

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

**CHARLES PATRICK PRATT and
A.E.P. through her parents and next friends
Bobbi Lynn Petranchuk and Todd Edward
Petranchuk,**

Plaintiffs,

**DEFENDANTS'
STATEMENT OF
MATERIAL FACTS
7:09-cv-411
(GTS/GHL)**

v.

**INDIAN RIVER CENTRAL SCHOOL
DISTRICT; INDIAN RIVER CENTRAL
SCHOOL DISTRICT BOARD OF
EDUCATION; JAMES KETTRICK,
Superintendent of Indian River Central School
District, in his official and individual
Capacities; TROY DECKER, Principal of
Indian River High School, in his official and
Individual capacities; and JAY BROWN,
JOHN DAVIS, KENDA GRAY, AMABLE
TURNER and PATRICIA HENDERSON, in
their individual capacities,**

Defendants.

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

Defendants Indian River Central School District, Indian River Central School District Board of Education, James Kettrick, Superintendent of Indian River Central School District, in his official and individual Capacities, Troy Decker, Principal of Indian River High School, in his official and individual capacities, and Jay Brown, John Davis, Kenda Gray, Amable Turner and Patricia Henderson in their individual capacities, (hereinafter, collectively referred to as “the

Defendants”) by and through their attorneys, submit the following Statement of Material Facts showing that no genuine issue exists requiring a trial and that Plaintiff’s Complaint should be dismissed:

1. Pratt’s date of birth is August 16, 1988, hence, he turned 18 years old on August 16, 2006. *See* Kettrick Aff.

2. Pratt attended kindergarten, primary school (grades 1-4), middle school (grades 5-8) in the District. *See* Aff. of Kettrick.

3. Pratt entered high school in the ninth grade in the fall of 2002, however, during the 2002-2003 school-year, Pratt did not attend school in the District after May 4, 2003, and did not return to the District until the start of the next school-year in September of 2003. *See* Aff. of Kettrick; *see also* Ex. “A,” para. 39.

4. Pratt started 9th grade in the District for the second time in the fall of 2003, and his last day attending the District during the 2003-2004 school year was January 4, 2004. *See* Aff. of Kettrick.

5. Pratt did not attend one day of school in the District’s high school after January 4, 2004 until the start of the 2004-2005 school year in September of 2004. *See* Aff. of Kettrick.

6. Pratt did not attend summer school during the summer of 2003 or the summer of 2004. *See* Aff. of Kettrick.

7. The summer vacation period in the District for the summer immediately preceding the 2003-2004 school-year started immediately after graduation, which took place on June 27, 2003, and lasted until September 3, 2003. *See* Aff. of Kettrick.

8. The summer vacation period in the District for the summer immediately preceding the 2004-2005 school-year started immediately after graduation on June 25, 2004, and lasted until September 7, 2004. *See* Aff. of Kettrick.

9. Pratt returned very briefly to the District in the fall of 2004. *See* Aff. of Kettrick; *See* Ex. "A" para. 16 (alleges Pratt attended the District for approximately three weeks in the fall of 2004).

10. After the fall of 2004, Pratt never returned to the District. *See* Aff. of Kettrick.

11. AEP is currently a sophomore in the District's high school. *See* Aff. of Kettrick.

12. A "Gay Straight Alliance," club of the type referenced in the Complaint currently exists in the District's high school. *See* Aff. of Kettrick.

13. The Plaintiffs did not file any Notice of Claim with the District prior to commencing the instant federal action. *See* Aff. of Kettrick.

Dated: June 12, 2009
East Syracuse, New York

Respectfully submitted,

The Law Firm Of Frank W. Miller

By: s/Frank W. Miller, Esq.
Bar Roll No.: 102203
Attorneys for Defendants
Indian River Central School District, et. al.
Office and Post Office Address:
6575 Kirkville Road
East Syracuse, New York 13057
Telephone: 315-234-9900
Facsimile: 315-234-9908
fmiller@fwmillerlawfirm.com

TO: Clerk

U. S. District Court
Northern District of New York
Syracuse, New York
Via Electronic Filing

Michael Kavey, Esq.
Attorneys for Plaintiffs
Lambda Legal Defense Fund, Inc.
120 Wall Street, Suite 1500
New York, NY 10005-3904
mkavey@lamdalegal.org
Via electronic filing

Hayley J. Gorenberg, Esq.
Attorneys for Plaintiffs
Lambda Legal Defense and Education Fund
120 Wall Street, Suite 1500
New York, NY 10005
hgorenberg@lamdalegal.org
Via electronic filing

Sudwiti Chanda, Esq.
Attorneys for Plaintiffs
Kirkland & Ellis, LLP
153 East 53rd Street
New York, NY 10022-4611
schanda@kirkland.com
Via electronic filing

Adam T. Humann, Esq.
Attorneys for Plaintiffs
Kirkland & Ellis, LLP
153 East 53rd Street
New York, NY 10022-4611
adam.humann@kirkland.com
Via electronic filing