

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

THERESA RHOADES and MICHAEL)
RHOADES as parents and next friends)
of C. R., a minor,)

Plaintiffs,)

v.)

Cause No. 3:05-CV-00586-JTM-CAN

PENN HARRIS MADISON SCHOOL)
CORPORATION, DAVID R. TYDGAT,)
DAVE RISNER, STEVEN HOPE, VICKIE)
MARSHALL, MARNI CRONK,)
MADISON CENTER, INC.,)

Defendants.)

AFFIDAVIT OF DAVE RISNER

Comes now your affiant, Dave Risner, and makes the following statements based upon his own personal knowledge and belief:

1. I am over the age of eighteen (18) and have been the Associate Principal at Penn High School at all times relevant hereto.

2. On January 15, 2003, Nick Sherbun, a popular Penn High School student committed suicide. The suicide was a great shock to the community and Nick's parents became activists for the "Yellow Ribbon Suicide Prevention Program." The Yellow Ribbon organization promotes teen depression and suicide awareness with an Annual Yellow Ribbon Suicide Awareness & Prevention Week in September or October of each year.

3. As a consequence of Nick Sherbun's suicide the Human Services Council of CONNECT, Inc. identified a need for the detection and prevention of adolescent suicide. CONNECT, Inc. was created by the business community to provide communication,

coordination and collaboration between education, business and human services providers for the benefit of the residents of St. Joseph County. A task force was created by the Human Services Council to research programs and services for the detection and prevention of adolescent suicide. Members of this task force included former Superintendent Vickie Markavitch and Linda Pyfer, Director of the Madison Center, Inc.

4. Because the program was community based, the Madison Center accepted a lead role in the development of a community based suicide detection and prevention program. As part of its research into programs and services for the detection and prevention of adolescent suicide the Task Force began accumulating information relating to adolescent suicide in Indiana. True, accurate, and authentic copies of some of the teen suicide statistics collected by the Task Force are attached as Exhibit "A."

5. In addition to developing statistics the Task Force also looked at a variety of programs and services for the prevention of adolescent suicide. True, accurate, and authentic copies of some of the documents and reports generated by the Task Force are attached as Exhibit "B." Many of these community based programs recommended the use of school-based screening tools conducted in connection with a curriculum focus on suicide prevention. In connection with the implementation of such a community-based identification and education program, the Task Force identified the Columbia University "TeenScreen" Program as one option for the screening portion of the program. True, accurate, and authentic copies of presentations and related materials from Columbia University provided to the Task Force are attached as Exhibit "C."

6. In addition to looking at a community based screening program, the Task Force developed a school based curriculum. Based on input from the Task Force members, including the parents of Nick Sherbun, the Task Force recommended, and the School accepted, the Yellow Ribbon program and integrated its own Annual Yellow Ribbon Suicide Awareness & Prevention

Week in September or October of each year into Penn High School's health education curriculum which is taught in the 10th grade. True, accurate, and authentic copies of documents relating to the Yellow Ribbon program and the suicide detection and prevention curriculum and related materials are attached as Exhibit "D."

7. As the suicide detection and prevention curriculum was being developed and integrated into the 10th grade health education curriculum, the Task Force asked the School if it would allow Madison Center to come to Penn High School and administer the TeenScreen test voluntarily to some students. This pilot program was a community-based program selected and administered by the Madison Center and not the School. The School provided no funding for the testing, merely a conference room at Penn High School, permission for Madison Center personnel to come on site to administer the test, and coordination with parents and students who would be taking the test. No student was required to take the testing and testing was purely voluntary. This practice is consistent with the School's policies on student privacy and parental access to information. Policy 356 adopted on February 26, 2001, in accordance with I.C. § 20-10.1-4-15, entitled "Right to Inspect Certain Instructional Materials" is attached as Exhibit "E." Policy 2416, an updated version of Policy 356, entitled "Student Privacy and Parental Access to Information," also enacted in accordance with I.C. § 20-10.1-4-15, is attached as Exhibit "F."

8. The pilot testing was done in the fall of 2003 and was an "active consent" program. Under the active consent program Penn High School sent out a letter to the parents of 10th graders advising them of the opportunity to participate in the TeenScreen program. A true, accurate, authentic and complete draft copy of this letter is attached as Exhibit "G."

9. Unfortunately the active consent process only resulted in nine (9) children returning forms consenting to taking the TeenScreen test.

10. Disappointed with the results of the testing, for the 2004-2005 school year the Task Force proposed going from an “active consent” program to a “passive consent” program. During a meeting on October 1, 2004, Steve Bright of the Madison Center presented the “passive consent” concept to Penn High School personnel. A true, accurate, authentic and complete copy of my notes from this meeting are attached as Exhibit “H.”

11. Penn High School agreed to assist the Madison Center so long as the passive parental consent continued to be coupled with an active student consent which left any student free to opt out of the testing at any time. This was agreed to by all parties. A true, accurate, authentic and complete copy of the Student Active Consent Form used for the 2004-05 testing is attached as Exhibit “I.”

12. Consistent with the desire to work the TeenScreen program into the 10th grade health education curriculum, it was decided that the notice and the testing would take place after the Yellow Ribbon Suicide Awareness & Prevention Week and student convocation, scheduled for October 15, 2004. A true, accurate, authentic and complete copy of the Sophomore Memo advising teachers of the 10th grade “Yellow Ribbon Assembly” is attached as Exhibit “J.”

13. In the November, 2004 issue of the “Kingsman Notes: The Penn High School Newsletter” sent out in late October, the Yellow Ribbon curriculum and convocation was discussed as was the upcoming TeenScreen testing. The newsletter also contained a letter dated October 1, 2004, discussing the TeenScreen testing and noting that it was voluntary and confidential and that **“If you DO NOT want your child to participate in TeenScreen, please complete the form below and return it to the Penn High School Guidance Office by November 8, 2004.”** A true, accurate, authentic and complete copy of the November, 2004 issue of the “Kingsman Notes: The Penn High School Newsletter” is attached as Exhibit “K.”

14. As a consequence of the November, 2004 issue of the "Kingsman Notes: The Penn High School Newsletter" and attached letter, twenty-three (23) students opted out of the TeenScreen testing. True, accurate, authentic and complete redacted copies of the twenty-three (23) opt-outs are attached as Exhibit "L."

15. Assistant Principal Steve Hope and Guidance Counselors Marni Cronk and Vickie Marshall developed a protocol whereby students who had not opted out of the TeenScreen would be tested at various times on "November 9, 11, 19, 23, December 1, 3, 7, 9, 13, 15, 17" depending on their schedules. Other than making Conference Room C available for Madison Center employees on these dates, setting up the schedule for students to leave the classroom and go down to testing, and arranging for the hall passes, Penn High School employees had no other involvement in the testing. True, accurate, authentic and complete copies of the scheduling documents, hall passes, and conference room markers are attached as Exhibit "M."

16. According to the protocols provided by Madison Center, and consistent with the School's policy on voluntary testing, in addition to the parental opt-out, at the time of testing each child was to receive their own consent form that had to be signed before the TeenScreen test was to be administered. A true, accurate, authentic and complete copy of the "Assent Form" that was to be used by the Madison Center at the time of testing is attached as Exhibit "N."

17. Other than arranging for C. R. to be released from class on December 7, 2004 to take the TeenScreen test, School officials had no other involvement in the purchase of the test, the administration of the test, or subsequent interactions between Madison Center employees and C. R.

18. Out of the total 10th Grade population of 740 students, 623 students actually took the TeenScreen test, the other 117 either opted out, declined to execute the Assent form, or simply were absent during the various testing dates.

I affirm under the penalties for perjury that the foregoing representations are true and accurate to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read "Dave Risner", written over a horizontal line.

Dave Risner

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