE 8).

Although the parties contend that the Consent Order resolved Plaintiff’s claim for emergency injunctive relief, the parties state that other claims remained outstanding. The parties now wish to avoid further costly and protracted disputes and have agreed voluntarily to resolve Plaintiff’s remaining claims by entering into this Final Order (“Order”).

The Court has reviewed the Complaint (DE 1) and the Emergency Motion (DE 2), as well as the exhibits that are filed under seal to preserve the confidentiality of minors. The parties contend that the relief granted in this Order is appropriate under the circumstances and that the entry of this Order comports with federal law and the United States Constitution. The Court therefore **ORDER, ADJUDGES, and DECREES** as follows:

1. Because Plaintiff has agreed to voluntarily dismiss the individual defendants (sued in their official capacities), Defendants Susan Moxley and Mollie Cunningham are **DISMISSED WITH PREJUDICE** as parties to this lawsuit. The only remaining Defendant is the Lake County School Board.


2. The Clerk **SHALL** enter Judgment in favor of Plaintiff and against Defendant Lake County School Board. The parties have agreed that the Lake County School Board **SHALL** pay Plaintiff B.N.S. nominal damages in the amount of \$1.00.

3. The parties have agreed that the Lake County School Board shall pay \$13,600 in attorneys' fees and \$400 in costs to Plaintiff's counsel.

4. The parties agree that the Consent Order entered on May 2, 2013 (DE 8) **SHALL** remain in effect according to its terms.

5. The case is **DISMISSED WITH PREJUDICE**. The Court retains jurisdiction to enforce the terms of this Order and the Consent Order previously entered (DE 8).

DONE and **ORDERED** in Ocala, Florida on May 30, 2013.


ANNE C. CONWAY
United States District Judge