

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

Jane Doe
Plaintiff,
vs.
Boise School District
Defendant.

Case No. CV01-26-04524
Memorandum Decision and Order
Denying Motion to Dismiss

The Boise School District's Motion to Dismiss, filed March 16, 2026, came before the court for hearing on June 16, 2026.

Appearances: Anthony Pirc & Isaac Hedland for Plaintiff Jane Doe
James Stoll and Mitchell Kolberg for Defendant Boise School District

BACKGROUND

For purposes of the Motion to Dismiss, there is no dispute related to the facts of this case. The Plaintiff alleges that the Boise School District "gave affirmative permission to a biological male to enter the girls' restroom as part of a 'gender support plan'"¹ and that Jane as a female, public student was therefore "forced to encounter that biological male in the restroom at Boise High—twice."²

On March 3, 2026, Plaintiff Jane Doe (suing pseudonymously) filed a Complaint against the Boise School District alleging two violations of Idaho Code § 33-6606 occurring in January of 2025 and on February 5, 2025.

Boise School District filed a Motion to Dismiss³ with supporting memorandum⁴ arguing that "Senate Bill 1100, and by extension, Idaho Code Section 33-6[6]06 was under a federal injunction during the time period in question" and therefore, Plaintiff's Complaint fails to state a claim upon which relief can be granted.⁵ The Plaintiff

¹ Response, p. 2 (citing Complaint, ¶ 6).

² Response, p. 2 (citing Complaint, ¶¶ 10-21).

³ Defendant's Motion to Dismiss, filed Mar. 16, 2026

⁴ Memorandum in Support of Defendant's Motion to Dismiss ("Memo"), filed Mar. 16, 2026.



responded⁶ arguing the “stay did not absolve Boise School District of liability during the enjoined period.”⁷ The Defendant replied.⁸

The Court considers the matter fully submitted for determination.

LEGAL STANDARD AND DECISION

“[T]he responsibility for public education is primarily the concern of the States, but it is equally true that such responsibilities... must be exercised consistently with federal constitutional requirements as they apply to state action.” *Cooper v. Aaron*, 358 U.S. 1, 19, 78 S. Ct. 1401, 1410, 3 L. Ed. 2d 5 (1958).

Senate Bill 1100⁹ approved on March 22, 2023, enacted a new chapter of the Idaho Code, designated Chapter 66, Title 33, regarding “Protecting the Privacy and Safety of Students in Public Schools” to go into effect on July 1, 2023. The relevant provision of Senate Bill 1100 and Idaho Code § 33-6606 provides:

(1) Any student who, while accessing a public school restroom, changing facility, or sleeping quarters designated for use by the student's sex, encounters a person of the opposite sex has a private cause of action against the school if:

(a) The school gave that person permission to use facilities of the opposite sex; or

(b) The school failed to take reasonable steps to prohibit that person from using facilities of the opposite sex.

(2) Any civil action arising under this chapter must be commenced within four (4) years after the cause of action has occurred.

(3) Any student who prevails in an action brought under this chapter may recover from the defendant public school five thousand dollars (\$5,000) for each instance that the student encountered a person of the opposite sex while accessing a public school restroom, changing facility, or sleeping quarters designated for use by aggrieved student's sex. The student may also recover monetary damages from the defendant public school for all psychological, emotional, and physical harm suffered.

⁵ Memo, p. 3.

⁶ Plaintiff's Response to Defendant's Motion to Dismiss, filed June 9, 2026.

⁷ Response, p. 2.

⁸ Defendant's Reply in Support of Its Motion to Dismiss, filed June 12, 2026.

⁹ CHAPTER ID LEGIS 120 (2023), 2023 Idaho Laws Ch. 120 (S.B. 1100).



(4) Any student who prevails in action brought under this chapter is entitled to recover reasonable attorney's fees and costs from the defendant public school.

See IDAHO CODE § 33-6706. See *also* ID LEGIS 120 (2023), 2023 Idaho Laws Ch. 120 (S.B. 1100).

On July 6, 2023, Plaintiffs Rebecca Roe, Rachel and Ryan Roe, and Sexuality and Gender Alliance's ("SAGA")(collectively "*Roe Plaintiffs*")—a student organization focused on supporting LGBTQ students at Boise High School (collectively "*Roe Plaintiffs*") filed a lawsuit challenging the constitutionality of S.B. 1100 against (1) Debbie Critchfield—the Superintendent of Public Instruction in Idaho “responsible for carrying out policies, procedures, and duties authorized by law regarding educational matters; (2) the State Board of Education and the members of that Board, and (3) the Boise School District, its superintendent, and board members.¹⁰ The *Roe Plaintiffs* allege this law disproportionately harms students who identify as transgender.

On August 10, 2023, the United States District Court for the District of Idaho in *Roe by & through Roe v. Critchfield*, issued a Memorandum Decision and Order granting the *Roe Plaintiffs*’ Motion for Temporary Restraining Order (“TRO”), which provided in relevant part:

By granting the TRO today, the Court is not mandating or requiring that school districts in Idaho do anything—including adopt policies that would allow students to use restrooms that coincide with their gender identity. Nor is it requiring Defendants to do anything. It is simply prohibiting, for the time being, the enforcement of a new State-wide law and allowing the continuation of school-by-school imposition of policies.

In sum, the Court finds that the status quo was the legal landscape before S.B. 1100 was passed, and that landscape did not require sex-separate or sex-inclusive restrooms. Each school district was free to implement its own policies or regulations. That system continues today.

...

¹⁰ The *Roe Plaintiff*’s sued these Defendant because “All are responsible for implementing, and governing, laws related to public education in Idaho.” *Roe by & through Roe v. Critchfield*, No. 1:23-CV-00315-DCN, 2023 WL 6690596, at *3 (D. Idaho Oct. 12, 2023), *aff’d*, 131 F.4th 975 (9th Cir. 2025), and *aff’d sub nom.* *Roe v. Critchfield*, 137 F.4th 912 (9th Cir. 2025).



Today, the Court puts a pause on S.B. 1100. It does not find it unconstitutional. It does not find it constitutional. This is not a full adjudication of *any* argument on the merits. The Court is simply holding S.B. 1100 in abeyance and preserving the situation as it existed prior to the parties' disagreement, which is that S.B. 1100 *will not* be in effect when school starts on August 16, 2023. School districts may choose how to organize their bathrooms, changing facilities, and overnight accommodations—whether that is sex-separate or transgender-inclusive; whether it is consistent with what it did last year or not. But the State of Idaho will not be mandating that decision at this time.

Roe by & through Roe v. Critchfield, No. 1:23-CV-00315-DCN, 2023 WL 5146182, at *3 (D. Idaho Aug. 10, 2023).¹¹

On October 12, 2023, the District Court then considered, in part, the *Roe* Plaintiffs' Motion for Preliminary Injunction requesting the Court stay the enforcement of Senate Bill 1100. No. 1:23-CV-00315-DCN, 2023 WL 6690596, at *1 (D. Idaho Oct. 12, 2023), *aff'd*, 131 F.4th 975 (9th Cir. 2025), and *aff'd sub nom. Roe v. Critchfield*, 137 F.4th 912 (9th Cir. 2025). The District Court stated that the decision on the TRO was to “h[o]ld S.B. 1100 in abeyance.” *Roe by & through Roe v. Critchfield*, No. 1:23-CV-00315-DCN, 2023 WL 6690596, at *3 (D. Idaho Oct. 12, 2023), *aff'd*, 131 F.4th 975 (9th Cir. 2025), and *aff'd sub nom. Roe v. Critchfield*, 137 F.4th 912 (9th Cir. 2025). The District Court denied the *Roe* Plaintiffs' Motion for Preliminary Injunction, finding that the *Roe* Plaintiffs did “not met their burden to obtain a preliminary injunction at this stage of the proceedings” and stating “the law Plaintiffs challenge may go into effect.” *Id.* at *2. In effect, the District Court rescinded its temporary restraining order.

The *Roe* Plaintiffs appealed the decision denying the preliminary injunction. The Ninth Circuit's Order in the case of *Roe by & through Roe Critchfield*, entered on October 26, 2023,¹² states in relevant part:

The motion for injunctive relief [on appeal] ...is granted. ...

Enforcement of Idaho's Senate Bill 1100 is stayed pending resolution of this appeal.

“Enforcement” is defined as, “An attempt to make someone else comply with a law, rule, obligation, etc.” and “The act or process of compelling compliance with a law, mandate,

¹¹ See *also* Reply, Exhibit A.

¹² Memo, Exhibit A.



command, decree, or agreement; specif[ically], the forcible or compulsory exaction of some duty....” BLACK’S LAW DICTIONARY, *Enforcement* (12th ed. 2024).

On May 23, 2025, the Ninth Circuit considered the matter under an abuse of discretion standard in *Roe v. Critchfield*, 137 F.4th 912 (9th Cir. 2025), and affirmed the district court’s decision and denied a preliminary injunction after finding the *Roe* Plaintiffs had failed to “establish that it is likely to succeed on the merits of [the] claims as currently stated.” *Roe v. Critchfield*, 137 F.4th 912, 922 (9th Cir. 2025).

The Defendant argues that Plaintiff was enjoined from a claim under the bill/statute because that bill/statute under a federal injunction by the Ninth Circuit at the time of the conduct alleged that support her claims so the Complaint fails to state a claim upon which relief can be granted.¹³ Boise School District argues it was not bound by S.B.1100 when the alleged conduct occurred.¹⁴

The Plaintiff argues that the temporary stay did not preclude her right to make claim for enforcement under the bill/statute since the Ninth Circuit injunction did not prohibit Boise School District from complying with the law or prohibit Jane Doe from later suing for an alleged violation of the law.¹⁵

The Defendant responds that “the emergency injunction had the effect of maintaining the status quo. In other words, the Court was `not mandating or requiring that school districts in Idaho do anything—including adopt policies that would allow students to use restrooms that coincide with their gender identity.”¹⁶

So, the only issue before this Court on the Motion to Dismiss is whether the preliminary injunction on appeal by the Ninth Circuit in *Roe by & through Roe Critchfield*, entered on October 26, 2023, precluded the Plaintiff’s claims as alleged in the Complaint in this case?

1. Whether the Plaintiff was bound by the Ninth Circuit’s Preliminary Injunction

¹³ See generally Memo.

¹⁴ Reply, p. 8.

¹⁵ Response, p. 5.

¹⁶ Reply, p. 2.



The Plaintiff argues the Ninth Circuit stay “prevent[s] the named defendants in *Critchfield* from adopting a unified, statewide policy of sex-separated bathrooms” and did not “enjoin nonparties, temporarily repeal legislation, or divest any person of causes of action granted under Section 6706.”¹⁷ The Plaintiff argues, “The injunction never bound Jane Doe. Nor did the injunction nullify the law, divest Jane Doe of her cause of action, or even prohibit Boise School District from separating its bathrooms by biological sex as required.”¹⁸ The Defendant responds, “the emergency injunction had the effect of maintaining the status quo. In other words, the Court was `not mandating or requiring that school districts in Idaho do anything—including adopt policies that would allow students to use restrooms that coincide with their gender identity.’”¹⁹

Federal Rule of Civil Procedure 65(d)(2) provides that an Order for Preliminary Injunction “binds only the following who receive actual notice of it by personal service or otherwise: (A) the parties; (B) the parties' officers, agents, servants, employees, and attorneys; and (C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B).” “A federal court may issue an injunction if it has personal jurisdiction over the parties and subject matter jurisdiction over the claim; it may not attempt to determine the rights of persons not before the court.” *Zepeda v. U.S. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). “A prohibitory injunction prohibits a party from taking action and preserves the status quo pending a determination of the action on the merits.” *Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1191 (9th Cir. 2024) (internal quotation omitted).

A preliminary injunction should be used only to maintain the status quo. Therefore, an injunction must be narrowly tailored to affect only those persons over which it has power, and to remedy only the specific harms shown by the plaintiffs, rather than to enjoin all possible breaches of the law.

Price v. City of Stockton, 390 F.3d 1105, 1117 (9th Cir. 2004) (internal quotations omitted). “[A]n injunction benefiting nonparties is permissible if such breadth is necessary to give prevailing parties the relief to which they are entitled.” *Zepeda v. U.S.*

¹⁷ Response, pp. 6-7.

¹⁸ Response. P. 6.

¹⁹ Reply, p. 2.



I.N.S., 753 F.2d 719, 728, FN 1 (9th Cir. 1983). This requires the party to show that the relief requested would “inevitably affect[] the entire class.” *Id.* Therefore an injunction can bind non-parties when “all other similarly situated persons benefited because the relief required for the individual plaintiffs was necessarily identical to the relief that would have been granted had a class action been filed.” *Id.*

In this case, the Court finds the stay of enforcement of the statute is not the same as granting the relief requested by finding Senate Bill 1100 is unconstitutional.

The Court finds that the *Roe* Plaintiffs were seeking relief from the requirement for all Idaho Schools to adopt a universal policy to deny permission for a person to use facilities of the opposite sex; and require they take reasonable steps to prohibit a person from using facilities of the opposite sex. The injunctive relief requested did not seek a uniform policy that all schools be required to remove these policies but, instead, sought only to remove the requirement that all schools adhere to a specific policy. Based on the claim actually raised in the civil rights action challenging Idaho Senate Bill 1100 in *Roe*, the Court finds that the relief of a preliminary injunction (if it had been entered) would not inevitably have affected all students who identify as transgender because it would not have required all schools within the state to enact policies related to restrooms, changing facilities, or sleeping quarters to allow only for use of these public school areas by a student’s personally identified gender rather than by biological sex. So, while an ultimate determination that the statute was unconstitutional would have allowed school districts to make individualized policies, the Court finds this individualized approach still would not have applied uniformly to protect all students.

2. Whether the Preliminary Injunction imposed the “status quo”

Boise School District relies on Judge Nye’s Federal District Court decision granting the TRO to state that BSD “was free to maintain the status quo.”²⁰ The Court agrees that the language of Judge Nye’s Order, which in effect reversed by the decision to deny the preliminary injunction at the federal district court, specifically addressed the status quo and allowed schools to maintain their separate policies by suspending the mandate that required all schools to conform with Senate Bill 1100. However, that language was not incorporated or actually used by the Ninth Circuit. The Ninth Circuit

²⁰ Reply, pp. 4-8.



preliminary injunction language was limited and only restricted the enforcement of the bill/statute and did not actually suspend Senate Bill 1100, and stated it held the parties to the status quo, or stated Idaho schools could make the decision on their policies related to the issue of the student's use of restrooms based on biological sex.

Because the Ninth Circuit preliminary injunction precluded "enforcement" of an action pending a determination of the constitutionality of the bill, the Court addresses "enforcement" as applied in this case. While the Court agrees with BSD that "enforcement" is a student making a claim against a school district under the Act,²¹ the Court finds that only the enforcement was stayed, but the language of the Order was not so broad as to prevent a cause of action under the bill/statute from accruing. So, while Plaintiff was precluded from filing a claim while the stay was in effect, Doe is not precluded from filing the claim after the preliminary injunction was denied.

CONCLUSION

Based on the foregoing, the Ninth Circuit Preliminary Injunction did not enjoin nonparties, temporarily repeal the enacted legislation, or divest any person of causes of action when the subject incident(s) occurred. Therefore, the Boise School District's Motion to Dismiss, filed March 16, 2026, is **DENIED**.

The Boise School District must file an Answer to the Complaint within 14 days of this decision.

SO ORDERED.

Dated: 7/24/2026 4:09:10 PM



Lynn Norton
District Judge

²¹ Reply, p. 4 ("The entire enforcement mechanism of S.B. 1100 allows a private individual to bring a cause of action in the event a school district violates the law.... who enforces S.B. 1100? S.B. 1100 answers that question: "**Any student**... In other words, Jane Doe enforces the law.").



CERTIFICATE OF SERVICE

I certify that on this day I served a copy of the attached to:

Anthony Caleb Pirc	caleb@idahofamily.org	[X] E-mail
Isaac Nathaniel Helland	isaac@idahofamily.org	[X] E-mail
James Richard Stoll	service@ajhlaw.com	[X] E-mail
Mitchell John Kolberg	service@ajhlaw.com	[X] E-mail

Trent Tripple
Clerk of the Court

Dated: 07/24/2026

By: Janine Korsen
Deputy Clerk

