

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 1:25-cv-13047-FDS

ALAN L., on behalf of himself and his minor  
Child, J.L.,  
Plaintiff,

v.  
LEXINGTON PUBLIC SCHOOLS; LEXINGTON  
SCHOOL COMMITTEE; DR. JULIE HACKETT, in  
individual and official capacity as Superintendent of  
the Lexington Public School District; DR. GERARDO  
J. MARTINEZ, in his individual and official capacity  
as Principal of Joseph Estabrook Elementary School and;  
ANDREA SO, in her individual and official  
Capacity as Director of Elementary Education,  
Defendants.

**AFFIDAVIT OF ANDREA SO**

I, Andrea So, hereby depose and state the following:

1. I am over 18 years of age, of sound mind, and have personal knowledge of all statements in this affidavit.
2. I am the Director of Elementary Education for Lexington Public Schools ("District"), a position I have held since 2024.
3. Prior to my role in Lexington, I worked as an Assistant Principal at a PK-8 school for Boston Public Schools.
4. Designing and implementing elementary curriculum requires extensive planning and logistical work to ensure our students receive the highest-quality education the District can provide.
5. Opt-outs for religious reasons pose a unique burden on the District in that they are frequently not as clear-cut as accommodating a student's medical condition, for example.

6. The student identified as “J.L.” in Plaintiff’s complaint is a Kindergarten student at the Joseph Estabrook Elementary School in Lexington, Massachusetts, part of the Lexington Public Schools (“District”).
7. On or about August 25, 2025, Plaintiff notified the District that he intended to opt J.L. out of all DEI and Health curricula but did not mention his religion or indicate that the basis for his request was any sincerely held religious belief.
8. On or about August 28, 2025, I responded to Plaintiff’s general request to opt J.L. out of “any DEI activities, and for J.L. not to participate in Health class”; given that Plaintiff did not provide any acceptable reasoning for his request, such as a sincerely held religious belief, I denied this request and invited Plaintiff to let me know if he had any questions or concerns.
9. Also on August 28, 2025, Plaintiff replied to my message, stating he and J.L. are “both Christians and we both attend church on Sunday”; once again, Plaintiff did not tie any request for J.L. to be opted out of portions of the curriculum to any sincerely held religious belief(s) or identify what portions of the curriculum were objectionable.
10. On or before September 5, 2025, I learned Plaintiff had submitted a letter to Estabrook Principal Gerardo Martinez with a modified request; instead of requesting J.L. be opted out of all DEI and Health curriculum, Plaintiff requested that J.L. be opted out of “lessons, events, school assemblies or other instructional activities and programs which cover issues of sexual orientation or gender identity.”
11. I responded to Plaintiff’s letter to Principal Martinez on September 5, 2025, requesting further clarification from Plaintiff regarding his opt-out request and notifying him that his requests as written were “overly broad and require further clarification as they seek to opt

out of broad topics.” I asked Plaintiff to “please re-submit your opt-out request with more information regarding a specific lesson” and offered him the opportunity to review required curricular materials to better inform his request.

12. I did not hear back from Plaintiff.
13. At some point on or after September 10, 2025, I became aware of a letter Plaintiff’s counsel, Sam Whiting, Esq., wrote to Principal Martinez, requesting J.L. be opted out of any instruction or required activities “that normalize or promote LGBTQ identities or lifestyles,” as well as the entire Kindergarten DEI curriculum.
14. On September 19, 2025, I provided Plaintiff with the Health and DEI Kindergarten curriculum materials he requested.
15. I was not the District’s Records Access Officer pursuant to M.G.L. c. 66, § 6A in August or September 2025 or at any other point in time; however, I was made aware on or about August 29, 2025 that Plaintiff had submitted a request for public records relating to the Kindergarten Health, Social Studies, and DEI curricula.
16. It is my understanding that any request for public records by Plaintiff was satisfied by the District’s production of the requested Kindergarten curriculum materials to Plaintiff.
17. Requests to opt students out of curriculum for religious reasons are often too broad in terms of the scope of topics a parent might seek to have their child excluded from, or too comprehensive in terms of what types of instructional material content a parent requests an opt-out for.
  - a. The former category is too broad in that it removes the students from too much of the curriculum, causing them to fall behind and lose educational connection with

their peers, while requiring significant alternative placement time coordinated by teachers and administrators.

- b. The latter category is equally detrimental to both the students and the District in that, for example in J.L.'s case, it requires teachers to sift through every page of illustrated books to determine whether two individuals appear to be the same sex and, if so, whether they appear to be in a sexual relationship. The necessity for the teacher to supplant their judgment for that of the parent is unreasonable and the likelihood of differences in opinion is high. The teacher must do this independently even if Plaintiff were to conduct the same review, due to the fact that a Court order requiring J.L. to be opted out of any material that "normalizes" LGBTQ+ lifestyles, for example, would require careful checks on the District side to ensure it was in compliance with the opt-out request. Differentiating between materials that do or do not "depict in any manner" LGBTQ+ relationships, lifestyles or identities would also significantly increase teachers' preparation time.

18. While much of the curriculum is set at the start of the year, according to the Department of Elementary and Secondary Education ("DESE") Teacher Rubric, teachers are expected to "accommodate[] and support[] individual differences in all students' learning needs, abilities, interests, and levels of readiness" by "using appropriate inclusive practices, such as tiered supports, educational and assistive technologies, scaffolded instruction..." and "provid[e] students with multiple ways to learn content and demonstrate understanding". (See DESE Standards of Effective Practice, Standard II.A.3). It is very common for teachers to visit a museum one weekend, for example, and put together a lesson on art; or, if teachers take a trip to an interesting location they may bring the experiences of their

trip into the classroom with them. These are just a couple of examples of the importance of ensuring there is flexibility in the curriculum. Last-minute flexibility is important; teachers can slow down or speed up the expected pace of the curriculum. If students do not understand a concept one day, for instance, teachers can develop a lesson or instructional activity that addresses any gaps in the students' understanding for the next class period. Fluidity is critical based on the needs of the students.

19. Health and Social Studies curricula are part of the District's required curriculum pursuant to the Massachusetts Curriculum Frameworks provided by the Department of Elementary and Secondary Education.
20. Providing J.L. with a general accommodation to be opted out of "all Health and DEI curricula" would pose a substantial hardship to the District and members of its staff, not to mention for J.L. Health is required curriculum by state and school committee policy.
21. Permitting overly-broad opt-outs would also require multiple layers of coordination with administrators responsible for assigning staff to general-education vs. specialized classrooms, e.g., and ensuring that the appropriate staffing is in place to supervise children who need to be excluded from portions of the curriculum. Alternative materials will also need to be developed to ensure students meet grade level expectations, the development and selection of which will take a significant amount of time and coordination. Where alternative materials are provided, this would create a further burden on the District to provide supplemental notice of the newly-selected and developed alternative materials to the parent.
22. Plaintiff's opt-out request is more challenging to accommodate than an opt-out from the sex education curriculum applicable to older grades, for example, where lessons on

specific topics are delivered in more cohesive blocks; in Kindergarten, the instruction materials are more diverse in subject matter—a single book might address the subjects of family, the metamorphosis of a caterpillar to a butterfly, and knowing when to say sorry.

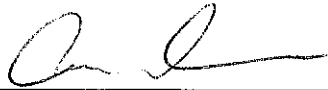
23. The District must be able to educate its students on required curriculum such as Health, Social Studies and Social Justice Standards. These core Kindergarten topics and standards—especially those focused on empathy, family structures, personal boundaries, emotions, and respect for one another’s differences—are geared toward building foundational social-emotional learning (“SEL”) skills that are essential for a strong school community.
24. SEL and diversity education improve the overall school climate by increasing students’ sense of belonging, reducing prejudice, and fostering prosocial behaviors. This leads to a safer, more inclusive climate that results in fewer emotional outbursts, less exclusionary behavior, and stronger peer relationships, all of which allow teachers to spend more time teaching and less time managing conflicts.
25. Young children who learn early to recognize emotions, resolve conflicts peacefully, and respect others’ differences engage in significantly fewer aggressive or exclusionary behaviors. SEL-focused programs lead to measurable reductions in behavioral problems and emotional distress, while diversity-focused lessons reduce bullying and bias-based harassment. From an operational standpoint, this translates into fewer office referrals, suspensions, and teacher interventions, freeing up administrators, counselors, and staff to focus on instruction rather than discipline. Strong early SEL and anti-bias programs are essential for the District’s classrooms and hallways.

26. When children feel seen, accepted and psychologically safe, they attend school more regularly and participate more actively. Studies link positive school climate as a result of explicit teaching of social and emotional awareness and learning are linked to higher academic achievement, better attitudes toward school, and improved cognitive outcomes.
27. Operationally, higher engagement among students reduces chronic absenteeism and supports smoother whole-group instruction, circle time, and collaborative play—the core of kindergarten scheduling.
28. State law and DESE regulations require schools to take affirmative steps to create a positive school climate where all students feel safe, supported, and respected. To comply with state laws and regulations, schools must fulfill the following affirmative responsibilities: "provide students at all grade levels the 'skills, knowledge and strategies' necessary to prevent and respond to bullying and harassment." Skills and knowledge necessary for all students necessarily include awareness of the existence of LGBTQ+ individuals. The erasure of them from curricula materials runs counter to both our objective of creating a positive and welcoming school climate for all students, and to our objective to support all students “to make connections between the subject matter and real-world issues with impact on their communities and the world.” (See DESE Standards, Standard I-A). Instruction on these topics also furthers the interests of Title IX and civil-rights laws. Particularly at the elementary level, delivering this content through storybooks, discussions, and activities that are integrated into the regular day is far more efficient than creating parallel tracks or discrete lesson blocks where individual topics need to be addressed independently.

29. The District has provided Plaintiff with reasonably prompt responses to requests for general curriculum material, despite the fact that technological access issues prevented some of the links from working, initially. All requested curriculum materials have been provided to Plaintiff.
30. Plaintiff's requests for curriculum information also came during a hectic start of the school year, when everyone was getting settled into their new routines, including J.L.
31. Despite having provided Plaintiff with all requested curriculum materials, the District would have an exceptionally difficult time ensuring that certain materials and instruction, books or articles that are selected and provided to J.L. on an ongoing or real-time basis (based on his teachers' and instructors' assessments of his ability to access the curriculum) are provided to Plaintiff in advance.
32. The District will suffer significant hardship if forced to parse through and arrange to opt J.L. out of materials that "depict in any manner" LGBTQ "relationships, lifestyles or identities," or "political or other ideologies promoting Black Lives Matter" or equality among races.
33. Mass. Gen. Laws ch. 71, § 32A provides that Massachusetts parents and guardians have the legal option to request that their child be excused from curriculum that primarily involves human sexual education or human sexuality. The District currently accommodates only nine (9) requests to opt out of portions of the curriculum, all of which are specific to the issues of human sexual education or human sexuality pursuant to M.G.L. c. 71, § 32A. Apart from Plaintiff's request, the District makes no accommodations for requests to opt out of any other portions of its curriculum.



SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 18 DAY OF  
NOVEMBER, 2025.

  
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Andrea So