

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

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JOHN PARKS,

*Plaintiff,*

v.

LAKE OSWEGO SCHOOL DISTRICT; LAKE OSWEGO SCHOOL BOARD; OREGON SCHOOL ACTIVITIES ASSOCIATION; PORTLAND PUBLIC SCHOOLS; and MARSHALL HASKINS, individually and *in his representative capacity for OREGON SCHOOL ACTIVITIES ASSOCIATION and PORTLAND PUBLIC SCHOOLS*

*Defendants.*

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Case No. 3:24-cv-1198

**REPLY TO LAKE OSWEGO DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND RESPONSE TO MOTION TO STRIKE**

**Hearing: November 22, 2024  
10:00 a.m.  
Courtroom 15B  
Hon. Michael Simon**

Plaintiff John Parks files this reply pursuant to LR 7-1(e)(2) and replies to the opposition [ECF No. 14] filed by Defendants Lake Oswego School District and Lake Oswego School Board (collectively the "District") in response to Plaintiff's motion and memorandum for preliminary injunction [ECF No. 8], and Plaintiff further responds to the District's motion to strike combined with its opposition response.

The Court has scheduled a hearing before the Hon. Michael Simon on Plaintiff's motion for preliminary injunction for Friday, November 22, 2024, at 10:00 a.m.

Order, ECF No. 12.

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## INTRODUCTION

On May 15, 2024, at 1:31 a.m., after school hours, Plaintiff Coach John Parks sent an email/letter from his private email address to the Oregon State Activities Association (“OSAA”). Communicating with the OSAA was not part of Coach Parks’s official duties as track and field coach at Lake Oswego High School, and he sent his letter to the OSAA as a private citizen.

In his letter to the OSAA, Coach Parks criticized the OSAA policy on transgender athletic competition and suggested that the OSAA adopt an open division for transgender athletes to ensure fairness for all athletes, similar to policies of various international athletic organizations. Coach Parks also expressed that he had family members who were transgender, and he was sympathetic to transgender athletes, while also wanting to promote fairness and sportsmanship for all athletes participating in OSAA-sanctioned events. Coach Parks’s letter criticizing the OSAA transgender athletic policy did not violate OSAA rules.

Coach Parks went on to lead the Lake Oswego track and field team to the state championship a few days later. But then the District commenced an investigation into Coach Parks because he sent his letter to the OSAA expressing his personal opinion on the OSAA transgender athletic policy. The District’s investigation and subsequent letters from the Lake Oswego Principal terminating his employment from the 2024-25 school year violated Coach Parks’s ongoing free speech rights under the First Amendment. Therefore, this Court should issue a preliminary injunction and restore him as teacher and coach pending the outcome of trial.

## REPLY

### **I. The District's motion to strike should be denied.**

The Court should deny the District's motion to strike the declarations of ten parents (collectively the "Parent Declarations") [ECF No. 8-2 through 8-11] whose children were on the Lake Oswego High School track and field team this past Spring. The District's motion to strike is procedurally defective because the District improperly combined it with its response to Plaintiff's motion for preliminary injunction. Moreover, the Parent Declarations are not confidential documents. Additionally, the Parent Declarations are relevant to Plaintiff's First Amendment retaliation claim because they contain factual statements showing the District's administrative interest in operating efficiently and effectively did not outweigh Coach Parks's protected speech.

This Court's Local Rules make clear that "[m]otions may not be combined with any response, reply, or other pleading." LR 7-1(b). That makes the District's "Motion To Strike" a nonstarter because the District combined it with its "Response" to Plaintiff's motion for preliminary injunction. District Opposition Response, ECF No. 14 at 2-3. For this reason alone, the Court should deny the District's motion to strike the Parent Declarations.

Even putting that fatal flaw aside, the Court must still deny the District's motion to strike the Parent Declarations on the merits for at least two reasons.

First, the District receives no support from the case on which it relies for the proposition that the Court may strike the declarations "as part of its inherent power

to manage its docket for the efficient resolution of cases,” *Ready Transportation, Inc. v. AAR Manufacturing, Inc.*, 627 F.3d 402, 403-04 (9th Cir. 2010). District Opposition Response, ECF No. 14 at 2. The issue in that case was “whether a district court has the inherent power to strike an improperly filed *confidential* document.” *Ready Transp., Inc.*, 627 F.3d at 404 (emphasis added). The Parent Declarations are not “improperly filed confidential document[s]”—indeed, they are not confidential at all, as the declarants chose to make their statements public—so confidentiality cannot warrant the Court striking them to manage its docket. *See id.*

Second, the District claims in general that the Parent Declarations “are irrelevant”—specifically, that the “assertions in the [Parent Declarations]—that plaintiff was a good coach, ran efficient practices, provided outstanding mentoring, etc.—have nothing to do with the issues presented by his First Amendment retaliation claim.” District Opposition Response, ECF No. 14 at 2. But these statements by parents are *highly relevant* to Coach Parks’s First Amendment retaliation claim because they refute any suggestion that the District had a legitimate basis for terminating Coach Parks. Once a plaintiff establishes a First Amendment retaliation prima facie case, “the burdens of evidence and persuasion . . . shift to the Defendants to show that the balance of interests justified their adverse employment decision.” *Eng v. Cooley*, 552 F.3d 1062, 1074 (9th Cir. 2009). Which means the District must show its interest in operating “efficiently and effectively” outweighed Coach Parks’s protected free speech rights. *Garcetti v. Ceballos*, 547 U.S. 410, 422 (2006). To meet this burden the District must come forward with proof

that it had a legitimate administrative interest in suppressing Coach Parks’s protected speech at issue—his letter to the OSAA suggesting an open division for transgender athletes to ensure fairness—that outweighed his First Amendment rights. *Dodge v. Evergreen Sch. Dist. #114*, 56 F.4th 767, 776-77 (9th Cir. 2022). Thus, the Parent Declarations regarding the efficiency of track and field practices and meets, relative in time to Coach Parks’s letter to the OSAA, are evidence that dismissing Coach Parks in response to his letter was not necessary for the District “to operate efficiently and effectively.” *Garcetti*, 547 U.S. at 422.

Finally, the District’s misguided motion to strike is an attempt to silence parents whose children attended Lake Oswego High School and were on its track and field team. This tactic is unfortunately illustrative of the District’s strident position and iron-fisted approach in suppressing free speech in general—as with its retaliation toward Coach Parks which forms the basis for his First Amendment claim. The Court should deny the District’s motion to strike and not strike the Parent Declarations, which support Coach Parks’s motion for preliminary injunction.

**II. Plaintiff Coach Parks is likely to succeed on the merits of his First Amendment free speech claim.**

Coach Parks is likely to succeed on his First Amendment retaliation claim. He can show that (a) his letter to the OSAA was protected speech; (b) the District took an adverse employment action against him because of his letter to the OSAA; and (c) his letter to the OSAA was a substantial or motivating factor for the District’s adverse action. *See Dodge*, 56 F.4th at 776. And the District failed to offer any



extrinsic evidence in its Response to contradict that Coach Parks's letter to the OSAA was protected speech under the First Amendment.

**A. Coach Parks's letter to the OSAA was protected speech.**

Coach Parks's OSAA letter suggesting an open division for transgender athletes was the protected speech of a private citizen under the First Amendment because his official duties as coach and teacher at Lake Oswego High School did not require him to communicate with OSAA officials. ECF No. 13, OSAA Letter, Supplemental Exhibit 1 to First Amended Complaint, attached to the Second Declaration of John Parks ("Second Parks Decl.") as **Exhibit 1**.<sup>1</sup>

Coach Parks sent his letter to OSAA representatives Peter Weber and Kelly Foster as a private citizen outside of regular school hours, at 1:31 a.m., from his private email address, not his Lake Oswego High School email address. Mr. Weber, Executive Director of the OSAA, thus told a reporter that "[t]he email that John Parks sent our office didn't violate either the Gender Identity Participation policy or Rule 3 in our Handbook." First Amended Complaint, ECF No. 7-2 at p. 2. Mr. Weber further elaborated and said, "We have no new rules prohibiting criticism of any OSAA policy." *Id.* at p. 3. And Coach Parks has stated under penalty of perjury that he was not required as part of his official duties as coach and teacher at Lake

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<sup>1</sup> In a telephone conference on October 18, 2024, with counsel for the parties, the Court noted that Plaintiff had leave to file under seal a complete copy of Parks's letter/email to the OSAA as Supplemental Exhibit 1 to the First Amended Complaint. Order, ECF No. 12. Coach Parks elected to file the complete copy that day in the CM/ECF system, and it included his "From" email address as the Court instructed. ECF No. 13.

Oswego High School to communicate with OSAA officials regarding its transgender athletic policies. Parks Decl., ECF No. 8-1 at ¶ 10.

In his letter, Coach Parks expressed his opinion of the ramifications of OSAA's policy on transgender athletic participation. He did so based on his decades-long experience as a track and field coach. He spoke out in his letter to the OSAA on a matter of public concern and importance: whether transgender athletes born as biological males should compete against athletes born as biological females in athletic competitions. He included hyperlinks to other national and world athletic organizations regarding their policies on transgender athletic participation, which differed from OSAA's policy.

In its Response, the District does not dispute Coach Parks's testimony. District Opposition Response, ECF No. 14 at 12. In other words, the District agrees that communicating with OSAA officials on its transgender athletic policies *was not* part of Coach Parks's official duties as coach and teacher at Lake Oswego High School. Athletic Director Coleman does not dispute this fact [Coleman Decl., ECF No. 15] nor does Principal Colyer [Colyer Decl., ECF No. 16]. Moreover, the District concedes that Coach Parks's "letter touched on matters of public concern." District Opposition Response, ECF No. 14 at 12. Therefore, Coach Parks has established the first prong of his First Amendment retaliation claim that his letter to the OSAA was protected speech because he spoke as a private citizen on a matter of public concern, wholly separate and apart from any official duties that he had as track and

field coach or teacher at Lake Oswego High School. *See Dodge*, 56 F.4th at 776-77; *Garcetti*, 547 U.S. at 422.

The District does, without any extrinsic evidentiary support, attempt to mischaracterize the “primary purpose” of Coach Parks’s letter to the OSAA as being “job-related.” District Opposition Response, ECF No. 14 at 12. The District speculates that Coach Parks’s OSAA letter is “job-related” because of its “content, form and context,” “as revealed by the whole statement.” *Id.* To achieve this end, the District parses out some aspects of the OSAA letter, and, in bizarre fashion, the District concludes “the whole statement” in the OSAA letter is “obviously a targeted effort to prevent the participation of one, specific ‘high-level transgender athlete for McDaniel HS.’” *Id.*

But the District fails to explain how Coach Parks’s letter to the OSAA is “job-related” when it is undisputed from the record that his official duties as coach and teacher at Lake Oswego High School did not require him to communicate with OSAA officials. Moreover, “the whole statement” within the OSAA letter also reveals, for example, that Coach Parks was concerned about the OSAA policy’s ramifications “in the future until the rules are altered to protect natural born females.” ECF No. 13 at p. 2, OSAA Letter, Supplemental Exhibit 1 to First Amended Complaint. In other words, Coach Parks’s concern was not merely confined to the upcoming state championship where the McDaniel HS transgender athlete would be participating against his females on the Lake Oswego High School track and field team. Rather, his letter to the OSAA was future-oriented involving

the broad ramifications of the OSAA transgender policy, and his letter was not “job-related” and narrowly confined to a specific track meet as portrayed by the District.

Next, the District suggests that Coach Parks’s First Amendment retaliation claim is predicated on his protected speech at the state championship. District Opposition Response, ECF No. 14 at 12. The District states that Plaintiff’s speech at the state championship “when he was heard referring to a transgender competitor from another school as a ‘fucking dude’” does not qualify for First Amendment protection. *Id.* There are at least three problems with the District’s faulty premise.

First, Coach Parks never called the McDaniel HS transgender athlete a “f---ing dude,” nor did he direct any negative or derogatory comments toward the McDaniel HS transgender athlete at the state championship. Second Parks Decl. at ¶¶ 9-10.

Second, the District never relied on this alleged “f---ing dude” comment in any of its so-called “findings.” Even assuming the District’s findings are to be given any weight, such findings contradict the alleged “f---ing dude” comment. For example, Principal Colyer in the District’s findings said there was no evidence Coach Parks spoke to the McDaniel HS transgender athlete at the medal presentation for the 200 M race at the state championship. First Amended Complaint, ECF No. 7-4 at p. 3. And although the District’s findings suggest Coach Parks spoke to the McDaniel HS transgender athlete at the medal presentation for the 400 M race at the state championship, Principal Colyer stated “there is no evidence this interaction was positive or negative.” First Amended Complaint, ECF No. 7-4 at p. 3.

Third, Coach Parks has *never* argued that any of his speech at the state championship formed the underlying basis for his First Amended retaliation claim in this matter. Parks Motion and Memorandum, ECF No. 8. Rather, he has clearly argued that his letter to the OSAA formed the underlying basis for his free speech claim that is before the Court. *Id.*

**B. There were adverse employment actions arising from Coach Parks's letter to the OSAA.**

The record shows that the District engaged in several adverse employment actions against Coach Parks arising from his letter to the OSAA that would chill a reasonable person of ordinary firmness from continuing to engage in protected speech.

A plaintiff must prove that the employer's action was "reasonably likely to deter [them] from engaging in constitutionally protected speech." *Coszalter v. City of Salem*, 320 F.3d 968, 970 (9th Cir. 2003). The plaintiff need not have suffered a tangible loss. *See Brodheim v. Cry*, 584 F.3d 1262, 1269-70 (9th Cir. 2009). The purpose of protection against retaliation for engaging in protected speech is to stop "actions by a government employer that 'chill the exercise of protected' First Amendment rights." *Dahlia v. Rodriguez*, 735 F.3d 1060, 1078 (9th Cir. 2013) (en banc) (quoting *Coszalter*, 320 F.3d at 974-75).

Courts have recognized that "[v]arious kinds of employment actions may have an impermissible chilling effect," including "minor acts of retaliation," *Dahlia*, 735 F.3d at 1079 (citing *Coszalter*, 320 F.3d at 975), and "[i]nformal measures, such as 'the threat of invoking legal sanctions and other means of coercion, persuasion, and

intimidation.” *Mulligan v. Nichols*, 835 F.3d 983, 989 n.5 (9th Cir. 2016). Courts also recognize that the insinuation or threat that “some form of punishment or adverse regulatory action” may follow can also chill a person from speaking and violate the First Amendment. *Coszalter*, 320 F.3d at 976-77 (holding that even a “threat of disciplinary action” may constitute adverse employment action for purposes of First Amendment retaliation).

Here, according to the District, Coach Parks’s track and field coaching contract terminated on May 11, 2024. Colyer Decl., ECF No. 16-3. It began on February 26, 2024. *Id.* Four days after his contract terminated, on May 15, 2024, he sent his letter to the OSAA. Then right after he sent his letter to the OSAA, he coached the Lake Oswego High School track and field team in the state championship held on May 17-18 and won the state championship. Second Parks Decl. at ¶ 8. Coach Parks typically never reapplied each year for his track and field coaching position, and the parties agreed to this course of dealing of rolling over his contract to the next year. Second Parks Decl. at ¶¶ 5-6. During the current dispute with the District and on advice of counsel, Coach Parks applied for the cross country and track and field positions for the 2024-25 school year. Attached to his Second Declaration as **Exhibit 2** is a screenshot of these applications. Coach Parks no longer has access to his Lake Oswego High School email address, and his counsel previously advised District officials to preserve all emails and written communication from him. Second Parks Decl. at ¶ 12.

The District does not cite any case law or policies to support its conclusory argument that “any reasonable person of ordinary firmness would understand that the District was required to open an investigation after receiving a third-party complaint like the one submitted by Mr. Haskins.” District Opposition Response, ECF No. 14 at 14. And the District concedes that Mr. Haskins’s written complaint of May 24, 2024, *nine days after Coach Parks sent his letter to the OSAA*, set out eight separate allegations about Coach Parks. The very first complaint said that Coach Parks, “A. Sent email to OSAA in an effort to stop our student from participating at the state track meet.” District Opposition Response, ECF No. 14 at 6. In other words, the leading cause of the District commencing its investigation of Coach Parks and Principal Colyer’s two letters to him was firmly grounded in his email/letter that he sent to the OSAA suggesting an open division for transgender athletic competition.

Therefore, contrary to the District’s unsupported argument, its investigation into Coach Parks because of his “email to OSAA” and Principal Colyer’s two letters to Parks opening up his job pursuant to the Haskins complaint would chill a reasonable person of ordinary firmness from continuing to engage in protected speech with the OSAA regarding its transgender athletic policies. Moreover, the District’s investigation and Principal Colyer’s two letters opening up Coach Parks’s job would chill a reasonable person of ordinary firmness from continuing to engage in protected speech with the OSAA regarding its transgender athletic policies, particularly after the public employee’s contract had terminated and the parties had

been operating under a course of dealing of rolling over their employment contract to the next year like with Coach Parks. Additionally, because Haskins knew, as a member of the OSAA Executive Board, that Coach Parks's letter to the OSAA did not violate its policies because the OSAA had "no new rules prohibiting criticism of any OSAA policy" as OSAA Executive Director Weber explained to a reporter, the District's investigation and Principal Colyer's two letters opening up Coach Parks's job would further chill a reasonable person of ordinary firmness from continuing to speak out to the OSAA on its transgender athletic policies.

**C. Plaintiff's letter to the OSAA was the substantial motivating factor for the District's adverse employment actions.**

The District ignores and fails to refute Coach Parks's argument that he satisfied the third prong of the retaliation analysis: that his letter to the OSAA was a substantial motivating factor for Lake Oswego's adverse employment actions against him. Nor could it dispute this: as Coach Parks has shown, Principal Colyer expressly cited his email to the OSAA in her findings. Parks Motion and Memorandum, ECF No. 8 at 18; First Amended Complaint, Colyer Letter ECF No. 7-4 at 2.

**D. The District failed to carry its burden of showing that Coach Parks's letter to the OSAA disrupted the efficiency of the Lake Oswego High School track and field program.**

In its opposition response, the District failed to carry its burden to show that Coach Parks's letter to the OSAA disrupted the efficiency of the Lake Oswego High School track and field program. Instead, the four declarations put forth by the District completely ignore the OSAA letter and whether it administratively



disrupted the track and field program. Moreover, some of the declarations, such as Principal Colyer's, contain improper hearsay evidence of anonymous "coaches" who purportedly heard certain things. Colyer Decl., ECF No. 16. And Coach Parks has never been provided with the names of these so-called anonymous "coaches." Second Parks Decl. at ¶ 10.

By contrast to the District's four improper and irrelevant declarations, the ten Parent Declarations contain statements made from the personal knowledge of these parents related to the OSAA letter and its lack of disruption to the efficiency of the track and field program. Parent Declarations, ECF No. 8-2 through 8-11.

For example, consider the Declaration of Frank Ha. F. Ha Decl., ECF No. 8-5. In his declaration, Mr. Ha testifies that he is the parent of N.H., who was on Coach Parks's track and field team this past Spring. *Id.* at ¶¶ 2, 4. Mr. Ha was an official for the long jump and triple jump events at all home track meets during Coach Parks's tenure as coach at Lake Oswego High School. *Id.* at ¶ 3. And through his position as an official at Lake Oswego home track and field meets, Mr. Ha "had close exposure to John Parks and his behavior both before and after his employment was terminated." *Id.* at ¶ 8. After Coach Parks sent his letter to the OSAA, Mr. Ha "has observed no disruption nor difference in the efficiency of practice or meets where John Parks was the coach and where [his] child and other athletes on the Track and Field team at Lake Oswego participated." *Id.* at ¶ 6. And the nine other Parent Declarations support the same conclusion: Coach Parks's letter to the OSAA caused *no* disruption. Parent Declarations, ECF No. 8-2 through 8-11.

**E. The Court can issue a preliminary injunction to maintain the status quo of the parties, which through their course of dealing is to automatically roll over Coach Parks’s employment to the next school year.**

The Court can maintain the status quo by issuing a preliminary injunction and is not required to issue a mandatory injunction to restore Coach Parks to his position as coach and teacher at Lake Oswego High School. This is because the parties, through their prior course of dealing, automatically roll over and continue his employment at Lake Oswego High School to the next school year. Thus, a preliminary injunction restoring Coach Parks as coach and teacher at Lake Oswego High School for the 2024-25 school year would not go beyond simply maintaining the status quo of the parties based on their prior course of dealing.

A “mandatory injunction is one that goes beyond simply maintaining the status quo and orders the responsible party to take action pending the determination of the case on its merits.” *Doe v. Snyder*, 28 F.4th 103, 111 (9th Cir. 2022).

The District suggests that the “status quo” of the parties was “June 12, 2024.” District Opposition Response, ECF No. 14 at 12. But the District is incorrect. Rather, for purposes of the Court restoring the parties to the status quo and issuing a preliminary injunction, the status quo was May 24, 2024, before Haskins initiated his complaint to the District regarding Coach Parks’s letter to the OSAA, prompting the District to commence its investigation.

May 24, 2024, was thirteen days after Coach Parks’s contract terminated, nine days after Coach Parks sent his letter to the OSAA, and six days after the state championship concluded. And on May 24, 2024, prior to the Haskins complaint,

Coach Parks reasonably believed his contract was being continued and rolled over until the following 2024-25 school year based upon the parties' previous course of dealing. Second Parks Decl. at ¶ 11. And why would he not believe that? He had already sent his letter to the OSAA on May 15, 2024, and then led the Lake Oswego track and field team to winning the state championship on May 17-18, 2024, despite the termination of his contract on May 11, 2024. In other words, Coach Parks won the track and field state championship for Lake Oswego High School *after* his contract terminated according to Principal Colyer. Any reasonable person in his position would believe that his contract would continue to roll over to the following school year (2024-25) as it had in the past.

Even if the Court determines that June 12, 2024, is the status quo as the District suggests, it does not alter the analysis that the District and Coach Parks had a prior course of dealing of automatically renewing his contract. But that course of dealing was interrupted because Coach Parks sent his letter to the OSAA and criticized its transgender athletic policy. But for his letter to OSAA officials, Coach Parks would still be employed as head coach of track and field, the head coach of cross-country, and as a teaching assistant at Lake Oswego High School for the 2024-25 school year. Second Parks Decl. at ¶ 13. Therefore, a mandatory injunction is unnecessary to simply restore the parties to the status quo prior to the adverse employment actions that the District inflicted upon Coach Parks.

**III. Absent a preliminary injunction, Coach Parks has suffered an ongoing irreparable injury due to the loss of his First Amendment free speech rights during the 2024-25 school year.**

None of the cases cited by the District support the proposition that Coach Parks has not sustained an ongoing irreparable injury for the loss of his free speech rights during the 2024-25 school year. District Opposition Response, ECF No 14 at 16-19.

Indeed, Coach Parks has sustained an ongoing irreparable injury of the loss of his free speech rights under the First Amendment for the 2024-25 school year because he sent his letter to the OSAA criticizing its policy and suggesting an open division for transgender athletic participation. The parties have operated under a prior course of dealing where Coach Parks's contract at Lake Oswego High School was automatically renewed. In other words, Coach Parks should be the current coach and teacher at Lake Oswego High School but for the District violating his First Amendment free speech rights. And it is well-settled that "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373-74 (1976) (plurality opinion) (citing *New York Times Co. v. United States*, 403 U.S. 713 (1971)).

**IV. The balance of equities tips in favor of this Court issuing a preliminary injunction restoring Coach Parks to track and field coach at Lake Oswego High School.**

The balance of equities tips in favor of this Court issuing a preliminary injunction restoring Coach Parks to his position as coach at Lake Oswego High School, which would restore the status quo of the parties based on their prior course of dealing.

The District says, “Plaintiff can continue to voice his opinions about transgender athletic participation just as he has been.” District Opposition Response, ECF No. 14 at 19. But the District conveniently omits that he must do so while not being the track and field coach at Lake Oswego High School during the 2024-25 school year because he wrote a letter to the OSAA at 1:31 am after school hours from his personal email account. By the District’s curious logic, it could violate any employee’s First Amendment free speech rights because the public employee can always speak out; they just cannot do so while being employed by the District. But this would be a blatant violation of the First Amendment, as it was here with the District’s violation of Coach Parks’s ongoing free speech rights.

As the Ninth Circuit has consistently held, “it is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

### **CONCLUSION**

For these reasons, Coach Parks respectfully requests that the Court issue a preliminary injunction restoring him as coach and teacher at Lake Oswego High School pending the outcome of trial.

Dated: November 4, 2024

Respectfully submitted,

s/ Luke D. Miller

Luke D. Miller

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### **CERTIFICATE OF COMPLIANCE**

This brief complies with the applicable word-count limitation under LR 7-2(b), because it contains 4,641 words, including headings, footnotes, and quotations, but excluding the case caption, table of contents, cases and authorities, signature block, exhibits, and any certificates of counsel.

Dated: November 4, 2024

*s/ Luke D. Miller*  
Luke D. Miller

**CERTIFICATE OF SERVICE**

I certify that the foregoing document and attachments were filed electronically with the Court's Case Management/Electronic Case Filing (CM/ECF) system. The Court and/or Clerk of Court may serve and give notice to counsel by CM/ECF electronic transmission.

The 4th day of November 2024.

*s/ Luke D. Miller*  
Luke D. Miller



# Supplemental Exhibit 1

**From:** John Parks <[john.parks.pdx@live.com](mailto:john.parks.pdx@live.com)>  
**Sent:** Wednesday, May 15, 2024 1:31 AM  
**To:** [peterw@osaa.org](mailto:peterw@osaa.org) <[peterw@osaa.org](mailto:peterw@osaa.org)>  
**Cc:** Kelly Foster <[kellyf@osaa.org](mailto:kellyf@osaa.org)>  
**Subject:** OSAA policy on transgender athletes ramifications

Peter,

I am writing first as the Lake Oswego HS head track coach but secondarily as coach in the sport at Olympic, NCAA and professional ranks for decades prior to my current position. The impending competition of a high level transgender athlete for McDaniel HS has placed the OSAA policy in national and world eyes and is going to serve as a major distraction for all the athletes attending to compete and celebrate the culmination of their sport. The current policy has major flaws that are inviting the discrediting of the entire existence and value of female athletics. Personally, it will impact my athletes in the 400 meters directly and play a role in who qualifies for finals and is awarded team trophies.

Having watched the McDaniel athlete at the Sherwood Invitational and Dean Nice Invitational I can assure you that this athlete has significant improvement to gain and could do so quickly enough to win not just the 200 meters they are state leader in but the 400 meters where my 2-time defending state champion Josie Donelson looks to lower her personal best which is a state record that she broke earlier this year that had stood for 20 years. Many coaches observing have felt the McDaniel athlete has been holding back, fearing that running too fast will bring a reversal in the rule. Being only a second off my athlete who ranks 7<sup>th</sup> in the nation in HS in the 400 meters is inviting heightened national attention to the issue. In the PIL district meet the athlete competing caused the other top athletes to lose focus and break down technically, physically and emotionally. The damage to all the natural born female competitors is real and devastating. I coached professionally when Caster Semanya was competing legally for 3 years as an intersex athlete before scientific studies proved the obvious and her and 3 other world-level intersex athletes were forced to consume hormone therapy drugs in able to compete. Once they did they were not competitive. But until then for 3 years my athletes and others had to compete with these athletes and it caused more injuries or eventually more athletes to exit the sport in exasperation and frustration at competing in an uneven playing surface. That is the case with the McDaniel athlete. You are robbing these girls of a podium spot, a spot in the finals, altering race plans and making all the female athletes question why are their rights being ignored? Its plainly clear to every track coach in the Portland metro area I have spoken with that by next year if allowed this athlete will break Mia Brahe-Pedersen's state records and her NFHS national record. Allowing this travesty to be carried out is making a complete mockery of the meet this weekend and in the future until the rules are altered to protect natural born females.

If Josie runs an Olympic Trials performance as is possible but the McDaniel athlete also does so, then Josie can go to the Olympic Trials but the McDaniel athlete is ineligible due to IOC and WA and USATF regulations. The existence of this world-wide policy is based on scientific evidence

that also exists for teen athletes. [USATF Statement Regarding Transgender/Transsexual Policy | USA Track & Field](#). This addresses the overriding concern when conflicting individuals' rights are being considered. [Transgender track athletes can't compete with women: World Athletics Council : NPR](#)

(Edit note: Original letter had my commenting on 2 transgender athletes on my team but to not bring added focus to them I am omitting this brief comment)The policy is subjecting these adolescent children to too much politicization of their competition. When the McDaniel athlete wins the condemnation by the vast majority of media is going to overwhelm all other aspects of the meet for not just 6A girls in the 200 and 400 but for all athletes at the meet. This weekend's meet is going to be the focus of US and international media only because of the failure of the OSAA to consider in their competition rules the impact on natural born girls.

My track team at LO has 2 trans athletes on it. One was a male to female and the other female to male. The female to male thrower went from 25 feet in shot last year as a female using lighter implement to 15 feet as a male. The other is a male to female. They won the TRL JV district cross country meet and when they stood atop the awards stand were in tears. The policy is subjecting these adolescent children to too much politicization of their competition. When the McDaniel athlete wins the condemnation by the vast majority of media is going to overwhelm all other aspects of the meet for not just 6A girls in the 200 and 400 but for all athletes at the meet. This weekend's meet is going to be the focus of US and international media only because of the failure of the OSAA to consider in their competition rules the impact on natural born girls.

The OSAA already has state meet events for para athletes in wheelchair and Unified competition. The solution to trans athletes is to have an open category like a gender neutral bathroom. Allows competition opportunities but doesn't make a mockery of the reason females compete in their own category. As a social studies educator for 30 years I 100% support transgender students in every educational, academic and societal situation except in athletics where their bodies have a major physical and hormonal advantage. The McDaniel athlete admitted a month ago in a newstory that they wanted to take the hormone adjusting drugs so they didn't have this advantage. When the individual is admitting this then it's the administrators that are failing. I have 2 trans extended family members and neither support male to female trans athletes competing in female divisions because they said it draws only negative attention to the trans community, alienating too many in society they wish to gain the support of in other transgender legal efforts.

Friday in the 200 and 400 a 9<sup>th</sup> athlete should be advanced to the final should in the future the rules be altered to disallow trans athletes from competing so as to allow no female athlete to suffer from this erroneous decision any more than is possible. There will be shining moments crossing finish lines and standing atop podiums that will be forever lost however, even if retroactively the natural born female athlete are later given their proper medals. They will never get back the moments they earned.

Sincerely,

John Parks  
Lake Oswego HS

# Exhibit 2

# Lake Oswego School District - Employment Application

Parks, John · [Log Off](#)

Home Employment Application Forms

### Navigation:

- 1. Personal Info
- 2. Current Employment Status
- 3. Postal Address
- 4. Vacancy Desired
- 5. EEN
- 6. Internal Cert. Statement
- 7. Internal Class. Statement
- 8. Applicant Statement**
- 9. Language Skills
- 10. Legal Information
- 11. Classified Application Materials
- 12. EEO Form
- 13. Confirmation

Fields preceded by a red asterisk (\*) are required.

Please answer the question below. Response should be concise.

**Use your word processor to copy and paste in your answers. Copy your answers from the word processor and then hit CTRL+V for PC or OpenApple+V for Mac to paste.**

**\*** Everyone has a story to tell. How could your story, pathway through this world, benefit each student? How can your story impact future generations to reach their potential?

At the advice of counsel I'm applying for my previous positions, the posted head track and cross country position openings while my rebuttal and legal appeals are pending.

JobID: 6160 [Apply](#)

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[Print Version](#)

Applicant Tracking

Save as Draft

Finish and Submit

Prev Page

Next Page

Additional Information: [Show/Hide](#)

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

**John Parks,**

**Plaintiff,**

**v.**

**LAKE OSWEGO SCHOOL DISTRICT;  
LAKE OSWEGO SCHOOL BOARD;  
OREGON SCHOOL ACTIVITIES  
ASSOCIATION; PORTLAND PUBLIC  
SCHOOLS; and MARSHALL  
HASKINS, *in his individual and  
representative capacity for* OREGON  
SCHOOL ACTIVITIES ASSOCIATION  
*and* PORTLAND PUBLIC SCHOOLS,**

**Defendants.**

**Case No. 3:24-CV-1198**

**SECOND DECLARATION OF JOHN PARKS**  
**In Support of John Parks' Claims for Relief and**  
**Motion for Preliminary Injunction**

Pursuant to 28 U.S.C. § 1746, I, John Parks, hereby declare as follows:

1. I am over 18 years of age and am fully competent to provide this declaration to the court.
2. I have coached 9 Olympic and World Championship medalists, and 16 NFL football players in my career.
3. I have coached at least one participant in the U.S. Olympic Track and Field Trials each meet since 1988.

4. I was the head coach of track and field, the head coach of cross-country, and a teaching assistant at Lake Oswego High School until June 12, 2024.

5. Until my termination, I worked for Lake Oswego High School without explicit yearly renewals of my contract.

6. Specifically, in the past I typically never applied each year for my track and field coaching position, and Lake Oswego High School officials and I agreed to this course of dealing of rolling over my contract to the next year.

7. On May 15, 2024, on my own time away from my duties at Lake Oswego High School and using my personal email address, I sent an email-letter to Peter Weber, Executive Director of OSAA and Kelly Foster, OSAA Assistant Executive Director. Attached hereto as **Exhibit 1** is a true and correct copy of the letter that I sent to the OSAA, and it includes my “From” email address.

8. Then right after I sent my letter to the OSAA, I coached the Lake Oswego High School track and field team in the state championship held on May 17-18, 2024, and won the state championship.

9. I never called the McDaniel HS transgender athlete a “fucking dude.” Nor did I direct any negative or derogatory comments toward the McDaniel HS transgender athlete at the state championship.

10. I have reviewed Principal Colyer’s Declaration [ECF No. 16], and I have never been provided with the names of the “coaches” who purportedly heard I said certain things at the state championship. Therefore, I deny anything that has been attributed to me by anonymous people regarding what I said at the state



championship. I was not insubordinate at the state championship and did not violate any rules or policies, nor did I say anything negative or derogatory toward the McDaniel HS transgender athlete at the state championship.

11. Prior to Lake Oswego High School officials commencing an investigation based on Marshall Haskins's complaint on May 24, 2024, I believed that my contract with Lake Oswego High School was being continued and rolled over until the following 2024-25 school year based upon our previous course of dealing.

12. On advice of counsel, I applied for the cross country and track and field positions for the 2024-25 school year. Attached as **Exhibit 2** is a screenshot of these applications. I no longer have access to my Lake Oswego High School email address. My counsel previously advised Lake Oswego High School officials to preserve all emails and written communication from me.

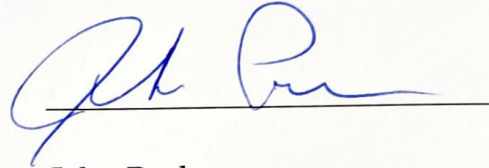
13. But for my **Exhibit 1** letter to OSAA officials, I would still be employed as head coach of track and field, the head coach of cross-country, and as a teaching assistant at Lake Oswego High School.

SIGNATURE ON FOLLOWING PAGE

Under penalty of perjury, I certify that the foregoing is true and correct to the best of my knowledge.

November 4, 2024

West Linn, Oregon

A handwritten signature in blue ink, appearing to read "John Parks", written over a horizontal line.

John Parks

**CERTIFICATE OF SERVICE**

I certify that the foregoing document and attachments were filed electronically with the Court's Case Management/Electronic Case Filing (CM/ECF) system. The Court and/or Clerk of Court may serve and give notice to counsel by CM/ECF electronic transmission.

The 4th day of November 2024.

*s/ Luke D. Miller*  
Luke D. Miller