

Board of Education Regular Meeting

6:00 PM

Middle School/High School Media Center
565 Kimmel Street
Osceola, NE 68651-0198

Jennifer Boruch: Present

John Kropatsch: Present

Michael Neujahr: Present

Jodie Roberts: Present

Tom Schleif: Present

Darin Sterup: Present

1. Osceola Public Schools Board of Education Information

Notice of this meeting was posted at the Jeffrey Elementary School, Osceola Middle School/High School, Pinnacle Bank of Osceola, and the Osceola Post Office. A copy of the agenda items is tentative and may be changed by the Board if necessary.

2. Opening Procedures

2.1. Call the Meeting to Order

President Schleif called the regular meeting to order at 6:01 PM and informed those in attendance that a current copy of the Open Meetings Act is posted in the meeting room, then directed the public to its location.

2.2. Roll Call

2.3. Excuse Board Members Who Are Absent

No board members absent.

3. Approval of Agenda

To approve the agenda as written Passed with a motion by Darin Sterup and a second by

John Kropatsch.

Jennifer Boruch: Yea, John Kropatsch: Yea, Michael Neujahr: Yea, Jodie Roberts: Yea, Tom Schleif: Yea, Darin Sterup: Yea

4. Recognition of Visitors/Communications from the Public

There were no patrons were present.

5. Reports

5.1. Principals Reports

5.1.1. Elementary Report

Elementary Prinicipal Brett Webster gave his written and oral report about: the Bulldog Pride program in the Elementary; and Jeffrey Elementary has a Facebook page. Also, One Act is off and running with a first place win at Loup City! Congratulations to all who got acting awards! The first Bulldog Pride winners were Courtney Sunday, Alexis Burritt, and Emily Conklin!

5.1.2. MS/HS Report

Middle/High School Principal Dale Maynard gave his written and oral report about: a very successful Red Ribbon Week; thoughts about a psych/sociology requirement; work release is available; and MAPS testing is next week. Thank you to OYAO, Polk County Health Department and SWAG for all of your hard work and efforts to create a successful Red Ribbon Week.

5.2. Superintendent's Report

Superintendent Rinehart gave his written and oral report about: a holiday party for the Board and their spouses; and the need for an Assistant Varsity Wrestling Coach.

5.3. Board Reports

There were no board reports.

6. Action Items

6.1. Consent Agenda

To approve the consent agenda Passed with a motion by Jennifer Boruch and a second by Jodie Roberts.

Jennifer Boruch: Yea, John Kropatsch: Yea, Michael Neujahr: Yea, Jodie Roberts: Yea, Tom Schleif: Yea, Darin Sterup: Yea

Due to a computer problem, the payroll figures will be posted with December's bills.

November's payroll will be processed with the approval of the Superintendent and Board Treasurer.

6.1.1. Approval of the Previous Meeting's Minutes

6.1.2. Treasurer's Report

6.1.3. Payment of general fund claims in the amount of \$55,415.29

Due to a computer problem, the payroll figures will be posted with December's bills.

November's payroll will be processed with the approval of the Superintendent and Board Treasurer.

6.2. Consider, discuss and take all necessary action on International 2017 purchase agreement.

To approve the purchase of a 2017 International bus for \$83,455 which includes a camera Passed with a motion by Darin Sterup and a second by John Kropatsch.

Jennifer Boruch: Yea, John Kropatsch: Yea, Michael Neujahr: Yea, Jodie Roberts: Yea, Tom Schleif: Yea, Darin Sterup: Yea

6.3. Consider, discuss and take all necessary action to approve district audit of October 2015 To accept certified accountants Almquist, Maltzahn, Galloway & Luth's 14-15 audit of school district finances Passed with a motion by John Kropatsch and a second by Jodie Roberts.

Jennifer Boruch: Yea, John Kropatsch: Yea, Michael Neujahr: Yea, Jodie Roberts: Yea, Tom Schleif: Yea, Darin Sterup: Yea

The Board had a conference call with Marcy Luth to answer questions about the audit. The members asked pertinent questions of Mrs. Luth. After motion passed, President Schleif called a recess at 6:55 PM so board members could watch their children perform at the MS/HS Fall Concert which started at 7:00 PM.

7. Discussion Items

President Schleif reconvened the meeting at 8:03PM.

7.1. Discuss Building and Grounds committee recommendations on handicap bleacher accessibility

Superintendent Rinehart reviewed with the Board the recommendations of the Buildings and Grounds Committee about handicapped bleacher accessibility. Superintendent Rinehart is going to obtain bids from different companies that specialize in such projects.

7.2. Executive session to summarize Superintendent's evaluation and plan for teacher negotiations

To go into executive session until the finish of business for the protection of the public interest and for the prevention of needless injury to the reputation of an individual during the discussion of the Superintendent's evaluation and the planning of teacher negotiations Passed with a motion by Darin Sterup and a second by John Kropatsch.

Jennifer Boruch: Yea, John Kropatsch: Yea, Michael Neujahr: Yea, Jodie Roberts: Yea, Tom Schleif: Yea, Darin Sterup: Yea

President Schleif repeated that a motion was made by Boruch and seconded by Roberts to go into executive session until the finish of business for the protection of the public interest and for the prevention of needless injury to the reputation of an individual during the discussion of the Superintendent's evaluation and the planning of teacher negotiations. Time: 8:27PM.

The Board came out of executive session at 10:55. President Schleif stated that items discussed were the Superintendent's evaluation and teacher negotiation strategies.

8. Next Meeting Dates and Times

8.1. Regular meeting December 14, 2015, 6:00PM at the Osceola Middle/High School Media Center.

9. Adjournment

To adjourn meeting at 10:56PM Passed with a motion by Jodie Roberts and a second by Michael Neujahr.

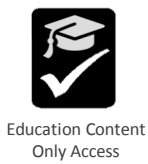
Jennifer Boruch: Yea, John Kropatsch: Yea, Michael Neujahr: Yea, Jodie Roberts: Yea, Tom Schleif: Yea, Darin Sterup: Yea

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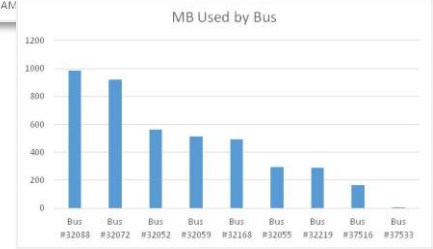
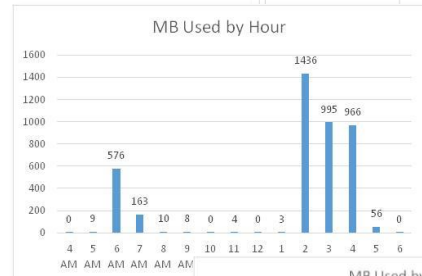
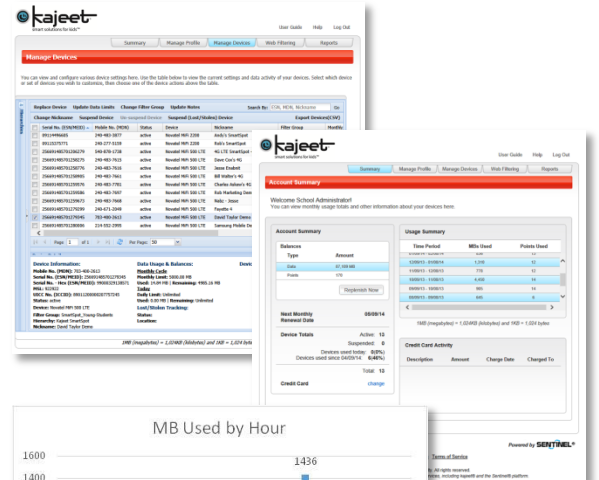
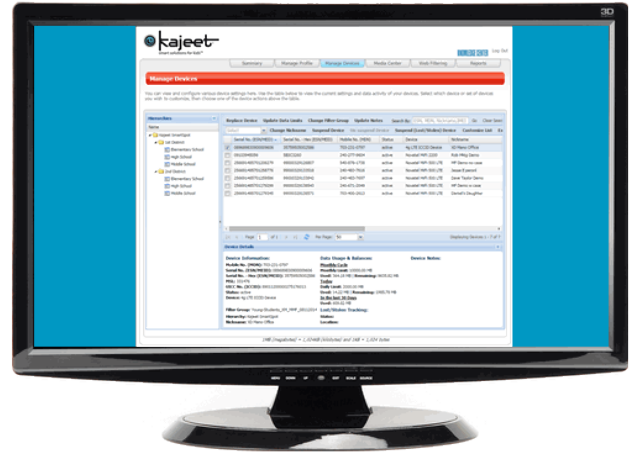
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Call: 1-866-4Kajeet or visit: www.kajeet.net

October 29, 2015

Steven Rinehart
Osceola Public Schools
P.O. Box 198
Osceola, NE 68651-0198

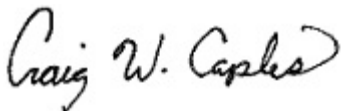
Re: NETS Online Policy SaaS Agreement

Dear Steven:

As of April 1, 2016, NETS will be switching their fiscal year from the current January 1 – December 31 to an April 1 – March 31 period. This allows NETS to be on the same fiscal year as their parent company, NASB. Your district is currently under contract with NETS for Online Policy Services. To match our billing cycle to our new fiscal year period, we are extending your current agreement's term for three months, changing the end date to March 31, 2016, as opposed to its original December 31, 2015 date. This change will result in your district receiving, the three month extension at no additional fee. At the end of the extension period, your contract will automatically terminate. A new contract will be sent to your district by February 1, 2016, if you wish to continue with the Online Policy Services. Please note, all other provisions of the original contract will remain in place until the contract automatically expires on March 31, 2016.

Attached is the Extension Agreement. Please read carefully, sign and return to Craig Caples at the email or address listed below. If you have any questions, please don't hesitate to contact Craig or Jennifer Jorgensen, NASB/NETS legal counsel. Jennifer's contact information is jjorgensen@nasbonline.org or 402-817-0288.

Sincerely,



Craig W. Caples
NET Chief Information Officer

ccaples@nasbonline.org

Direct Phone: (402) 817-0294
1311 Stockwell Street
Lincoln, NE 68502

EXTENSION OF AGREEMENT

This Extension Agreement is made and entered into this 30th day of October, 2015 (the “Extension”) by and between Nebraska Education Technology Services, a Nebraska for-profit corporation (“NETS”) and the Osceola Public Schools (“Client”), a Nebraska Political Subdivision.

WHEREAS, both parties entered into an agreement for NETS Online Policy Software as a Service dated January 1, 2014 (the “Original Agreement”); and

WHEREAS, the Original Agreement between the parties expires on December 31, 2015:

WHEREAS, the parties want to extend and continue said Agreement;

NOW, THEREFORE, it is agreed by both parties, for good consideration, that said Agreement is extended for an additional three month term, at no additional subscription fee, commencing upon the expiration of the original term and shall now automatically expire on March 31, 2016.

This extension shall be on all other terms and conditions as stated in the original Agreement.

This Addendum has been fully executed by the parties hereto as of the date first above written.

Osceola Public Schools

Nebraska Education Technology Services

Signature: _____

Signature: _____

Print Name: Steven A. Rinehart

Print Name: Craig Caples

Title: Superintendent

Title: Chief Information Officer

Date: 10/30/2015

Date: _____

BORUCH MASONRY CONSTRUCTION
 LLC
 PO BOX 595
 OSCEOLA NE 68651

Estimate

Date	Estimate #
10/29/2015	218

Name / Address
OSCEOLA PUBLIC SCHOOLS P.O. BOX 198 OSCEOLA, NE 68651

			Project
Description	Qty	Rate	Total
HANDICAP PARKING PAD			
18' x 24' x 6" - LABOR AND MATERIALS		2,592.00	2,592.00
		Total	\$2,592.00



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Transgender Bathroom Lawsuit Dismissed by Federal District Court

Schools across the country are struggling with the best legal and practical approaches to deal with the needs of transgendered students. One of the most emotionally-charged issues is which bathroom a transgendered student should use. A federal district court in Virginia issued a decision last week in a case in which a transgendered student sued the high school over the student's desire to use a specific bathroom. Although this case is not binding on Nebraska schools, it provides some interesting insights into how courts are addressing this issue.

The case, [*G.G. v. Gloucester Cnty. Sch. Bd.*](#), No. 15-54 (E.D.Va. Sept. 17, 2015), was filed by the ACLU on behalf of a student who is biologically female but who identifies as male. The student and mother informed the school that the student would like to use the boys' bathrooms at the school. With permission from school administrators, the student used the boys' restroom for almost two months. After receiving complaints from some parents and residents of Gloucester County, the school board adopted the new policy which limits the use of boys' and girls' bathrooms to students of the "corresponding biological gender." Under the policy, transgender students who do not wish to use the bathroom designated for their biological sex are permitted to use separate unisex bathrooms. The ACLU filed suit against the school arguing that the school board's policy excluding the student from using the boys' restroom based on gender identity amounted to sex discrimination in violation of Title IX.

The court dismissed the student's Title IX claim. The court relied on a US Department of Education regulation that expressly "allows schools to provide separate bathroom facilities based upon sex, so long as the bathrooms are comparable." The court reasoned that, since schools are allowed to maintain separate bathrooms based on sex, the school's policy "did not run afoul of Title IX by limiting G.G. to the bathrooms assigned to his birth sex." Significantly, the court specifically rejected the ACLU's argument that the term "sex" could only mean gender identity. Instead, the court ruled that "under any fair reading, sex in Section 106.33 clearly includes biological sex."

The ACLU and the U.S. Department of Justice argued that the school had to provide the student with access to the boys' bathroom based on a "Dear Colleague Letter" which was sent to schools by the Office for Civil Rights. That letter stated that "Under Title IX, a recipient must generally treat transgender students consistent with their gender identity in all aspects of the planning, implementation, enrollment, operation, and evaluation of single-sex classes."

The district court flatly rejected the reasoning in that letter. "To defer to the Department of Education's newfound interpretation would be nothing less than to allow the Department of Education to 'create defacto a new regulation' through the use of a mere letter and guidance document."

In sum, the district court concluded that the school "seeks to protect an interest in bodily privacy that the Fourth Circuit has recognized as a constitutional right while G.G. seeks to overturn a long tradition of segregating bathrooms based on biological differences between the sexes." It found that "[b]ecause G.G. has failed to show that the balance of hardships weighs in his favor, an injunction is not warranted while the Court considers this claim."

Obviously this is only one case, and the litigation between schools and transgendered students will continue. Even this specific lawsuit is not completely resolved. The student's claims that the school violated the Equal Protection Clause of the United States Constitution will continue to be litigated by the parties, and the ACLU will likely appeal last week's decision. Schools should deal with the needs of transgendered students with care and sensitivity, but it is important for schools to know that the law related to transgendered students is far from settled.



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Bobby Truhe

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Update: Transgender Students and Staff

Nebraska educators have been discussing the legal considerations involving transgender students and staff members for several years, and things continue to escalate on the national stage. We have seen a host of legal and media updates, but we are no closer to a final resolution on the protections afforded to transgender individuals. The primary issue remains the same. Agencies such as the Federal Department of Justice, Department of Education, and now the U.S. Attorney General take the position that "gender" is a protected class, much like race, national origin, and sex. Despite some states passing gender protection laws, no federal or Nebraska law has made this same determination. The risk of agency enforcement is always there, but no law applicable to most Nebraska public schools protects "gender."

You have no doubt followed the news in Nebraska regarding transgender students, but here are the highlights from around the country and the Nebraska Unicameral:

U.S. Attorney General Issues Memorandum on Gender Identity Protections. On December 15, the U.S. Attorney General issued a Memorandum discussing the AG's position on enforcement of Title VII of the Civil Rights Act of 1964. Schools and ESUs are familiar with Title VII from their nondiscrimination policies' listing of protected classes, such as race, national origin, sex, and age. In short, the AG

believes that “discrimination ‘because of . . . sex’ encompasses discrimination . . . based on an employee’s transitioning to, or identifying as, a different sex altogether.” In the opinion of the AG, gender-identity discrimination may be protected by Title VII’s prohibition of discrimination based on biological sex.

Board Votes Limiting Use of Facilities. Last month, a Virginia school board officially voted to limit male and female restroom and locker room usage to “the corresponding biological genders.” The 6-1 vote also included a provision which required transgender students to use “alternative private facilities” such as unisex bathrooms and isolated changing areas. Not surprisingly, the ACLU has filed a complaint with the Federal Departments of Justice and Education challenging the board’s actions. This case will certainly highlight the tension between the federal law, which does not protect from discrimination on the basis of gender, and the position of the federal agencies which have chosen to interpret gender protections from existing discrimination laws.

Damages Paid to Transgender Student. The Maine Supreme Court became the first state high court to award money damages in a lawsuit against a school district for discrimination based on gender. In December, Orono School District was ordered to pay \$75,000 in damages to a transgender student who sued the district over its decision to limit the student’s use of school facilities. Overall, this is a unique case because the state of Maine protects “gender” in its antidiscrimination laws. However, it is significant because it is the first case where a state’s highest court has determined that a student’s gender-specific restroom and locker room use is protected.

OCR Issues Additional Gender Identity Protections. On December 1, 2014, the U.S. Department of Education’s Office of Civil Rights (“OCR”) issued guidance on a renewed trend in some districts to separate classrooms based on students’ sex. The idea is that boys and girls learn differently in some cases, so the split classrooms are intended to promote achievement by all students by targeting sex-specific learning differences. It should come as no surprise that the OCR’s position on transgender students is clear: they should be permitted to learn in the classroom of the gender with which they identify. While

transgender student issues have always involved restrooms and locker rooms, the issues are now fundamental to many classrooms.

Kentucky Senator's Bill Would Award Damages to Students Who Share Facilities with Transgender Students. With gender-identity protections largely favoring transgender individuals, one Kentucky state senator introduced a bill which would force Kentucky schools to limit facility accessibility based on "biological sex." In short, the bill states that each "school restroom, locker room, and shower designated for student use accessible by multiple students" is limited to biological sex. While the bill also requires schools to accommodate transgender individuals, it provides a "private cause of action" against the school if any school personnel permit someone to use a facility of the opposite biological sex. Essentially, students can sue the school for damages, capped at \$2,500, if they are even made to use a school facility at the same time as someone of the opposite biological sex, *i.e.*, a transgender student.

Nebraska Legislative Bills Seek Protection for Gender Identity and Sexual Orientation. Three bills introduced this legislative session would protect job applicants, state contractors, employees, and others against discrimination on the basis of "sexual orientation" and "gender identity," two areas not before protected by Nebraska state law. While some cities in Nebraska have chosen to protect sexual orientation and gender identity, this would amend state law requiring those classes to be protected by employers and state entities like public school and educational service units.

As you can see, the efforts to obtain protections for transgender students and staff members are increasing by the day.

If you have questions, we recommend that you consult with your school district's attorney or call Karen, Steve or Bobby.



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**We've read the ACLU's email regarding gender identity,
and we're sure you have, too!**

On October 27, 2015, the Nebraska ACLU's legal counsel, Amy Miller, sent an email to Nebraska school administrators entitled "ACLU guidance related to transgender students." The email provides information regarding the alleged obligations of school districts as they relate to transgender students. Ms. Miller notes that a similar email went to the Nebraska School Activities Association in light of their considerations regarding activity participation for transgender students. We certainly appreciate the ACLU adding their voice to the already-robust discussion of these issues in Nebraska public schools. We agree that boards of education should make informed decisions on these important issues with all available information, which compels us to clarify several points from Ms. Miller's email.

Ms. Miller states that students have "clear legal rights" regarding gender identity. We disagree that the law and these "rights" are clear in all cases. Neither Nebraska's Unicameral nor Congress has passed laws clearly establishing "gender" as a legally protected class like they have for sex, national origin, and age, to name a few. In fact, legislation attempting to add "gender" as a protected class has categorically failed at both levels. Similarly, no court case and none of the cases cited in the email, such as *Mathis*, *Hart*, and *Doe*, establish gender as a protected class or fully clarify the obligations of Nebraska schools. *Mathis* is a Colorado Human Rights Commission case, not a court case with precedent applying to Nebraska schools. *Hart* was an employment discrimination case from a lower Maryland federal court. *Doe* was a case interpreting Maine's state law regarding gender identity, not a federal law or Nebraska law. In short, there is no definitive court case on this issue.

Ms. Miller is correct that the U.S. Supreme Court and other courts have prohibited discrimination based specifically on “gender norms,” but they have not deemed transgender citizens to be a protected class. This is an important legal distinction. We believe schools across Nebraska are appropriately addressing any perceived discrimination, harassment, or bullying based on gender norms, but that is a separate question from schools’ obligations regarding all matters involving gender identity.

If the law was as clear as Ms. Miller states, we would not have court decisions such as *G.G. v. Gloucester Cnty. Sch. Bd.*, No. 15-54 (E.D.Va. Sept. 17, 2015). In *G.G.*, a federal court in Virginia declined to issue a preliminary injunction requiring a school to permit a transgender student to use the bathroom consistent with the student’s gender identity. The Department of Justice (DOJ) made nearly identical arguments to those contained in Ms. Miller’s email. As the court pointed out, federal regulation 34 C.F.R. § 106.33 specifically permits facilities to be assigned based on “sex,” and the court noted that the DOJ’s position in the case was inconsistent with this federal law. Considering the context of Ms. Miller’s email, it is important to note that the court also concluded that federal agencies such as the DOJ and the Department of Education’s Office for Civil Rights (OCR) cannot simply create legal standards by changing their interpretation of existing federal law to protect gender identity. You can read the *G.G.* opinion [here](#).

Ms. Miller is correct that the DOJ and OCR take the position that discrimination on the basis of gender identity is prohibited by federal law. Ms. Miller cites to OCR “Resolution Agreements” from Downey Unified School District and Arcadia Unified School Districts and “guidance” issued by the DOJ and OCR to support the idea that public schools do have heightened legal obligations regarding gender identity. These “Resolution Agreements” are essentially settlement agreements between individual schools and the OCR, in which the OCR has taken the position that the school must permit the student to use the restroom and locker room facilities consistent with their gender identity. The DOJ has taken the same position and has come to similar agreements with employers and other entities.

However, these “Resolution Agreements” are not court cases binding on Nebraska schools. These are agreements reached with individual schools to resolve OCR complaints, with the alternatives for schools being lengthy investigations and lawsuits aimed at stripping schools of federal funding. As the Virginia court noted, there are no new laws, just new interpretations. In response, at least one school is pushing back against the OCR. An Illinois district is refusing to comply with an OCR directive to permit a transgender female student to use the female locker room. We are monitoring this case

as it progresses, but it illustrates the point that the law is not clear and that OCR's interpretation is not the same as law.

In summary, the law on the issue gender identity and the obligations of public schools is far from settled. It is true that the DOJ and OCR may deem your school in violation of federal law if a complaint is filed and you do not follow their interpretations. It is also true that the DOJ, OCR, and/or ACLU may file a lawsuit against your district if you do not accept their position. Under this threat of litigation, the ACLU suggests that your school consider a policy, much like the NSAA is considering an activity participation policy. **You are not required to establish a formal policy**, nor do we recommend it to our clients at this time. Policies should be clear and simple, and the law surrounding gender identity is anything but clear and simple. The law in this area is evolving so frequently that **any** policy enacted by a school, regardless of its stance on gender identity, could directly invite litigation or establish obligations on the district which simply are not required by state or federal law.

There is an alternative course. We know that school boards, administrators, and staff strive to treat everyone with respect and provide a top quality education to all students. We believe school districts are acting completely appropriately and within the existing legal framework by addressing these matters on a case-by-case basis, without adopting formal policies. Boards are certainly free to pass policies regarding gender identity as the ACLU suggests, but we strongly encourage boards and administrators to collaborate with legal counsel on all matters involving transgender students and staff, especially if your board is inclined to pass a policy.

If you have questions or concerns about these or any related issues, we recommend that you consult with your school district's attorney or call Karen, Steve, or Bobby.

John M. Guthery
Thomas M. Haase
James B. Gessford
Rex R. Schultze***
Daniel F. Kaplan
Gregory H. Perry
Joseph F. Bachmann*
R.J. Shortridge*
Jeanette Stull
Corey L. Stull*
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Ernest B. Perry (1876-1962)
Arthur E. Perry (1910-1982)
R.R. Perry (1917-1999)
Edwin C. Perry (1931-2012)

MEMORANDUM

To: Nebraska Public Schools
From: Perry Law Firm
Date: November 3, 2015
Re: Nebraska American Civil Liberties Union E-mail of October 27, 2015
regarding Transgender Students and School District Policies

On October 27, 2015, many (most) Nebraska public schools received an e-mail from Amy Miller of the Nebraska Chapter of the American Civil Liberties Union (NACLU). Ms. Miller encouraged Nebraska school districts “to consider establishing inclusive policies that respect the gender identity of each student in order to ensure all students have a safe, supportive, and appropriate framework for their educational and extracurricular activities.” She urged that the policy be “anchored in respect for the clear legal rights of all students” so as to “minimize the potential loss of federal funds and costly, embarrassing, and time intensive civil rights litigation that may arise if a school discriminates against transgender students.” Ms. Miller also cited the positions of the U.S. Department of Education’s Office for Civil Rights (OCR) and the U.S. Department of Justice (DOJ) regarding claims of discrimination based upon a student’s gender identity, and specifically with regard to the use of restrooms.

The “rights” of transgender students are not as clear Ms. Miller’s e-mail suggests. This is a developing area of law and the issues presented are embroiled in controversy and differing points of view. As attorney Malina Piontek wrote in the October 29th publication of the Association of Wisconsin School Administrators:

As if a school principal’s job isn’t already complicated enough, proposed legislation in Wisconsin placing gender restrictions on the use of school bathrooms and locker rooms along with differing interpretations of Title IX by federal agencies and courts may further put schools in the cross hairs of competing legal theories. . . . The rights of transgender students in the

schools are in a state of flux. The answer to a legal question regarding transgender students' rights may largely depend on where the question is venued. OCR is taking a firm position that Title IX covers transgender status. The few federal courts that have addressed the issue have taken a contrary view.”¹

As explained below, courts, schools and state activity associations have taken significantly differing positions on the definition and rights of transgender students. We have researched the policies regarding transgender students of schools and other stakeholders in all 50 states, including those to which the NACLU referred. The policy approaches that schools and activity associations have taken in addressing issues related to transgender students vary widely.

School districts must protect transgender students from mistreatment. However, given the rapidly developing state of the law regarding their rights and treatment, board members and administrators must approach the development of policies with great thought and care.

Recently, courts have interpreted federal law differently from the OCR and DOJ. They have taken a more restrictive approach regarding restroom use by transgender students. These decisions could provide some legal guidance on policies that protect the rights of transgender student and all other students.

Grimm v. Gloucester County School Board, 2015 U.S. Dist. LEXIS 124905, is a case decided on September 17, 2015 that involved a female-to-male transgender student. The Court challenged the interpretation of Title IX by the DOJ and OCR that a public school district's policy violated Title IX when it segregated bathrooms based upon students' biological sex and without regard to their gender identities. To our knowledge, this is the first court to take this position. The court stated that the DOJ/OCR interpretation did not trump (used here in its natural context) the U.S. Department of Education regulation found at 34 C.F.R. § 106.33 which expressly “allows schools to provide separate bathroom facilities based upon sex, so long as the bathrooms are comparable.” This decision is currently on appeal.

The court in Grimm cited a case involving the University of Pittsburgh (Johnston v. University of Pittsburgh of Commonwealth System of Higher Education, 2015 U.S. Dist. LEXIS 41823 (W.D. Pa. Mar. 31, 2015)). In Johnston, the court found that a policy separating the bathrooms by birth sex did not violate Title IX because sex discrimination does not include discrimination against transgender individuals. The case involved a university female-to-male student. Significantly, the court, by its own admission, took a “narrow” view of the meaning of the statutory term ‘sex.’ It noted

¹ “Schools in the Middle: Mixed Messages in Transgender Students”, Malina Piotek, Attorney, LLC, AWSA.org, October 29, 2015.

that “Congress’s purpose in enacting Title IX was to establish equal educational opportunities for women and men in education.” And citing authority to the effect that “there are differences between the sexes which may, in limited circumstances, justify disparity in law.” However, the court indicated that the decision might be different if Johnston had “undergone a sex change.” This decision is currently on appeal.

As a side note, but important, the Johnston court cited an opinion of the 8th Circuit Court of Appeals (our circuit) from 1982 (33 years ago). In addressing a Title VII employment discrimination claim involving a male-to-female transgender person seeking to use a female bathroom, the court concluded that “the word ‘sex’ in Title VII is to be given its traditional definition, rather than an expansive interpretation.” Sommers v. Budget Marketing, Inc., 667 F.2d 748,750 (8th Cir. 1982).

There is also an opinion issued by the Iowa Department of Inspections and Appeals entitled Iowa Civil Rights Commission v. Burlington Area Community YMCA, DIA No. 12ICRC004 (Administrative Decision - December 11, 2012) involving a transgender person (male-to-female) who wanted to use the female locker room in the local YMCA. In that case, the person had NOT had sex reassignment surgery. In finding that the YMCA did not violate the Iowa civil rights statutes that specifically protect a person’s “sexual orientation” and “gender identify”), the Commission wrote:

[T]his case involves the countervailing, imbedded cultural practice to separate common shower and changing rooms by biological gender. This practice is supported by basic principles of privacy and personal dignity. The Iowa Civil Rights Act cannot be interpreted so broadly to give a biological male, albeit one who identifies herself as a female, the right to change clothes with and shower in a female locker room.

See also, Goins v. West Group, 635 N.W.2d 717 (Minn. 2001).

We must be mindful that the OCR investigates claims of discrimination and that it has made a commitment to enforce the laws vigorously. The OCR and DOJ agreed in 2013 that discrimination against transgender students violates Title IX. In January, 2015, OCR’s Acting Deputy Assistant Secretary for Policy wrote:

When a school elects to separate or treat students differently on the basis of sex (such as with sex-segregated restrooms) a school generally must treat transgender students consistent with their gender identity.

OCR requested that a budget for fiscal year 2016 be increased by more than \$30 million and that its staff be increased by 200 positions, 192 of which are additional complaint investigators. Advocates for transgender students will likely first seek relief by filing a complaint with the OCR, rather than the courts, and schools should anticipate the OCR will pursue action on those complaints.

That said, some public schools have begun to question the OCR and DOJ interpretation of Title IX. In the last few weeks, an Illinois school district took the position that a transgender student could not use the restroom and locker room facilities other than the gender on the student's birth certificate. The Chicago Tribune reported that a student, who identifies as female, is asking to receive full access to the girls' locker room. Citing privacy concerns, the district denied the request and offered a separate room where the student can change. The Superintendent was quoted as stating, "At some point, we have to balance the privacy rights of 12,000 students with other particular, individual needs of another group of students. We believe this infringes on the privacy of all the students that we serve." Officials of the ACLU, which is representing the student in a complaint filed with the U.S. Department of Education, called the district's stance "blatant discrimination, no matter how the district tries to couch it." This is a case to be closely monitored as it proceeds through the OCR process and possibly results in federal court proceedings.

As stated at the beginning of this memorandum, the rights of transgender students are a developing area of law. All Nebraska school districts are committed to treating all students with care, respect, and compassion, and to providing each student with a safe learning environment and to excellent education experiences. We would advise school district administrators and boards of education to seek a broad spectrum of information on the way to address the myriad of issues presented by a transgender students.

We will continue to keep you apprised of developments in this area of law.

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MEMORANDUM

To: Nebraska Public Schools
From: Perry Law Firm
Date: November 4, 2015
Re: Breaking Development in Transgender Law

On Monday, the United States Department of Education's Office for Civil Rights (OCR) issued its decision (copy attached) that the Township High School District 211 of Palatine, Illinois (District 211) violated Title IX when it refused to permit a transgender student who identifies as a female to use the girls' locker room without restrictions.

The student was born male and has identified as a female from a young age. She began presenting herself as a young woman in appearance in middle school, changed her legal name, obtained a passport as a female, was diagnosed and has been treated for gender dysphoria, and has engaged in hormone therapy.

School officials have worked closely with the student's family. They have registered her as a female, use her female name, and refer to her with female pronouns. The Illinois High School Association permits her to participate in girls' athletics and she plays on district girls' sports teams. The school permits her to use restrooms for females but has not given her the unrestricted access to girls' locker rooms that she requested. District 211 says it permits her to change in the locker room behind a curtain and she has said she would probably use the curtain to change, but she and the OCR insist that she be permitted to make that decision on her own.

The OCR concluded that "the District, on the basis of sex, excluded Student A from participation in and denied her the benefits of its education program, provided her different benefits or benefits in a different manner, subjected her to different rules of behavior, and subjected her to different treatment in violation of the Title IX regulation at 34 C.F.R. § 106.31." It informed District 211 that if it does not reach an agreement with the OCR within 30 calendar days, the OCR will issue a Letter of Impending Enforcement Action. If the school won't comply, the OCR may take further action, such as withholding federal funds of approximately \$6,000,000 per year. District 211's superintendent disagreed with the OCR and called its decision "a serious overreach with precedent setting implications."



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

500 WEST MADISON ST., SUITE 1475
CHICAGO, IL 60661-4544

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

November 2, 2015

Dr. Daniel E. Cates
Superintendent
Township High School District 211
1750 South Roselle Road
Palatine, Illinois 60067

OCR Case No. 05-14-1055

Dear Dr. Cates:

The U.S. Department of Education's Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaint, filed in December 2013, against Township High School District 211 (District). The District is composed of five high schools. The complaint alleged that the District discriminated against Student A, a transgender high school student, on the basis of sex. Specifically, the complaint alleged that the District denied Student A access to the girls' locker rooms because of her gender identity and gender nonconformity.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681–1688, and its implementing regulation at 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by recipients of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the District is subject to Title IX. Therefore, OCR has jurisdiction over this complaint.

During its investigation, OCR interviewed Student A and her mother, toured her high school (School), interviewed District administrators and staff members, and reviewed documents provided on behalf of Student A and by the District. For the reasons set out below, OCR finds by a preponderance of the evidence that the District is in violation of Title IX for excluding Student A from participation in and denying her the benefits of its education program, providing services to her in a different manner, subjecting her to different rules of behavior, and subjecting her to different treatment on the basis of sex.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

District Policies

The District maintains an annual notice of nondiscrimination that prohibits discrimination, including discrimination on the basis of gender, and posts the notice prominently on its website.¹ The District also maintains a Board Policy that prohibits discrimination, including discrimination on the basis of gender and sexual orientation.² The name and contact information for the District's Title IX Coordinator are available on the District's website,³ as are the District's Title IX grievance procedures.⁴

Statement of Facts

Student A was born male and from a young age has identified as female. During her middle school years, Student A transitioned to living full-time as a young woman. Since then, she has presented a female appearance, completed a legal name change, obtained a passport reflecting a gender change, received a diagnosis of and treatment for gender dysphoria, and taken an ongoing course of hormone therapy.

Student A's parents contacted the School during her eighth-grade year to begin planning her transition to high school. The family and the School communicated extensively about issues such as Student A's name change, registration as a female, access to girls' restrooms and locker rooms, and eligibility for girls' athletics. The family also informed the School that Student A had been subjected to harassing comments in middle school when she used the boys' locker rooms.

The District has honored Student A's request to be treated as female in all respects except her request to be provided access to the girls' locker rooms at the School. The District identifies Student A by her female name and uses female pronouns. Its computer system designates Student A as female. The District has given Student A unlimited access to all girls' restrooms in the School, and, after obtaining permission from the Illinois High School Association, allows her to participate in girls' athletics. Student A informed OCR that many students are aware of her transgender status, and that several students and staff members at the School have been particularly supportive and encouraging towards her.

Locker Room Access

Student A, her family, and/or their counsel have held a series of meetings with District and School administrators, including the Principal and the former Superintendent, to discuss the issue of locker room access for Student A.⁵ Student A requested an opportunity to change clothes privately within the girls' locker rooms, in an area such as a restroom stall. After touring the

¹ <http://adc.d211.org/information/annual-notice-of-nondiscrimination/>.

² Board Policy JCFM/GBCBA, "Non-discrimination of Students and Staff," located at <http://www.boarddocs.com/il/thsd211/Board.nsf/Public#>.

³ <http://adc.d211.org/administration/augustino-fontanetta/>.

⁴ Board Policy JA/KAA/GAC, "Uniform Grievance Policy," located at <http://www.boarddocs.com/il/thsd211/Board.nsf/Public>.

⁵ The former Superintendent retired after the 2013-2014 school year.

School facilities, the Superintendent verbally informed Student A that the District would not allow her to access the girls' locker rooms at the School. The District said it would not be practicable to grant her request to change privately in the locker rooms because there were too few stalls and too many students.

The District outlined Student A's alternative options for changing for physical education (PE) class and athletics. The former Superintendent stated to OCR that she based her decision not only on Student A's rights and needs, but on the privacy concerns of all students. The Superintendent told OCR that Student A explained that she wanted equal access to the girls' locker rooms because "she wanted to be a girl like every other girl." The Principal's notes from the meeting indicate that Student A said she was "crushed" by the District's decision, which she said indicated that the School did not accept her as female.

Student A told OCR during an interview in February 2014 that she has her own sense of privacy, and, if granted access to the girls' locker rooms, would seek out an unobserved area for changing, such as a restroom stall, which she said is a common practice among some girls. In September and October 2015, Student A informed OCR that she would use privacy curtains in the girls' locker rooms if the School made them available.

The District's decision denied Student A's access to the three girls' locker rooms: the regular PE locker room (PE locker room); the locker room near the pool, used for the swimming unit of PE (swimming locker room); and a locker room used for the girls' athletics teams (athletics locker room). Each is discussed in detail below.

PE Class

Students at the School are required to take mandatory PE each year. It is a daily course that is required for graduation. The District requires completion of a certain number of credits in traditional PE, with units on tennis, volleyball, basketball, swimming, and other sports. Thereafter, students may satisfy the PE requirement with various electives. PE students wear a required uniform, issued by the School, of shorts and a t-shirt. If a student forgets his or her uniform on a given day, he or she may obtain a rental uniform, which is available in the boys' and girls' locker rooms. In addition, rental uniforms are available in the PE teacher's office.

The required PE class consists of 35 minutes of instruction. Students have approximately five minutes to change before class, and five minutes to change after class, in addition to five-minute passing periods. Students assemble in the gymnasium at the beginning of class for attendance.

OCR toured the girls' PE locker room, which is accessed through a door in the main gymnasium. The door leads to an entryway and stairwell that is accessible to boys and girls. The girls' PE locker room contains lockers on the periphery walls as well as several banks of lockers in center aisles approximately seven feet high. There is a sizable open shower area. The girls' restroom facilities for PE are located in Restroom A, which contains two doors: one to the entryway and stairwell mentioned above, and one to the locker room. Thus, it is possible to enter and exit Restroom A without entering the PE girls' locker room. Restroom A contains five private toilet

stalls. The District informed OCR that the PE girls' locker room and Restroom A are both busy and crowded on school days, as multiple gym classes, with about 130 students, meet at the same time.

In its response to this complaint, the District told OCR that, while female students change for PE class in a “modest” manner, students do expose their bodies while changing in the locker room. The PE Teacher told OCR that girls change bras (from a traditional bra to a sports bra) for the PE classes and, for the swimming unit, change into their swimming suits. She stated that students do not shower after PE class, with the exception of the swimming unit, which is discussed below.

The District offered Student A changing facilities in a private restroom (Restroom C) down a hallway from the gymnasium. Restroom C is approximately 75 feet from the gymnasium entrance. Between the gymnasium and the restroom are the wrestling room on one side, and the weight room and fitness room on the other side. During an OCR visit, many male students were in the hallway and in the weight room. Student A must travel through this hallway in order to get from Restroom C to the gymnasium.

Restroom C is a single occupancy facility that is kept locked during the school day. The Principal explained that Student A does not have a key to the restroom and that a staff member who monitors the hallways carries the key and must unlock the door for her. The Principal said the staff member opens Restroom C several minutes before Student A requires access, leaves it unlocked during Student A's PE class, and then locks it several minutes after Student A leaves it following PE class. The restroom contains a single stall and toilet, a mirror and sink, and a tall locker that the School installed for Student A.

Student A expressed dissatisfaction with Restroom C, and the District offered an alternative location to her for changing before and after PE. It offered to let her change in Restroom A—the restroom that is adjacent to the girls' PE locker room but separated from it by a door. This would have allowed her to change near to the gym, like other girls. The District offered to install—and in fact did install—a bank of lockers there, and to let Student A choose several female friends who would be comfortable changing alongside her. However, Student A told OCR that she felt this arrangement would “ostracize” her even more than Restroom C. She said it would draw attention to the fact that she must change separately: other girls using the restroom would see the lockers and know that she changed there, whereas some girls did not presently know that she had a separate changing arrangement. Student A also noted that she spoke with several friends from PE class, who expressed reluctance to move to lockers in Restroom A. The District told OCR that their lockers could easily be reassigned, but Student A suggested to OCR that her friends did not seem to want to move.⁶

Student A therefore continued to change for PE class in Restroom C. She told OCR that she does not take the most direct route from Restroom C to the gymnasium “because it's embarrassing. Everyone would see me.” Instead of entering the gymnasium near the door to the girls' locker

⁶ On an as-needed basis throughout her high school career, Student A also used a restroom inside the nurse's office. Nurse A provided this access to Student A, and also offered her support and encouragement.

room—where female students would see her entering separately—Student A walks through several hallways and around to the other side of the gymnasium, where she enters. OCR observed during an onsite visit that the gymnasium was large and crowded with students; if the gymnasium was similarly crowded when Student A entered on the far side, her entrance might go unnoticed. The PE Teacher told OCR that she did not think students pay attention to who enters and from where. Student A said that she takes a circuitous route to avoid standing out.

The PE Teacher told OCR that Student A was frequently late to class during one of the school years in question. Student A gave various reasons for this. She contends that, on several occasions, Restroom C was locked and no one was available to open it for her; that she had trouble opening the locker the School installed for her in Restroom C; that she must take a longer route to class to go unnoticed; and that, on at least one occasion, she had to obtain a uniform rental. The District told OCR that it was unable to verify Student A's problems accessing her locker, and that in any event, it replaced the lock on the locker and resolved that problem. It also disputed that a staff member was unavailable to unlock Restroom C, except on one occasion. The District does not dispute that Student A takes a circuitous route to gym class, or that she has had to obtain rental uniforms and cannot do so in the PE girls' locker room like other students.

As noted, students requiring a rental uniform may request one in the locker room, or from the PE Teacher in her office. The PE Teacher told OCR that most students who require a rental obtain one in the locker room itself. The District concedes that, on one occasion, Student A needed a rental but could not find the PE Teacher to obtain one. Student A eventually found another teacher to provide a rental uniform. Student A told OCR that she was once reprimanded for entering the girls' PE locker room to obtain a rental uniform even though it was the middle of the period and the locker room was empty.

The District disputes that Student A has been late to PE class because she was unable to find an adult to unlock Restroom C. After Student A made this claim on several occasions, the District reviewed the previous two weeks of video records from a hallway camera that shows the door to Restroom C. The District said the video showed Student A arriving late to Restroom C on several occasions, and only once showed her unable to enter the restroom because it was locked. On that occasion, a substitute hall monitor reached the restroom shortly after Student A and unlocked it for her. The District contends that Student A's tardiness was a broader problem that was not limited to PE class, and said it addressed this with her by adjusting her class schedule. OCR's investigation confirmed that the class tardiness issue was addressed by altering Student A's classroom schedule, and that her tardiness has since decreased.

Student A also told OCR that one day, the PE Teacher told her classmates in the locker room they did not need to dress for class that day, but that since she had to change elsewhere, she did not receive the message. Student A told OCR that she was embarrassed when she showed up dressed in her gym uniform, while the other students were wearing street clothes. Student A returned to Restroom C and changed back into her street clothes.

PE Class – Swim Unit

The swim unit is required for the School’s mandatory PE class. Student A told OCR that she has completed her required PE credits that include a swim unit. Student A has informed OCR that she is not planning to take any more PE credits that include swimming.

The girls’ swimming locker room is immediately adjacent to the swimming pool; the locker room door leads onto the pool area.⁷ When entering the locker room, students pass through a hallway that ends in a “T.” To the left is a small, door-less restroom where Student A changed for swimming (Restroom G). To the right is a short hallway that leads around a corner and into to the girls’ swimming locker room. There are no doors separating Restroom G from the locker room; however, it is not possible to see around the corner into the locker room from Restroom G, or vice versa.

The girls’ swimming locker room contains an open shower area. Beyond the showers is unused space that contains neither showerheads nor lockers. Beyond that area are banks of lockers. There are mirrors at eye level, and between the mirrors are hair dryers placed at eye level, as well as electrical outlets. The locker room also contains restroom stalls, sinks, and a coach’s office.

The PE Teacher told OCR that most students shower in their suits after swimming in order to rinse off the chlorine from the pool. She said she has not seen students shower fully naked, but that some do pull the top half of their bathing suits down, and are nude to the waist.⁸ The PE Teacher said that students changing after PE class during the swim unit cannot practicably change in the bathroom stalls, because there is so little time. Students have devised various methods of changing out of their swimsuits modestly. Some students use a “buddy system,” by having a friend hold up a towel to shield them while they change. Other students hold a towel in their mouths, which drapes over their fronts. “They’re naked, but to varying degrees,” said the PE Teacher.

Student A took PE courses that contained swimming units during two school years. Each swimming unit lasted approximately four weeks. She changed clothes for swimming in Restroom G. It is approximately 5’ by 7’, and contains restroom stalls, a sink, a mirror, and a locker for Student A, but does not contain a shower, electrical outlets or a hair dryer. Around the corner from Restroom G, in the hallway that students use to access the swimming locker room from the pool, is a showerhead. The floor contains a drain. The District described this to OCR as a “rinse” shower that is available for Student A’s use. Student A did not have to pass through the girls’ swimming locker room in order to access Restroom G or the rinse shower. Student A told OCR that using the Restroom G “sets me apart” from the other students. She noted that the School had to install a mirror for her, and that she is not able to dry her hair.

⁷ During an onsite visit to the School on October 28, 2015, OCR observed that the swimming pool and swimming locker room facilities described above were under renovation and not in use.

⁸ In an April 2014 letter to OCR, the District stated that some students shower fully naked after swimming. This assertion is not consistent with OCR’s interview of the PE Teacher.

The District offered Student A two other options to change for the swimming unit—Restroom E and Restroom H—which she declined. Restroom E is down a short (20’) hallway from the pool. It is not connected to the girls’ swimming locker room. It is a locked women’s restroom that must be unlocked by a staff member. It contains restroom stalls, sinks, and mirrors, but does not contain a shower, locker or hair dryer. Although the restroom contains an electrical outlet, it is far from the main restroom area, and would not be practical to use with a personal hair dryer.

The third option is Restroom H, the private restroom of the pool teaching assistant (TA). The Principal explained that the pool TA uses it to shower and change. It is accessible through the TA’s office, which is immediately off the pool area and adjacent to the girls locker room. The office is kept locked and would need to be opened by a key. The restroom contains a shower, a single restroom stall, a sink, mirror, and electrical outlet. During OCR’s visit, Restroom H contained the pool TA’s personal hair and beauty products in the shower and on a shelf below the mirror.

The PE Teacher described an incident in which she observed Student A using the girls’ locker room during the swim unit. She told Student A that she was not supposed to be there. Student A replied, “I know, but I asked if anyone was in there,” and that everybody called back to say they were dressed. Student A wanted to use the mirrors and do her hair, which she was unable to do in Restroom G. The PE Teacher said she told Student A that this was not part of the arrangement, and that she needed to stay in her changing area.

Athletics

Student A is a member of one of the School’s girls’ athletics teams. The team has approximately 30 members and its head coach is Coach A. The team uses the athletics locker room, which contains banks of lockers approximately eight feet high, partitioned restroom stalls, sinks with mirrors, an open shower area, and multiple hair dryers. There are no electrical outlets near the mirrors. Coach A told OCR that she does not spend time in the locker room and thus has not observed team members’ changing habits. However, she told OCR that team members do not shower after practices or competitions. Student A told OCR that it is her understanding that some team members change in restroom stalls in the locker room for privacy. Coach A said that students use the locker room only to change *into* their uniforms; she has observed that, after practices or competitions, students customarily depart in their uniforms.

Student A changed for practices and competitions in a female restroom or used Restroom C—the same restroom she uses to change for PE. Student A told OCR that this arrangement separated her from her teammates. Student A said that team members informally “huddle” in the locker room before matches (without the coach) to do their hair, and that she missed these opportunities for bonding with her teammates. Coach A responded that team members also do their hair in the hallway, which is available to Student A. Coach A said, “[Student A] feels that locker room talk is where she feels she can be most a part of the team.” But Coach A believes Student A is mistaken, saying, “There’s really no girl talk going on in there.”

Coach A said that Student A entered the girls' athletics locker room four times during one season. Four girls and one parent complained to Coach A about this. The students noted that Student A wanted to chat with her teammates as they prepared for practice or matches. On one occasion, she wanted to have a place to store her bag. On another occasion, an assistant coach (Coach B) told OCR, Student A actually changed clothes in the locker room, although it is unclear whether other students were present. Coach A reported that students told her that they felt uncomfortable undressing in front of Student A. Coach A and an assistant coach reprimanded Student A for her use of the locker room. Coach A indicated that, after one such reprimand, Student A was visibly upset and had what Coach A described as a tearful "breakdown."

Coach A and Nurse A told OCR that on two separate occasions, Student A spoke privately with each of them and asked for their opinion as to whether she presented a female appearance in her sports uniform. Nurse A stated that she made positive and encouraging statements to Student A in response to her inquiries.

Student A said that, as a result of being denied access to the locker room, she has felt excluded from the team. She described to OCR two incidents in which her teammates excluded her from team activities. One of these activities was social in nature and occurred outside of school hours; the other resulted in disparaging treatment by members of her athletic team that appeared on social media. Student A's mother informed OCR that Student A was very upset about the exclusion involved in the second incident, and opined that the District's continued denial of access to the locker rooms for Student A from the locker room encouraged this type of behavior from students. The District responded to one of the incidents by speaking in general terms to the other athletes about the importance of inclusivity.⁹

During OCR's investigation, after Student A requested a private area to change in the girls' locker rooms, the District considered installing privacy curtains in unused space in its locker rooms for use by any student, including Student A. During the week of October 26, 2015, the District installed five privacy curtains in the girls' PE locker room. The District has not installed privacy curtains in the girls' athletics locker room or girls' swimming locker room. (The swimming locker room is being renovated and not currently in use.) To date, the District has not provided access to Student A to any of the girls' locker rooms at the School. The District has

⁹ Student A does not allege, and OCR's investigation did not reveal, that she has been subjected to a hostile environment on the basis of sex, or discriminated against on the basis of sex in any other manner other than the District's denial of access to the girls' locker rooms at the School. The above-two incidents were the only two such incidents of harassment by peers that Student A reported to OCR. OCR considered whether the two incidents of peer harassment, as well as other instances of possible harassment of Student A reported by the District in its April 2014 letter, created a hostile environment prohibited by Title IX. OCR's investigation also revealed that six female students have complained to the District that they are uncomfortable having Student A in the girls' locker room; the complaints were not made directly to Student A or in her presence. She has also received online social media comments about her transgender status and attempts to gain access to the girls' locker rooms as well. The information obtained by OCR indicates that the District did not take any steps in response to the online comments, but OCR's investigation did not reveal any information that the online comments were made by other students. Based on the totality of the circumstances, OCR concluded that the harassment was not sufficiently serious to create a hostile environment based on sex for Student A.

maintained that it will not provide access to Student A unless she is required to change clothes behind a privacy curtain.¹⁰

OCR returned to the School on October 28, 2015, to inspect the new privacy curtains in the girls' PE locker room and to offer the District an opportunity to provide any additional information relevant to the investigation. The District did not provide any additional information at that time.

OCR observed that, in the girls' PE locker room, the District installed four privacy curtains in unused areas of the locker room, and one privacy curtain around a shower. The privacy stalls were in a central area of the locker room, and any student accessing them would necessarily have to travel into the locker room itself. OCR also observed two additional shower stalls, over which the District stated it could hang privacy curtains to create additional private changing stations. The District has not installed privacy curtains in its girls' athletics or swimming locker rooms, although it stated that it may be willing to if directed to do so by OCR. Thus, as of the date of this letter, a total of ten private changing areas are available in the girls' PE locker room, including the five shower areas with the new privacy curtains and the five restroom stalls, and the District indicated a willingness to install privacy curtains on two presently unused shower stalls to create a total of twelve private changing areas.

Applicable Legal Standards

Under Title IX, “[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.” 20 U.S.C. § 1681(a). The regulation implementing Title IX, at 34 C.F.R. § 106.31(a), provides, in relevant part, that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, or other education program or activity operated by a recipient which receives Federal financial assistance. The regulation implementing Title IX, at 34 C.F.R. § 106.31(b), further provides that a recipient may not, on the basis of sex, deny any person such aid, benefit or services; treat an individual differently from another in determining whether the individual satisfies any requirement or condition for the provision of such aid, benefit, or service; provide different aid, benefits, or services or provide aid, benefits, or services in a different manner; subject any person to separate or different rules of behavior; or otherwise limit any person in the enjoyment of any right, privilege or opportunity. The regulation implementing Title IX, at 34 C.F.R. § 106.33, provides that a recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex. All students, including transgender students, are protected from sex-based discrimination under Title IX.

¹⁰ The District Superintendent stated in a recent interview, “When it comes to locker rooms, District 211's position is that students should be able to use the locker rooms of the gender they identify with - but that once inside those locker rooms they would have to use private shower stalls and changing areas to avoid being naked in the company of the other students.” <http://www.dailyherald.com/article/20151015/news/151019300/>.

In determining whether a recipient has subjected an individual to discrimination, OCR examines whether there were any apparent differences in the treatment of similarly situated individuals. If different treatment is established, OCR then considers whether the recipient had a legitimate, non-discriminatory reason for the apparent difference in treatment, and whether the reason provided by the recipient was a pretext for discrimination. Additionally, OCR examines whether the recipient treated the individual in a manner that was consistent with established policies and procedures, and whether there is any other evidence of discrimination based on sex, gender identity, or gender nonconformity.

Analysis

OCR's investigation revealed that, except with respect to locker room access, the District has treated Student A consistent with her gender identity as a girl. This includes identifying Student A by her female name and with female pronouns, providing her with full access to all girls' restrooms, and allowing her to participate in girls' interscholastic athletics. However, although Student A must change clothes for mandatory PE class and for her team's practices and competitions, the District has denied Student A access to its girls' locker rooms. Instead, the District has required Student A to use separate restroom facilities, including facilities that are not comparable to those provided other students; Student A has also used the nurse's office to change clothing. Student A has been observed entering or exiting girls' locker rooms several times, both for PE and athletics, in order to store her clothes, obtain a rental uniform, and change her clothes. The District reprimanded Student A on multiple occasions for this. The District has recently installed privacy curtains in the PE girls' locker room, but it has not installed privacy curtains in the two other girls' locker rooms or granted Student A access to the PE girls' locker room or any of the other girls' locker rooms.

With respect to the girls' locker rooms, the District has publicly stated that students should be able to use the locker rooms consistent with their gender identity, and Student A has stated her intention to use the private locker room areas when changing her clothes. Still, the District refuses to provide access to Student A to any part of the girls' locker rooms, unless it requires her to use the private changing areas. The evidence shows that, as a result of the District's denial of access to the girls' locker rooms, Student A has not only received an unequal opportunity to benefit from the District's educational program, but has also experienced an ongoing sense of isolation and ostracism throughout her high school enrollment at the School. In the context of athletics, the denial of access to the girls' locker room resulted in Student A missing opportunities to participate fully in the education experience afforded her teammates. The denial of access has also meant that, in order to satisfy her graduation requirements and receive a high school diploma, Student A has had no other option but to accept being treated differently than other students by the District. Student A changed separately from other students in a restroom down a 75-foot hallway and, in order to avoid drawing increased attention to her separate arrangement, Student A took a long and circuitous route daily in an attempt to enter the gymnasium unnoticed. On two different occasions, Student A was unable to access the restroom or her locker in the restroom. On another occasion, Student A did not receive information that students allowed in the locker room did receive, that students would not have to dress for gym

class, and was embarrassed when she arrived in her gym uniform while others wore their street clothes.

Student A has completed her required summing units for PE class and does not plan to take additional, elective swimming units; swimming therefore is no longer in active dispute for Student A. Nevertheless, OCR's investigation revealed that in the PE class's swim unit, the District's separate changing arrangements (Restroom G) also singled out Student A for different treatment from that of her peers. Unlike the other female students, who had standard showering facilities and amenities within a locker room, Student A had access to a "rinse" shower and limited amenities. The rinse shower was located in a narrow hallway through which all students had to pass to enter or exit the girls' swimming locker room.

The District does not dispute that it has denied access to Student A to use the girls' locker rooms. The District proffered as its legitimate, nondiscriminatory justification that it "based its decision on the needs of all students," balancing Student A's rights and interests with the privacy concerns of other female students. The District raised two specific constitutional privacy concerns. First, the District contends that "permitting Student A to be present in the locker room would expose female students to being observed in a state of undress by a biologically male individual." The District's second stated privacy concern is that it would be inappropriate for young female students to view a naked male in the locker room in a state of undress. The District stated that "[g]ranting Student A the option to change her clothes in the girls' locker room would expose female students as young as fifteen years of age to a biologically male body."¹¹ OCR finds the concerns unavailing in this case.

The District also points out that it offered various alternative changing options for Student A. However, each of the alternatives provided or proposed for Student A continued or would continue to exclude Student A from the girls' locker rooms and set her apart from her female classmates and teammates. Some proposed alternative facilities were not comparable to those provided for other girls, such as the proposed Restroom E for the swimming unit. In addition, the alternative options used by Student A have further subjected her to stigma and different treatment because, on at least some occasions, she has been late to class because she has had to seek out school staff members to provide her access to the alternative facilities, and, on another occasion, showed up to class dressed for gym because she alone was not told to remain in street clothes.

In late October 2015, the District installed five curtains in the girls' PE locker room. However, the District continues to deny Student A access to the girls' locker room and has maintained that it will continue to deny access unless Student A—and only Student A—is required to change

¹¹ As putative support for this privacy concern relating to Student A's peer interactions in the locker rooms, the District cited Student A's private conversations, on two occasions, with Coach A and Nurse A as to whether she presented a female appearance in her uniform. A student's question to a medical professional and a coach about whether the student presents as a girl in clothes bears no relationship to student privacy concerns regarding nudity; OCR therefore takes this claim as pretext. Nonetheless, OCR analyzes the relevance of the asserted privacy concern for purposes of complete review.

behind a privacy curtain. As noted above, Student A requested an opportunity to change clothes in private in the locker rooms, and has stated that she would use privacy curtains if available.

Conclusion

The evidence establishes that, for more than two school years, the District has denied Student A access to the girls' locker rooms at the School, and offered only separate facilities to change clothes for her PE classes and athletics activities.

The District has asserted its interests in balancing the rights of all students, including the constitutional privacy interests of high school students. OCR recognizes that, in preventing and redressing discrimination, schools must formulate, interpret, and apply their rules in a manner that respects the legal rights of students, including constitutional rights relating to privacy. The civil rights laws that OCR enforces, including Title IX, must be interpreted in ways that are consistent with constitutionally protected rights.

Consistent with the Title IX regulations described above permitting school districts to have separate locker room facilities, the School's locker rooms are separated by sex, with restricted access to only members of the same sex. Thus, the School's students have a reasonable expectation of privacy in a locker room setting. Students engage in private activities in the locker rooms, such as changing clothes, using the bathroom, and showering.

To date, the District's position has been that it must deny Student A access to the girls' locker rooms in order to protect the privacy interests of all of its students. In fact, however, the District could satisfy its Title IX obligations as well as protect potential or actual student privacy interests. The District's installation and maintenance of privacy curtains in one locker room go a long distance toward achieving such a nondiscriminatory alternative because providing sufficient privacy curtain access to accommodate any students who wish to be assured of privacy while changing would allow for protection of all students' rights in this context. Those female students wishing to protect their own private bodies from exposure to being observed in a state of undress by other girls in the locker rooms, including transgender girls, could change behind a privacy curtain. Student A has consistently made clear that she would use the privacy curtains to change if allowed access to the girls' locker rooms. This addresses the privacy interest in not exposing young female students in the girls' locker rooms to the intimate body parts of Student A – a transitioning transgender girl – in a state of undress. The privacy curtains the District already has installed in one locker room could well be sufficient to protect all its students' rights, with respect to access to that locker room, if the District rescinded its discriminatory denial of access to the locker rooms for Student A. To date, the District has not taken any steps to provide any private changing areas in its athletics locker room or swimming locker room (although Student A no longer needs to use the swimming locker room). The District has indicated that it might be willing to install privacy curtains in its other girls' locker rooms, but it has not done so.

Thus, the evidence establishes that, given Student A's stated intention to change privately, the District could afford equal access to its locker rooms for all its students if it installed and maintained privacy curtains in its locker rooms in sufficient number to be reasonably available

for any student who wants privacy. Here the totality of the circumstances weighs in favor of the District granting Student A equal access to the girls' locker rooms, while protecting the privacy of its students.

Based on the specific facts and circumstances in this case, OCR concludes that the District, on the basis of sex, excluded Student A from participation in and denied her the benefits of its education program, provided her different benefits or benefits in a different manner, subjected her to different rules of behavior, and subjected her to different treatment in violation of the Title IX regulation, at 34 C.F.R. § 106.31.

Procedural Posture

OCR has engaged in extensive negotiations with the District to resolve the Title IX violation in this case. OCR notified the District of its Title IX determination on July 13, 2015, and has actively negotiated with the District from that date through the date of this letter. OCR discussed a proposed agreement with the District on July 13, July 16, July 20, August 1, August 13, August 19, September 16, September 25, and October 8, 2015. On October 12, 2015, the District informed OCR that it would not resolve the Title IX violation voluntarily. On October 13, 2015, OCR issued a letter declaring an impasse in the negotiations. OCR informed the District of its continued willingness to negotiate an agreement, including holding an in-person meeting with the District's Superintendent on October 21. During the meeting of October 21, 2015, the District presented OCR diagrams and blueprints of its locker room facilities that were consistent with what OCR had observed during its onsite. The District also gave OCR a photograph of a mock-up shower curtain as a representation of what it would use for privacy curtains within the PE girls' locker room.

On October 28, 2015, OCR conducted an onsite visit at the School to view the privacy curtains that District installed on October 27, 2015, and had further negotiations with counsel for the District. To date, OCR's efforts to resolve this complaint voluntarily with the District have not been successful. OCR continues to be willing to negotiate an agreement with the District. If an agreement is not reached within 30 calendar days of the date of this Letter of Findings OCR must follow the procedures in its *Case Processing Manual*, at Section 305 for the issuance of a Letter of Impending Enforcement Action.

This concludes OCR's investigation of the complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she had filed a complaint or participated in the complaint resolution process. If this happens the complainant may file another complaint alleging such treatment. Under the Freedom of Information Act, it may be necessary to release this document and related

correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you or your staff members have any questions about this matter, please do not hesitate to contact Melissa Howard, Attorney Advisor, at 312-730-1527.

Sincerely,

A handwritten signature in blue ink that reads "Adele Rapport". The signature is written in a cursive style with a long horizontal stroke at the end.

Adele Rapport
Regional Director

cc: Jennifer Smith, Esq.

Board of Education Regular Meeting
October 12, 2015 6:00PM
Middle School/High School Media Center

1. Osceola Public Schools Board of Education Information

Notice of this meeting was posted at the Jeffrey Elementary School, Osceola Middle School/High School, Pinnacle Bank of Osceola, and the Osceola Post Office. A copy of the agenda items is tentative and may be changed by the Board if necessary.

2. Opening Procedures

2.1. Call the Meeting to Order

President Schleif called the regular meeting to order at 6:02PM and informed those in attendance that a current copy of the Open Meetings Act is posted in the meeting room, then directed the public to its location.

2.2. Roll Call

Present Board Members:

Jennifer Boruch	Jodie Roberts
John Kropatsch	Tom Schleif
Mike Neujahr	Darin Sterup

2.3. Excuse Board Members Who Are Absent

No members were absent.

3. Approval of Agenda

Motion Passed: Approval of the agenda as written passed with a motion by Jennifer Boruch and a second by Jodie Roberts.

Jennifer Boruch	Yes	Jodie Roberts	Yes
John Kropatsch	Yes	Tom Schleif	Yes
Mike Neujahr	Yes	Darin Sterup	Yes

4. Recognition of Visitors/Communications from the Public

There were no patrons present.

5. Reports

5.1. Principals' Reports

5.1.1. Elementary Report

Elementary Principal Brett Webster gave his written and oral report about: MAPS testing is completed; Parent Teacher Conferences had 100% attendance; the Book Fair was a success; Fire Prevention Week is October 19th through the 23rd and; Red Ribbon Week is October 27th through the 30th. Also, the Teammates Tailgate was very positive, and Football's Parents Night is scheduled for October 22nd.

Thank you, Miss Runquist and all the volunteers, who helped make the Book Fair a success!

Thank you to all who made the Teammates Tailgate a fun time!

CONGRATULATIONS to the Polk County Slammers Softball Team as District Runner-Up!

5.1.2. MS/HS Report

MS/HS Principal Dale Maynard gave his written and oral report about: Parent Teacher Conferences was better than attended than last year but needs improvement; comparing MAPS testing data and normative data; OHS's multicultural plan; looking ahead to AP offerings; and STEPS training is being attended by

Mrs. Green and Mr. Maynard. Also, the National Merit Scholarship awarded Cy Cannon a commendation!

5.2. Superintendent's Report

Superintendent Rinehart gave his written and oral report about: the Adequate Yearly Progress (AYP) is being debated by schools due to the fact that the goal is not realistically attainable; negotiations are in the starting phases; and new board member trainings are being scheduled.

5.3. Board Reports

If any board member would like to be on the Teammates Board, please apply.

The Delegate Assembly meets at 8:00AM at the Annual School Convention in Omaha. This is a good way to find out how smaller schools are doing against bigger schools.

6. Action Items

6.1. Consent Agenda

Motion Passed: To approve the consent agenda as presented passed with a motion by Jennifer Boruch and a second by John Kropatsch.

Jennifer Boruch	Yes	Jodie Roberts	Yes
John Kropatsch	Yes	Tom Schleif	Yes
Mike Neujahr	Yes	Darin Sterup	Yes

6.1.1. Approval of the Previous Meeting's Minutes

6.1.2. Treasurer's Report

6.1.3. Payment of general fund claims in the amount of \$325,281.99

6.1.4. Payment of special building fund claims of \$3,464.00

6.2. Consider, discuss and take all necessary action on purchasing a new bus

Motion Passed: To purchase a 2017 bus from Cornhusker International Trucks, Inc. for \$81,675.00 passed with a motion by Jennifer Boruch and a second by John Kropatsch.

Jennifer Boruch	Yes	Jodie Roberts	Yes
John Kropatsch	Yes	Tom Schleif	Yes
Mike Neujahr	Yes	Darin Sterup	Yes

6.3. Consider, discuss and take all necessary action toward the purchase of a portable sound system

Motion Passed: To purchase a JBL portable sound system from Midwest Sound and Lighting at the Superintendent's discretion passed with a motion by Darin Sterup and a second by Mike Neujahr.

Jennifer Boruch	Yes	Jodie Roberts	Yes
John Kropatsch	Yes	Tom Schleif	Yes
Mike Neujahr	Yes	Darin Sterup	Yes

7. Discussion Items

7.1. Continue discussion on handicap bleacher accessibility

Superintendent Rinehart reviewed the proposals concerning handicap accessibility to the outside bleachers. He wants more information before any commitment is made.

7.2. Go through the District goals to evaluate progress and re-prioritize items

The Board and Administration reviewed the goals of the District. This list encompasses education, technology, finances, and improvements to buildings and grounds.

7.3. Executive session to summarize Superintendent's evaluation and plan for teacher negotiations

Motion Passed: To go into executive session at 8:48PM until the finish of business for the prevention of needless injury to the reputation of an individual in compliance with the law to discuss the evaluation of the Superintendent's job performance and to plan for negotiations with certified staff passed with a motion by Jennifer Boruch and a second by Jodie Roberts.

Jennifer Boruch	Yes	Jodie Roberts	Yes
John Kropatsch	Yes	Tom Schleif	Yes
Mike Neujahr	Yes	Darin Sterup	Yes

President Schleif repeated that a motion was made by Jennifer Boruch and a second by Jodie Roberts to go into executive session at 8:48PM until the finish of business for the prevention of needless injury to the reputation of an individual in compliance with the law to discuss the evaluation of the Superintendent's job performance and to plan for negotiations with certified staff.

The executive session was exited at 9:41PM, which was called to discuss the evaluation of the Superintendent's job performance and to plan for negotiations with certified staff.

8. Next Meeting Dates and Times

8.1. Regular meeting, November 9, 2015, 6:00PM at the Osceola Middle/High School Media Center

9. Adjournment

Motion Passed: To adjourn meeting at 9:45PM passed with a motion by Jodie Roberts and a second by Darin Sterup.

Jennifer Boruch	Yes	Jodie Roberts	Yes
John Kropatsch	Yes	Tom Schleif	Yes
Mike Neujahr	Yes	Darin Sterup	Yes

Respectively submitted,
Debra D. Berry, Secretary Appointed

NEBRASKA VEHICLE PURCHASE CONTRACT

149371 *

COMPANY OR FIRM NAME CORNHUSKER INT'L TRUCKS 3131 CORNHUSKER HIGHWAY LINCOLN, NE 68504	BUYER Osceola Public Schools
ADDRESS 3131 CORNHUSKER HIGHWAY LINCOLN, NE 68504	ADDRESS 656 So Kimmel
CITY Osceola	CITY Osceola COUNTY
SALESMAN Kevin Jochum	PHONE 747-3121
	STATE AND ZIP CODE NE 68651 S.S.#

MAKE IC Bus	MODEL CE Series	NEW/USED New	(SERIAL OR MOTOR NO.) 4DRBUC8L7HB404230	DATE
YEAR 2017	COLOR Yellow	TYPE 65 pass	MILEAGE	STOCK NO.
ADDITIONAL EQUIPMENT-OPTIONS OR WORK TO BE DONE			CASH PRICE OF VEHICLE	\$83,425.00

CASH PRICE OF VEHICLE	\$			
FREIGHT				
COLOR & TRIM				
ACCESSORIES				
REI Camera System Installed				
TOTAL CASH DELIVERED PRICE				\$83,425.00
TRADE ALLOWANCE (A)				-0-
TRADE ALLOWANCE (B)				
DIFFERENCE				
BALANCE OWED ON TRADE				
PARTIAL PAYMENT				
CASH ON DELIVERY			DUE	\$83,425.00
UNPAID BALANCE				

CREDIT DESIRED- YES NO

INSURANCE DESIRED- YES NO

(See contract conditions on reverse side)

RECORD OF TRADE-IN (A)			
MAKE & YEAR	TYPE	MODEL	COLOR
NONE			
MILEAGE	SERIAL NO.		

RECORD OF TRADE-IN (B)			
MAKE & YEAR	TYPE	MODEL	COLOR
MILEAGE	SERIAL NO.		

BUYER'S CERTIFICATION

I hereby certify that:

(1) The face and reverse sides of this contract set forth all of the terms and conditions of the contract; there are no other contracts or provisions, oral or written, supplementary or in addition to the provisions expressly set forth in this contract; this contract cancels and supersedes all other understandings and agreements of the parties prior to the signing hereof and as of the date hereof, when signed by the dealer, comprises the complete agreement of the parties, AND

(2) I have read the terms and conditions of this contract and have received a true copy thereof; AND

(3) I guarantee that the title of my trade-in-vehicle(s) is not now and never has been a salvage and/or (branded) title. If a salvage and/or (branded) title is delivered, the selling dealer may elect to void this sale and/or elect to collect damages (including but not limited to dealer's expenses and lost profits) from me for the difference in value had my title not been salvage and/or (branded).

Signed _____


Notice to Buyer: Do not sign this instrument before you read it, or, if it contains blank spaces. You are entitled to a copy of the instrument you sign. Buyer states that the amounts shown on this instrument were quoted to him before he agreed to the sale.

CUSTOMER NOTE THAT THE VEHICLE IS BEING SOLD "AS IS" BY THE SELLING DEALER. SHOULD THE MANUFACTURER'S WARRANTY APPLY TO THIS VEHICLE, IT IS DIRECTLY OFFERED BY THE MANUFACTURER TO THE CUSTOMER. THE SELLING DEALER HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY LIABILITY IN CONNECTION WITH THE SALE OF THIS VEHICLE. BUYER SHALL NOT BE ENTITLED TO RECOVER FROM THE SELLING DEALER ANY CONSEQUENTIAL DAMAGES, DAMAGES TO PROPERTY, DAMAGES FOR LOSS OF USE, LOSS OF TIME, LOSS OF PROFITS, OR INCOME, OR ANY OTHER INCIDENTAL DAMAGES.

CONTRACTUAL DISCLOSURE STATEMENT:
The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.

X _____ (Buyer's Signature)

X _____ (Buyer's Signature)

ACCEPTED BY X  (Dealer of his authorized representative)

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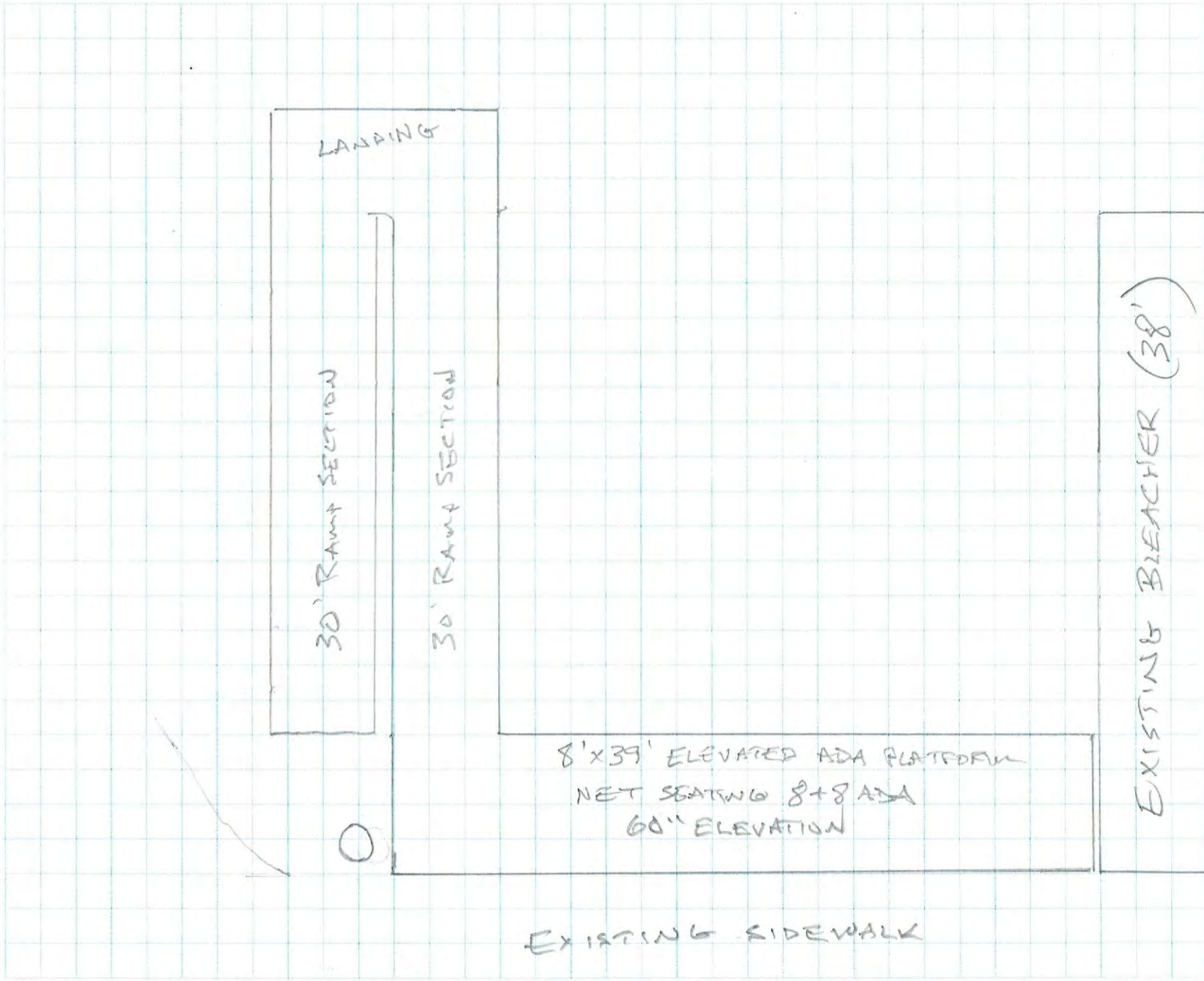
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- Chief Estate Buildings
- Chief Magnum Buildings
- Chief Guardian Buildings
- Chief Titan Buildings
- Chief Commercial Grain Bins
- Chief Stiffened & Un-Stiffened Farm Bins
- Chief Commercial Hopper Tanks
- Chief Bulk Feed Tanks
- Chief Material Handling Equipment
- Caldwell Grain Conditioning Equipment
- Lemanco Bulk Storage Equipment & Micro Systems



Front Runner Fab., Inc.

101 Broadway
PO Box 446
Fullerton, NE 68638

Ph. 308-550-0151
Fax 308-536-3289
www.frontrunnerfab.com

DATE: 10/9/2015 **JOB REF:** ADA seating
TO: Osceola Public **EST. SHIP DATE:** TBD
ATTN: Steven Rinehart **DESTINATION:** Osceola Ne
PHONE: **TERMS:** Balance due on completion
FAX:

<u>QTY</u>	<u>DESCRIPTION</u>	<u>PRICE</u>
1	8'-0" x 39'-0" (60") Elevated ADA platform Net seating 8+8 ADA seats	\$24,450.00
	FEATURES Aluminum angle understructure 2 x 10 anodized aluminum seat plank 2 x 10 mill finish aluminum foot plank 95" clear platform, 60" elevation, 8 chair spaces, 8 companion seats 1 ADA , U shaped, accessibilty ramp 2 x 6 treated lumber ground sills, Auger style soil anchors freight to and assembly on site included	
	Optional: anchor to customer provided concrete pad (remove ground sills and ground anchors)	DEDUCT \$127.00

Customer Acceptance

By: Bryan D. Dubas, President

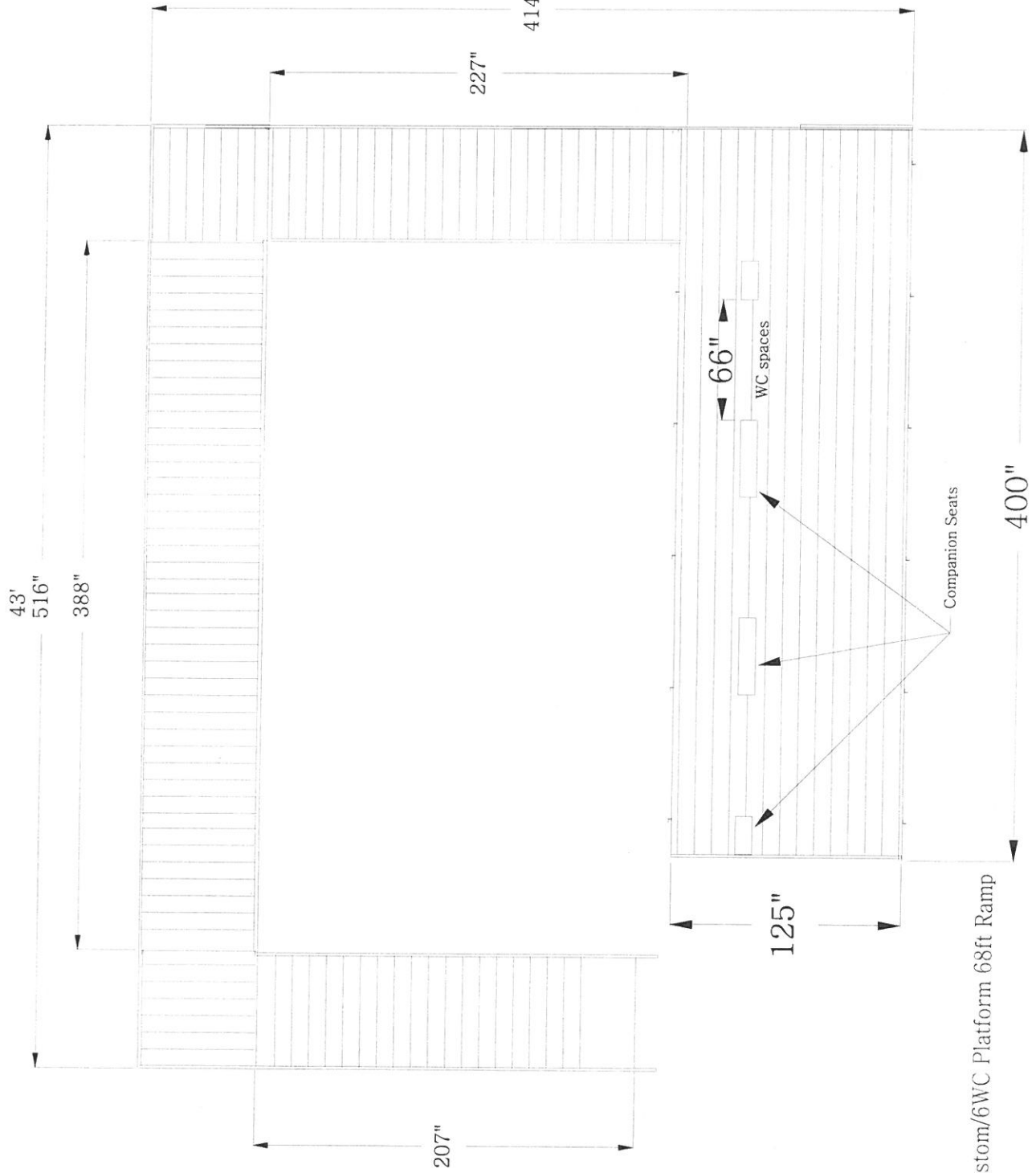
Title

Name

Title

Date

****The owner remains responsible for compliance with applicable codes.
This quotation is valid for 30 days.



Kay Park Rec
 1301 Pine St
 Janesville, IA 50677
 1-800-553-2476

BLA/custom/6WC Platform 68ft Ramp



Kay Park Recreation

Making People Places, People Friendly Since 1954

Email Us: sales@kaypark.com or Call Us: (800) 553-2476

1301 Pine Street P.O. Box 477

Janesville, IA 50647

www.kaypark.com

Sales Quote

Page 1 of 1

Quote ID: 09111501NE

Quote Date: 09/11/2015

Date Printed: 09/11/2015

Prepared By: DEBOER, CHAD

XDIRCT AB0414AD

Quote To: OSCEOLA PUBLIC SCHOOLS
PO BOX 198
OSCEOLA, NE 68651

Ship To:

565 SOUTH KIMMEL STREET
OSCEOLA, NE 68651

Contact: STEVEN RINEHART

Phone: 402-747-3121

Fax:

E-Mail: srinehart@esu7.org

Carrier: KAY

Payment Terms:

- .. 24 Hour Call Ahead
- .. Liftgate
- .. Residential Delivery

Item	Model and Description (Below)	Color Information (If Applicable)	List Price	Disc (%)	Net Price	Qty	Item Total
1.	BLEAP6633W63DWC15 66" ELV ALM PLTFRM 63" WLKWY 3-DBL WHEEL CHAIR SPC		\$9,598.00	12.00	\$8,446.24	1	\$8,446.24
2.	66WCR2LT 66" ELEVATION WHEEL CHAIR RAMP DOWN 4 LEFT DOWN 6 LEFT DOWN 4		\$13,650.00	12.00	\$12,012.00	1	\$12,012.00

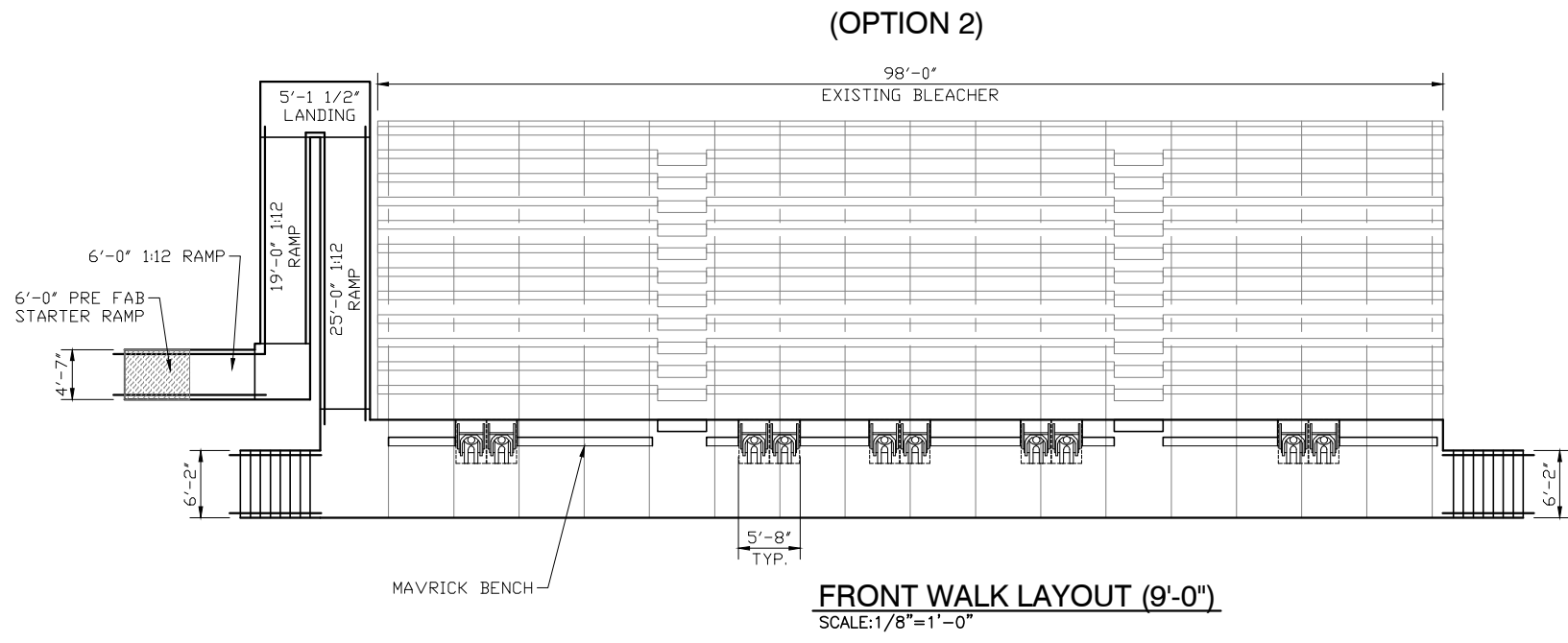
TOTAL SAVINGS IF YOU ORDER TODAY! \$2,789.76

Total Weight: 5900 Lbs.

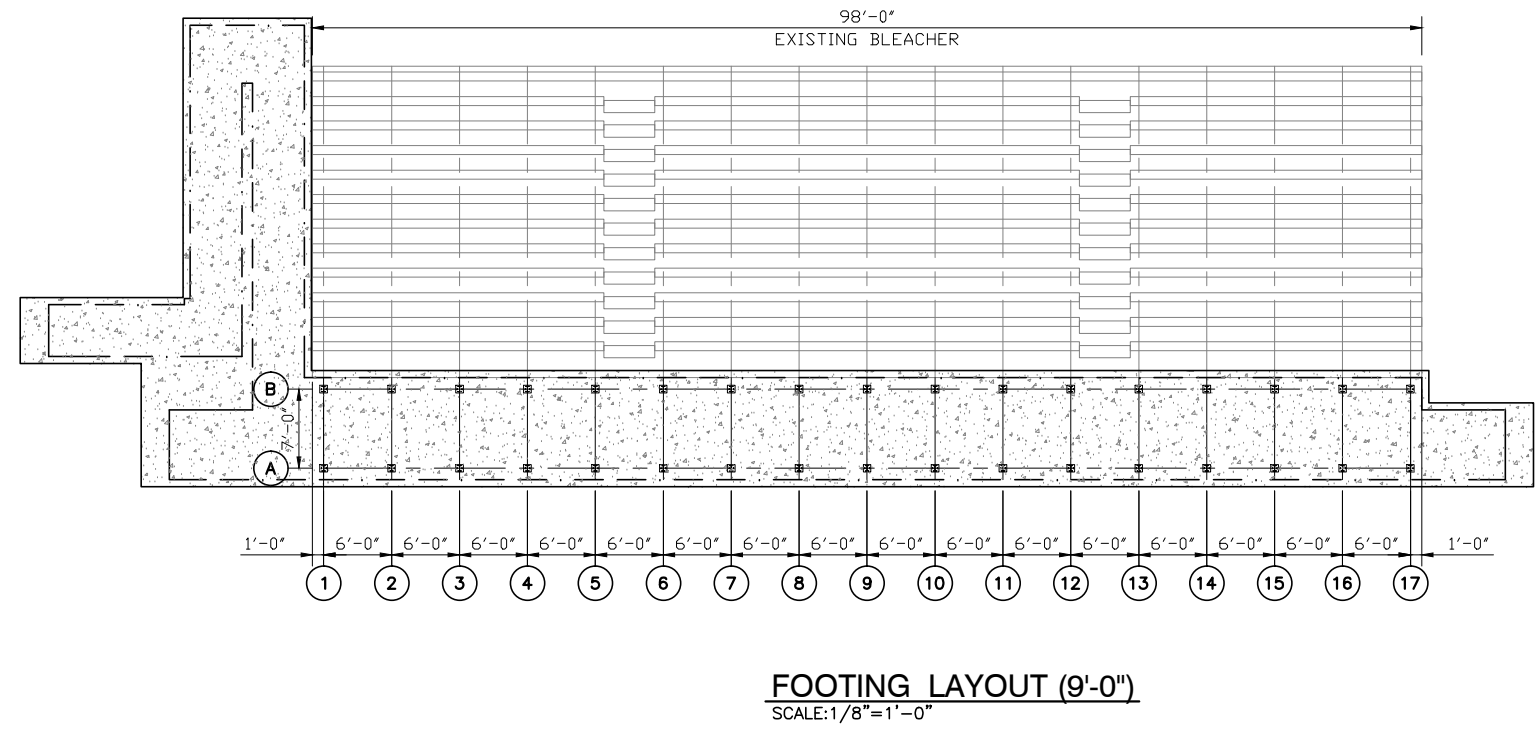
Sub-Total:	\$20,458.24
Freight:	\$943.00
Misc Charge:	\$6,000.00
Total Amount:	\$27,401.24

Misc Charges Explanation Below
ASSEMBLY

- Freight charges do not include off loading unless liftgate is checked.
- Freight charges may vary due to fuel surcharges.
- Quote valid for 30 days.
- Site preparation not included.



38 TOTAL NET 18" SEATS
10 TOTAL NET 33" WHEELCHAIR SPACES
48 TOTAL SEATING CAPACITY



1-1 DETAIL NUMBER
 2-10 SHEET SHOWN IN
 SHEET CUT FROM

NOT FOR CONSTRUCTION

Southern
 BLEACHER COMPANY
 GRANDSTANDS • BLEACHERS • STADIUMS
 PO Box One, Graham, Texas 76450
 801 Fifth Street
 Phone: 940/549-0733 Fax: 940/549-1365
 Established 1946

FRONT WALK LAYOUT
 OPTION 2
 OSCEOLA PUBLIC SCHOOLS
 ADA UPGRADES
 OSCEOLA, NEBRASKA

REV	BY	DATE	DESCRIPTION
1	JGS	9/14/15	ISSUED
2	JGS	9/14/15	ISSUED
3	JGS	9/14/15	ISSUED
4	JGS	9/14/15	ISSUED
5	JGS	9/14/15	ISSUED
6	JGS	9/14/15	ISSUED
7	JGS	9/14/15	ISSUED
8	JGS	9/14/15	ISSUED
9	JGS	9/14/15	ISSUED
10	JGS	9/14/15	ISSUED
11	JGS	9/14/15	ISSUED
12	JGS	9/14/15	ISSUED
13	JGS	9/14/15	ISSUED
14	JGS	9/14/15	ISSUED
15	JGS	9/14/15	ISSUED
16	JGS	9/14/15	ISSUED
17	JGS	9/14/15	ISSUED

JOB NUMBER
15sd178
 SHEET
3
 OF
3

