

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JULIET EVANCHO; *et al.*,

Plaintiffs,

v.

PINE-RICHLAND SCHOOL DISTRICT; *et al.*,

Defendants.

PITTSBURGH DIVISION

Civil Action No. 2:16-cv-01537-MRH

**MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF OF
THE WORLD PROFESSIONAL ASSOCIATION FOR TRANSGENDER
HEALTH, PEDIATRIC ENDOCRINE SOCIETY, ET AL.
IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY
INJUNCTION**

The associations of medical professionals and clinics specializing in healthcare for transgender youth, as listed in the Statement of Interest below, respectfully move the Court for leave to file the accompanying proposed *Amici Curiae* Brief of the World Professional Association for Transgender Health; Pediatric Endocrine Society; Child and Adolescent Center at the UCSF Benioff Children's Hospital; Center for Transyouth Health and Development at Children's Hospital Los Angeles; Gender and Sex Development Program at the Ann & Robert H. Lurie Children's Hospital of Chicago; Gender and Sexuality Development Clinic at Children's Hospital of Philadelphia; Mazzoni Center; and Gender & Sexuality Service at Child Study Center at Hassenfeld Children's Hospital of New York in support of Plaintiffs' Motion for Preliminary Injunction.

Undersigned counsel for *amici* Asaf Orr contacted counsel for all parties in this case to request their consent to the relief sought in this motion. Plaintiffs consent to this motion and Defendants take no position.

STATEMENT OF INTEREST

The Proposed Amici Curiae have a substantial interest in this case as organizations and professionals dedicated to the health and wellbeing of transgender individuals and, in particular, transgender children and adolescents. The promise of equal educational opportunity—as provided for under the Equal Protection Clause of the Fourteenth Amendment and Title IX—can be fulfilled for

transgender students only if they are not treated differently than other youth because they are transgender and are given the same opportunity as other students to live in full conformity with their gender identities. Proposed *amici curiae* submit this brief to offer valuable perspectives on a number of the issues in this case, based on their collective experience working with transgender youth, the standards of care for the treatment of gender dysphoria, and child development.

Proposed Amicus Curiae the World Professional Association for Transgender Health (WPATH), formerly known as the Harry Benjamin International Gender Dysphoria Association, is an international professional association with membership consisting of more than 900 physicians, psychologists, social scientists, and legal professionals committed to developing the best practices and supportive policies to promote health, research, education, respect, dignity, and equality for transgender people in all settings. WPATH develops and publishes the Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People (Standards of Care), recognized in the medical community as the authoritative standards for the provision of transgender healthcare. The Standards of Care are informed by medical evidence and the current consensus in medical research and clinical practice to provide treatment protocols specific to the nature and severity of an individual's condition. For over thirty years, the Standards of Care have emphasized the importance of

social integration in an individual's gender role.

Proposed Amicus Curiae the Pediatric Endocrine Society (PES) has over 1,400 members representing the multiple disciplines of Pediatric Endocrinology. Consistent with the organization's mission, its members are dedicated to research and advancing the treatment of children with endocrine disorders. PES develops and publishes consensus documents that establish the standard of care for a wide range of endocrine disorders, as well as for conditions where endocrine treatments are a central component of care. In 2009, PES joined the Endocrine Society and other professional organizations to co-sponsor the creation of "Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline," which, along with the WPATH Standards of Care, are the two standard-setting publications for the treatment of gender dysphoria.

Proposed Amicus Curiae the Child and Adolescent Gender Center (CAGC) at the UCSF Benioff Children's Hospital is a collaboration between UCSF and community organizations and offers comprehensive medical and psychological care, as well as advocacy and legal support, to gender non-conforming/transgender youth and adolescents. CAGC opened in May 2012 and currently serves over 250 patients, ranging in age from three to twenty-two. The healthcare team at CAGC provides consultation to other providers around the United States regarding affirming medical treatment and hormone therapy for transgender patients. Most

recently, in 2015, Dr. Rosenthal, CAGC's Medical Director, together with three principal investigators were awarded a \$6 million grant from the NIH for a longitudinal consortium study of transgender adolescents and young adults. Dr. Rosenthal is the Principal Investigator for the CAGC site.

Proposed Amicus Curiae the Center for Transyouth Health and Development at Children's Hospital Los Angeles promotes healthy futures for transgender youth by providing services, research, training, and capacity building that is developmentally informed, affirmative, compassionate, and holistic for gender nonconforming children and transgender youth. The Center is the largest clinic of its kind in the United States and is currently serving approximately 500 patients. The healthcare team at the Center provides consultation to other providers around the United States regarding affirming medical treatment and hormone therapy for transgender patients. Most recently, in 2015, Dr. Johanna Olson, the Center's Medical Director, together with three principal investigators were awarded a \$6 million grant from the NIH for a longitudinal consortium study of transgender adolescents and young adults.

Proposed Amicus Curiae the Gender & Sex Development Program at the Ann & Robert H. Lurie Children's Hospital of Chicago offers medical and psychosocial support for gender variant, gender nonconforming, and transgender children and youth up to 21 years of age and their families. The clinic at Lurie

Children's began in 2012 and currently has over 500 patients. The healthcare team at Lurie Children's also provides consultation and training for providers and organizations interested in learning how to serve the needs of gender variant youth. Most recently, in 2015, Dr. Garofalo, Medical Director for the clinic, together with three principal investigators were awarded a \$6 million grant from the NIH for a longitudinal consortium study of transgender adolescents and young adults. Dr. Garofalo is the Principal Investigator for the Lurie Children's site.

Proposed Amicus Curiae the Gender and Sexuality Development Clinic at Children's Hospital of Philadelphia was started in 2014 and offers medical and psychosocial support for gender variant, gender non-conforming and transgender children and youth up to 21 years of age and their families. The clinic is a multi-disciplinary collaboration between the divisions of Adolescent Medicine and Endocrinology, and the departments of Behavioral Health and Social Work and Family Services at CHOP and has provided care to over 450 patients. The clinic also provides consultation and training for providers and organizations interested in learning how to serve the needs of gender variant youth.

Proposed Amicus Curiae the Mazzoni Center was founded in 1979 and is the only health care provider in the Philadelphia region specifically targeting the unique health care needs of LGBT community by providing comprehensive health and wellness services in an LGBT-focused environment while preserving the

dignity, and improving the quality of life of the individuals it serves. Mazzoni's Pediatric & Adolescent Comprehensive Transgender Services program, also known as P.A.C.T.S., is a comprehensive approach to addressing the specific needs of trans youth and their families. Our collaborative approach to care draws on the input and expertise of multiple departments within Mazzoni Center - medical providers, social workers, therapists, and legal staff - to provide the best possible care for clients. P.A.C.T.S. currently serves 342 youth, ranging in age from 4 to 18, along their families.

Proposed Amicus Curiae the Gender & Sexuality Service at Child Study Center, part of Hassenfeld Children's Hospital of New York at NYU Langone, provides healthcare services for youth experiencing gender dysphoria, including transgender youth and adolescents. The Gender & Sexuality Service was started in 2011 and is currently serving approximately 100 patients. The healthcare team at the Gender & Sexuality Service also provides consultation to other providers regarding affirming medical treatment and hormone therapy for transgender patients and have served as expert witnesses in cases involving transgender youth.

REASONS FOR GRANTING PROPOSED AMICI CURIAE PARTICIPATION

The decision whether to permit *amicus curiae* to participate in a pending case lies "solely within the discretion of the court." *Newark Branch, NAACP v. Town of Harrison*, 940 F.2d 792, 808 (3d Cir. 1991). Because amicus curiae participate in a

case for the benefit of the court, the Court can “determine the fact, extent, and manner of participation by the amicus.” *Id.*; *see also Stuart v. Huff*, 706 F.3d 345, 355 (4th Cir. 2013) (“amici often make useful contributions to litigation”). Although there is no rule of procedure to govern the appearance of *amici* in a district court, it is well settled that courts have broad discretion to appoint *amici* with various interests, on the basis that “[a] restrictive policy with respect to granting leave to file” risks creating “the perception of viewpoint discrimination” within the court. *Neonatology Assocs., P.A. v. Commissioner of Internal Revenue*, 293 F.3d 128, 133 (3d Cir. 2002).

As described in the statements of interest above, proposed amici curiae represent experts in the health and well-being of transgender youth, including the standards of care for the treatment of gender dysphoria as well as child development, and gender identity development. Proposed amici curiae offer valuable perspectives on a number of the issues in this case. The principles set forth in this brief are well-established fundamental concepts of adolescent psychosocial development applied to the unique circumstances of individuals whose gender identity is different than their sex assigned at birth. For these individuals, normal psychological development and educational growth, including the critical ability to form peer relationships, requires that they be accepted as who they are in their daily lives, including the ability to use the same restrooms as other

students.

Recognizing the value professional associations and clinics specializing in healthcare for transgender youth, many of these same amici have been granted leave to file similar briefs in similar cases including *Carcaño v. McCrory*, No. 16-1989 (4th Cir. Oct. 28, 2016); *G.G. ex rel. Grimm v. Gloucester County School Board*, 822 F.3d 709 (4th Cir. Apr. 19, 2016); *Doe v. Reg'l Sch. Unit 26*, 86 A.3d 600 (Me. 2014).

CONCLUSION

For all of the reasons above, proposed *amici curiae* respectfully seek permission to file the brief provisionally filed herewith.

Dated: November 23, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2016, I electronically filed the foregoing Motion for Leave to File Brief of Amici Curiae of the World Professional Association for Transgender Health, Pediatric Endocrine Society, et al. in Support of Plaintiffs' Motion for Preliminary Injunction with the Clerk of the Court using the CM/ECF system, which will automatically serve electronic copies upon all counsel of record.

/s/ Erin Stottlemeyer Gold
Erin Stottlemeyer Gold

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IN SUPPORT OF PLAINTIFFS

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Local Rule 7.1.1 of the Western District of Pennsylvania and to enable Judges and Magistrate Judges to evaluate possible disqualification or recusal, the undersigned counsel for the World Professional Association for Transgender Health; Pediatric Endocrine Society; Child and Adolescent Center at the UCSF Benioff Children's Hospital; Center for Transyouth Health and Development at Children's Hospital Los Angeles; Gender and Sex Development Program at the Ann & Robert H. Lurie Children's Hospital of Chicago; Gender and Sexuality Development Clinic at Children's Hospital of Philadelphia; Mazzoni Center; and Gender & Sexuality Service at Child Study Center at Hassenfeld Children's Hospital of New York, in the above captioned action, certifies that there are no parents, subsidiaries and/or affiliates of said parties that have issued shares or debt securities to the public.

November 23, 2016

Date

/s/ Erin Stottlemeyer Gold

Erin Stottlemeyer Gold

STATEMENT OF IDENTITY, INTEREST, AND AUTHORITY TO FILE

Amici curiae are associations of medical professionals and clinics specializing in healthcare for transgender youth who are experts in the field. *Amici* offer valuable perspectives on a number of the issues in this case, based on their collective experience working with transgender youth, the standards of care for the treatment of gender dysphoria, and child development. The motion for leave to file this amicus brief, which has been filed concurrently with this brief, includes additional information regarding *amicus*'s background and relevant experience.

ARGUMENT

This case involves three transgender students who have been excluded from using the restrooms used by all of their peers. From a psychological and medical perspective, it is vitally important that the Plaintiffs' school nurture and support their psychological, social, and educational development during the critical years of adolescence, as it does for all of its students. For the Plaintiffs, that means, among other things, providing them access to the restrooms at school in the same manner the school does for all the other students, namely that transgender girls use the girls' restrooms like all other girls and transgender boys use the boys' restroom like all other boys.

During adolescence, all children undergo tremendous changes as each grapples with the physical, emotional, and social maturation that will propel them

into adulthood. Forging a healthy, individual sense of self is a large part of what adolescence is all about. And, in turn, how an adolescent relates with peers and interacts with authority figures, such as parents and teachers, becomes of paramount importance. These interactions help adolescents develop a sense of self-worth and an understanding of their place in the world.

Schools play a critical part in this process because transgender adolescents, like any adolescents, spend a significant portion of their time at school. Just as schools offer support to cultivate achievement, to assist students who may be struggling, and to provide a secure environment that fosters the development of positive relationships, schools cannot ignore the specific needs of transgender students or enact policies that isolate and marginalize them. For transgender students, being in a school that accepts and supports their gender identity is critical to ensuring that they too can experience adolescence in a healthy and constructive manner.

The psychological and medical community recognizes a professional consensus regarding the best way to support the development of healthy transgender adolescents, and schools play a crucial role in assuring that transgender adolescents receive this necessary support. A school that fails to support its transgender students, just as it does other students, risks severely hampering their development and long-term wellbeing. Refusing to respect and

support a transgender student's gender identity, just as the school does for non-transgender students, communicates a clear, negative message: there is something wrong with the student that warrants this unequal treatment. This message reaches the entire school community and often results in some students mirroring this mistreatment by harassing and abusing their transgender peers.

In this case, the Pine-Richland School District initially recognized its crucial role and affirmed the gender identity of all its students, including transgender students. For past several years, the school district treated transgender girls like all other girls and transgender boys the same as other boys at the school. During this time, transgender students used the restroom that matched their gender identity, just as other students do. However, in the first few weeks of the current school year, the school board enacted a policy that treats transgender students differently and undermines the school's critical support of its students: the new policy demands that the school enforce stigmatizing and harmful mistreatment of transgender students by excluding the Plaintiffs, and other transgender students from the same restrooms used by their peers and interfering with their access to educational opportunities. The policy signals to other students and the entire school community that, according to the school board, the Plaintiffs are not the same as the other students at school and are not entitled to the same equal access to educational opportunities.

This case challenges a harmful and discriminatory barrier that has made it impossible for the Plaintiffs to learn and thrive. Amici Curiae urge the Court to confirm that transgender students are entitled to the same equal access to educational opportunities and equal treatment by school officials as all students. Amici Curiae respectfully request that this Court reverse the district court's ruling, which allowed the school's discriminatory treatment of the Plaintiffs to continue.

I. Schools Play A Critical Role In The Development Of Healthy Children, And It Is Vitally Important For Schools To Support And Nurture Transgender Students' Development, As They Do For All Students.

A. All Adolescents Focus On Developing Their Individual Sense of Self.

One of the most fundamental tasks of adolescence is the development of an individual sense of self.¹ In developing that identity, adolescents shift their attention and focus from their parents to their peer group, evaluating themselves against their peers as they strive to fit in.² Adolescents spend tremendous effort developing and maintaining relationships and cultivating a growing sense of how to navigate social groups.³

¹ Deana F. Morrow, *Social Work Practice with Gay, Lesbian, Bisexual, and Transgender Adolescents*, Fam. in Soc'y, Jan.-Mar. 2004, at 91.

² *Id.*

³ Am. Psychological Ass'n, *Developing Adolescents: A Reference for Professionals* 21 (2002) [hereinafter *Developing Adolescents*], available at <https://www.apa.org/pi/families/resources/develop.pdf>; Kathryn R. Wentzel & Kathryn Caldwell, *Friendships, Peer Acceptance, and Group Membership:*

Positive peer relationships in adolescence have long been linked to positive psychosocial development, including better self-image and better school performance, while a lack of positive peer relationships correlates to less healthy psychosocial development.⁴ Peer relationships, including friendships with individuals of the same sex, play a key role in identity formation.⁵ And schools, as the place where adolescents spend most of their time, play a critical role in fostering these relationships.⁶ Indeed, schools are “the primary social setting in which friends are made, social skills are learned, and self-efficacy is developed.” Deana F. Morrow, *Social Work Practice with Gay, Lesbian, Bisexual, and Transgender Adolescents*, Fam. in Soc’y, Jan.-Mar. 2004, at 93. Simply put, schools are “a central component in virtually every adolescent’s life.” *Id.*

i. *Like All Adolescents, Transgender Adolescents Strive To Develop A Healthy Identity.*

Transgender adolescents, like all adolescents, need to develop a healthy sense of self, peer relationships, and cognitive skills. Every day at school, adolescents undertake the developmental task of forming their identity by

Relations to Academic Achievement in Middle School, 68 Child Dev. 1198, 1199 (1997).

⁴ Wentzel & Caldwell, *supra* note 3, at 1198; see also *Developing Adolescents*, *supra* note 3, at 21.

⁵ *Developing Adolescents*, *supra* note 3, at 21; Eleanor E. Maccoby, *Gender and Group Process: A Developmental Perspective*, 11 Psychol. Sci. 54, 55 (2002).

⁶ *Developing Adolescents*, *supra* note 3, at 24.

interacting with their peers, evaluating the physical or social appearance they present to others, and experiencing responses to a wide array of emotions. In order for transgender students to focus on those important developmental tasks, they must be able to attend school in a safe and supportive learning environment that supports their gender identity and treats them the same as other students.

Gender identity is not unique to transgender individuals. Everyone has a gender identity; it is a fundamental part of being human. Pub. Health Agency of Can., *Gender Identity in Schools: Questions and Answers* 1 (2010), available at <http://www.education.gov.sk.ca/Q-and-A-gender-identity> (“Gender is so fundamental to our identity, that without being aware of it, many aspects of human life are structured by and reveal our gender.”).⁷ The term “gender identity” refers to “the maleness and femaleness a person feels on the inside; how that identity is projected to the world; and how others mirror that identity back to the individual.” Russell B. Toomey et al., *Gender-Nonconforming Lesbian, Gay, Bisexual, and Transgender Youth: School Victimization and Young Adult Psychosocial Adjustment*, 46 Developmental Psychol. 1580, 1581 (2010).⁸ Although not all of

⁷ See also Caitlin Ryan, *Supportive Families, Healthy Children: Helping Families with Lesbian, Gay, Bisexual, & Transgender Children* 17 (2009), available at http://familyproject.sfsu.edu/sites/sites7.sfsu.edu.familyproject/files/FAP_English%20Booklet_pst.pdf.

⁸ See also Am. Psychiatric Ass’n, *Diagnostic and Statistical Manual of Mental Disorders* 451 (5th ed. 2013) [hereinafter *DSM-5*]; Am. Psychological Ass’n.,

the factors that contribute to the formation of one's gender identity are fully understood, it is generally accepted that gender identity has an innate component.⁹ It is not simply a reflection of social gender norms and cultural ideas about what it means to be male or female, though these norms and ideas play a role.

Although every individual is assigned a sex at birth, this default assignment does not give any consideration to the individual's gender identity, which is not readily ascertainable at birth.¹⁰ In most cases, sex assigned at birth and presumed gender identity are the same. But it is a mistake to assume—as many people have—that sex assigned at birth and gender identity are always the same. They are not. By the beginning of the twentieth century, researchers had already established that external genitalia alone—the critical criterion for assigning sex at birth—does not establish one's sex.¹¹ Instead, as research has come to show, when the various

Answers to Your Questions About Transgender People, Gender Identity, and Gender Expression 1 (2014) [hereinafter *APA Answers to Your Questions*], available at <http://www.apa.org/topics/lgbt/transgender.pdf>.

⁹ *APA Answers to Your Questions*, *supra* note 8, at 2; Peggy Cohen-Kettenis et al., *The Treatment of Adolescent Transsexuals: Changing Insights*, 5 J. of Sexual Med. 1892, 1895 (2008); Diane Ehrensaft, *From Gender Identity Disorder to Gender Identity Creativity: True Gender Self Child Therapy*, 59 J. of Homosexuality 337, 340-41 (2012).

¹⁰ P.T. Cohen-Kettenis & L.J.G. Gooren, *Transsexualism: A Review of Etiology, Diagnosis and Treatment*, 46 J. of Psychosomatic Res. 315, 318 (1999); Norman P. Spack, *An Endocrine Perspective on the Care of Transgender Adolescents*, 13 J. of Gay & Lesbian Mental Health 309, 312-13 (2009).

¹¹ Cohen-Kettenis & Gooren, *supra* note 10, at 318.

factors that comprise a person's sex do not align, the person's gender identity is the most important and determinative factor. Other factors such as internal reproductive organs, external genitalia, chromosomes, hormones, and secondary-sex characteristics also play a role but are not nearly as important as gender identity in determining one's sex. *See Norman P. Spack, An Endocrine Perspective on the Care of Transgender Adolescents*, 13 J. of Gay & Lesbian Mental Health 309, 312-13 (2009).¹²

For transgender individuals whose gender identity and sex assigned at birth do not align, recognition of the person's gender identity is critical to their health and well-being. In contrast, disregarding the person's gender identity and forcing them to be treated in accordance with their assigned birth sex causes tremendous pain and harm. Because most people's sex assigned at birth does align with their gender identity, they generally have no experience of the pain caused by treatment inconsistent with their gender identity. Ignoring transgender individuals' gender identities, the primary determinant of their sex, treats them profoundly differently than people whose sex assigned at birth aligns with their gender identity (all non-transgender individuals).

¹² See also Cohen-Kettenis & Gooren, *supra* note 10, at 318; Spack, *supra* note 10, at 312-13.

ii. *Social And Medical Support Are Essential For Many Transgender Students To Develop A Healthy Sense Of Self.*

The incongruence between an individual's gender identity and sex assigned at birth can manifest in clinically significant and disabling distress called "gender dysphoria." Am. Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders* 451 (5th ed. 2013).¹³ The distress can be exacerbated by external influences, such as discrimination, stereotyping, and societal expectations, but it is the incongruence between one's physical body and internal gender identity that drives gender dysphoria.¹⁴

In particular, transgender children often become distressed by the approach or onset of puberty. Puberty initiates the development of secondary physical characteristics that typically differentiate men and women. Norman P. Spack, *An Endocrine Perspective on the Care of Transgender Adolescents*, 13 J. of Gay & Lesbian Mental Health, 309, 317 (2009) ("All the physical changes, including subtle changes like facial bone structure, that separate men and women in terms of

¹³ Contrary to popular misconception, the fact of being transgender is not itself a mental disorder. It is only when the lack of alignment between one's gender identity and sex assigned at birth causes manifest distress that gender dysphoria—which appears in the DSM—occurs. *DSM-5, supra* note 8, at 451-53.

¹⁴ *DSM-5, supra* note 8, at 453; Arnold H. Grossman & Anthony R. D'Augelli, *Transgender Youth and Life-Threatening Behaviors*, 37 Suicide & Life-Threatening Behav. 527, 528 (2007); Norman P. Spack et al., *Children and Adolescents with Gender Identity Disorder Referred to a Pediatric Medical Center*, 129 Pediatrics 418, 422-23 (2012).

appearance are pubertally-initiated.”). The impending development of irreversible secondary-sex characteristics associated with the wrong sex can cause transgender adolescents tremendous psychological pain, often leading to depression, anorexia, social phobias, and suicidality.¹⁵

Fortunately, the distress that transgender individuals may experience can be eased. There is a strong medical consensus regarding the appropriate treatment and support for transgender individuals, including transgender adolescents, which alleviates the distress caused by gender dysphoria by facilitating the individual’s ability to live congruently with their gender identity. A person’s gender identity is an innate, deeply-rooted aspect of who they are and cannot be changed. Appropriate treatment does not attempt to eliminate or realign an individual’s gender identity, and past efforts to do so have caused individuals extraordinary harm and anguish. Substance Abuse & Mental Health Servs. Admin., *Ending Conversion Therapy: Supporting and Affirming LGBTQ Youth* 1 (2015), available at <http://store.samhsa.gov/shin/content//SMA15-4928/SMA15-4928.pdf> (“[C]onversion therapy—efforts to change an individual’s sexual orientation, gender identity or gender expression—is a practice that is not supported by

¹⁵ Bethany Gibson & Anita J. Catlin, *Care of the Child with the Desire to Change Gender – Part 1*, 36 Pediatric Nursing 53, 54 (2010); see also DSM-5, *supra* note 8, at 454; Cohen-Kettenis et al., *supra* note 9, at 1894.

credible evidence and has been disavowed by behavioral health experts and associations.”). Instead, proper support focuses on bringing the body into alignment with an individual’s gender identity.

According to the established medical consensus, the only effective treatment for the disabling experience of gender dysphoria is the provision of medical and social support for gender transition, which affirms the individual’s gender identity. Through the process of gender transition, individuals are able to live consistently with their gender identity in all aspects of their lives. The protocol for gender transition is well-established and highly effective.¹⁶ That protocol is codified in the Standards of Care, developed by the World Professional Association for Transgender Health (WPATH). The Standards of Care are broadly recognized as the acceptable and appropriate treatment for gender dysphoria.¹⁷

¹⁶ Substance Abuse & Mental Health Servs. Admin., *Ending Conversion Therapy: Supporting and Affirming LGBTQ Youth* 48-49 (2015) [hereinafter *Ending Conversion Therapy*], available at <http://store.samhsa.gov/shin/content//SMA15-4928/SMA15-4928.pdf>; Cohen-Kettenis et al., *supra* note 9, at 1893; Laura Edwards-Leeper & Norman Spack, *Psychological Evaluation and Medical Treatment of Transgender Youth in an Interdisciplinary “Gender Management Service” (GEMS) in a Major Pediatric Center*, 59 J. of Homosexuality 321, 321-22, 327 (2012).

¹⁷ Am. Med. Ass’n House of Delegates, Resolution 122 (A-08) *Removing Financial Barriers to Care for Transgender Patients* 1 (2008) (“The World Professional Association for Transgender Health, Inc. (“WPATH”) is the leading international, interdisciplinary professional organization devoted to the understanding and treatment of gender identity disorders, and has established internationally accepted Standards of Care for providing medical treatment for

Under the Standards of Care, support for transgender individuals consists of an individualized protocol that can include psychotherapy support and counseling, support for social role transition, hormone therapy (including hormone blockers), and a range of confirming surgeries. World Prof'l Ass'n for Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People* (2012), available at

http://www.wpath.org/uploaded_files/140/files/Standards%20of%20Care,%20V7

people with GID [that] are recognized within the medical community to be the standard of care for treating people with GID.”); Am. Psychological Ass’n Task Force on Gen. Identity & Gen. Variance, *Report of the Task Force on Gender Identity and Gender Variance* 32 (2008), available at <https://www.apa.org/pi/lgbt/resources/policy/gender-identity-report.pdf> (“The *Standards of Care* reflects the consensus in expert opinion among professionals in this field on the basis of their collective clinical experience as well as a large body of outcome research . . .”); Wylie C. Hembree et al., *Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline*, 94 J. of Clinical Endocrinology Metabolism 3132 (2009), available at <http://press.endocrine.org/doi/full/10.1210/jc.2009-0345> (identifying the Standards of Care as “carefully prepared documents [that] have provided mental health and medical professionals with general guidelines for the evaluation and treatment of transsexual persons”); *see also, e.g.*, *De'Lonta v. Johnson*, 708 F.3d 520, 522-23 (4th Cir. 2013) (“The Standards of Care, published by the World Professional Association for Transgender Health, are the generally accepted protocols for the treatment of GID [gender dysphoria]”); *Soneeya v. Spencer*, 851 F. Supp. 2d 228, 231 (D. Mass. 2012) (“The course of treatment for Gender Identity Disorder generally followed in the community is governed by the ‘Standards of Care’ promulgated by the World Professional Association for Transgender Health (‘WPATH’).”); *Fields v. Smith*, 712 F. Supp. 2d 830, 838 n.2 (E.D. Wis. 2010) (accepting WPATH’s Standards of Care as “the worldwide acceptable protocol for treating GID [gender dysphoria]”), *aff’d* 653 F.3d 550 (7th Cir. 2011).

%20Full%20Book.pdf.¹⁸ Through social role transition, transgender adolescents come to live all aspects of their lives consistently with their gender identity.¹⁹ Under the Standards of Care, transgender adolescents may also be eligible for medications that delay the onset of puberty and, thus, the development of the wrong secondary-sex characteristics.²⁰ This hormone treatment may be combined with feminizing/masculinizing hormone therapy, which leads to the development of secondary-sex characteristics consistent with the adolescent's gender identity.²¹ When transgender individuals, including transgender adolescents, are supported and affirmed in their gender identity in the manner contemplated by the Standards of Care, they thrive psychologically and socially.²²

The support that the Plaintiffs have received to date, as prescribed by their treating healthcare providers, is entirely consistent with the Standards of Care and

¹⁸ See also APA *Answers to Your Questions*, *supra* note 8, at 3; Gibson & Catlin, *supra* note 15, at 55.

¹⁹ Ehrensaft, *supra* note 9, at 338, 353; Gerald P. Mallon & Teresa DeCrescenzo, *Transgender Children and Youth: A Child Welfare Perspective*, Child Welfare, Mar.-Apr. 2006, at 215, 225.

²⁰ World Prof'l Ass'n for Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People* 18-19 (2012) [hereinafter SOC], available at http://www.wpath.org/uploaded_files/140/files/Standards%20of%20Care,%20V7%20Full%20Book.pdf; Cohen-Kettenis et al., *supra* note 10, at 1894.

²¹ SOC, *supra* note 20, at 20.

²² Ryan, *supra* note 7, at 17.

allows the Plaintiffs to lead a healthy life. Medically, psychologically, and socially, the Plaintiffs are the sex that matches their gender identity; thus, Juliet Evancho and Elissa Ridenour are girls and A.S. is a boy. When the school treats them differently than the other students, it denies this reality by stigmatizing them and inflicting real harm. The Plaintiffs do not require special treatment at school; they simply need to be recognized as who they are and treated by the school like other students.

B. All Adolescents, Regardless Of Gender Identity, Are Vulnerable To The Effects Of Stigma And Isolation At School.

“For all their bravado, young adolescents are rather delicate from a psychological viewpoint.” Am. Acad. of Child & Adolescent Psychiatry, *Your Adolescent* 7 (David B. Pruitt ed.,1999). They are particularly vulnerable to the effects of stressful events and discrimination of all kinds.²³ Because the opinions of their peers take on such paramount importance, any slight, exclusion, or differential treatment can have tremendous and long-lasting psychological

²³ Catherine Good, Joshua Aronson & Michael Inzlicht, *Improving Adolescents' Standardized Test Performance: An Intervention to Reduce the Effects of Stereotype Threat*, 24 Applied Developmental Psychol. 645, 647 (2003); Mark L. Hatzenbuehler, *How Does Minority Stigma “Get Under the Skin”? A Psychological Mediation Framework*, 135 Psychol. Bull. 707, 726 (2009), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2789474/>; David R. Williams, Harold W. Neighbors & James S. Jackson, *Racial/Ethnic Discrimination and Health: Findings from Community Studies*, 93 Am. J. of Pub. Health 200, 200, 202 (2003).

repercussions. *See id.*

Numerous studies have demonstrated that children who are isolated or lack positive peer relationships are emotionally vulnerable, lack self-esteem, and may have poorer academic performance.²⁴ Isolation can lower children's perception of their self-worth.²⁵ Stereotypes and stigma in particular often lead to poorer academic performance. Catherine Good, Joshua Aronson & Michael Inzlicht, *Improving Adolescents' Standardized Test Performance: An Intervention to Reduce the Effects of Stereotype Threat*, 24 Applied Developmental Psychol. 645, 647 (2003) ("[Stigma] can undermine the academic performance of females in math, students from low socioeconomic backgrounds and, in fact, any group that contends with negative stereotypes about their intellectual abilities.").²⁶ They have also been linked repeatedly to poorer mental and physical health.²⁷

i. *Transgender Adolescents In Particular Are At Risk For Suffering The Negative Effects Of Stigma And Discrimination.*

Transgender individuals have historically suffered significant discrimination and stereotyping. A recent survey of transgender individuals living in Virginia, for

²⁴ See, e.g., Wentzel & Caldwell, *supra* note 3, at 1199.

²⁵ *Id.*

²⁶ See also Hatzenbuehler, *supra* note 23, at 714.

²⁷ Pratyusha Tummala-Narra & Milena Claudius, *Perceived Discrimination & Depressive Symptoms Among Immigrant-Origin Adolescents*, 19 Cultural Diversity & Ethnic Minority Psychol. 257, 260 (2013); Williams, Neighbors & Jackson, *supra* note 23, at 200, 202.

example, found that these individuals experienced very high rates of discrimination. Judith Bradford et al., *Experiences of Transgender-Related Discrimination and Implications for Health: Results from the Virginia Transgender Health Initiative Study*, 103 Am. J. of Pub. Health 1820, 1826-27 (2013). Almost 50% of survey participants reported that they had experienced discrimination in healthcare, employment, or housing, and many individuals had experienced discrimination in more than one area. *Id.* at 1825. The survey also found that individuals who became aware of being transgender at an earlier age faced greater discrimination. *Id.* Over one-third of participants had negative experiences in high school, “including experiencing hostility from peers, teachers, or school administrators.” *Id.*

This historical and continuing discrimination makes transgender students particularly vulnerable to the effects of stigma at school. Transgender students continue to face high rates of physical and verbal harassment in educational settings. Jaime M. Grant, Lisa A. Mottet & Justin Tanis, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* 3 (2011), available at http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf. (reporting high rates of harassment and physical assault); Pub. Health Agency of Can., *Gender Identity in Schools: Questions and Answers* 4 (2010) (“Studies suggest that in the school setting, as many as 96% of gender variant youth are

verbally harassed and as many as 83% physically harassed. As a result, as many as three-quarters of gender variant youth report not feeling safe in school and three out of four report dropping out.”).

Transgender students are also at risk for low self-esteem and depression, which can in turn lead to poor psychosocial adjustment and increased risk of suicidality over time.²⁸ Indeed, studies have reported that 83% of transgender youth have experienced thoughts of suicide and 54% have attempted suicide.²⁹ The stigma that often attaches to transgender individuals can be acute and extraordinarily harmful.

To facilitate the development of positive self-image and long-term mental and physical wellbeing, adolescents (including transgender adolescents) need protection from stigma and affirmation of their identities. Because schools occupy such a key space in adolescents’ lives, they have a particularly important responsibility for supporting adolescent development.

²⁸ Pub. Health Agency of Can., *Gender Identity in Schools: Questions and Answers* 4-5 (2010), available at <http://www.education.gov.sk.ca/Q-and-A-gender-identity>; Caitlin Ryan et al., *Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults*, 123 Pediatrics 346, 346 (2009); Russell B. Toomey et al., *Gender-Nonconforming Lesbian, Gay, Bisexual, and Transgender Youth: School Victimization and Young Adult Psychosocial Adjustment*, 46 Developmental Psychol. 1580, 1581 (2010).

²⁹ Gibson & Catlin, *supra* note 15, at 53-59.

C. Schools Must Support Transgender Students.

The central position of schools, administrators, and teachers in adolescents' lives uniquely positions them to either reinforce stigma or dismantle it. When teachers and administrators enforce policies of stigmatization, transgender students suffer.³⁰ Schools must combat the hostilities that transgender students may face and support their gender identity, as they do for other students, in all aspects of school life.

i. *School Policies Play An Important Role In Affirming Transgender Students' Identities.*

Recognizing the extraordinary influence of teachers and administrators in the development of healthy transgender adolescents, numerous states and school districts have adopted policies requiring equal treatment of transgender students. For example, California's Arcadia Unified School District's policy, which has been endorsed by the U.S. Department of Education's Office for Civil Rights and the U.S. Department of Justice's Civil Rights Division, provides that "[s]tudents shall have access to restrooms that correspond to their gender identity asserted at school." Arcadia Unified Sch. Dist., *Policy Bulletin: Transgender Students*—

³⁰ Pub. Health Agency of Can., *supra* note 28, at 11; see also Jaime M. Grant, Lisa A. Mottet & Justin Tanis, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* 3 (2011), available at http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf; Morrow, *supra* note 1, at 93.

Ensuring Equity and Nondiscrimination 4 (2015), available at <http://www.nclrights.org/wp-content/uploads/2015/07/Transgender-Policy-Bulletin-Approved-w-corrections-April-2015.pdf>. The states of Connecticut, Iowa, Massachusetts, New York, and Washington, along with the District of Columbia, all have similar policies.³¹ These policies do not permit transgender students to be

³¹ Connecticut Safe Sch. Coal., *Guidelines for Connecticut Schools to Comply with Gender Identity and Expression Non-Discrimination Laws* 7-8 (2012), available at http://www.ct.gov/chro/lib/chro/Guidelines_for_Schools_on_Gender_Identity_and_Expression_final_4-24-12.pdf (“Students should have access to the restroom that corresponds to their gender identity asserted at school.”); District of Columbia Pub. Sch., *Transgender and Gender-Nonconforming Policy Guidance* 9 (2015), available at <http://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS%20Transgender%20Gender%20Non%20Conforming%20Policy%20Guidance.pdf> (“[T]ransgender and gender-nonconforming students are entitled to use the bathroom that matches their gender identity.”); Iowa Dep’t of Educ., *Equality for Transgender Students (February 2015 School Leader Update)*, <https://www.educateiowa.gov/resources/laws-and-regulations/legal-lessons/equality-transgender-students-february-2015-school> (last visited Oct. 26, 2015) (“Absent a concern for safety, schools should permit a student to use the restrooms or locker rooms for which they identify with.”); Massachusetts Dep’t of Elementary & Secondary Educ., *Guidance of Massachusetts Public Schools Creating a Safe and Supportive School Environment: Nondiscrimination on the Basis of Gender Identity* 9, available at <http://www.doe.mass.edu/sfs/lgbtq/GenderIdentity.pdf> (“In all cases, the principal should be clear with the student (and parent) that the student may access the restroom, locker room, and changing facility that corresponds to the student’s gender identity.”); New York State Dep’t of Educ., *Guidance to School Districts for Creating a Safe and Supportive Environment for Transgender and Gender Nonconforming Students* 9-10 (2015), available at http://www.p12.nysed.gov/dignityact/documents/Transg_GNCGuidanceFINAL.pdf (“[P]rohibiting a student from accessing the restrooms that match his gender identity is prohibited sex discrimination.”); Washington Office of Superintendent of Pub. Instruction, *Students’ Rights: Gender Expression and Gender Identity* 2,

forced to use separate facilities; rather, they reference single-stall or non-communal use facilities only as options when desired by a student—any student—and never as a forced alternative. *See, e.g.*, New York State Dep’t of Educ., *Guidance to School Districts for Creating a Safe and Supportive Environment for Transgender and Gender Nonconforming Students* 9-10 (2015), available at http://www.p12.nysed.gov/dignityact/documents/Transg_GNCGuidanceFINAL.pdf (“Alternative accommodations, such as a single ‘unisex’ bathroom or private changing space, should be made available to students who request them **but should never be forced upon students**, nor presented as the only option.”) (emphasis added)).

Title IX also serves to safeguard the healthy development of transgender students and ensure their equal access to educational opportunities. It prohibits recipients of federal financial assistance from discriminating on the basis of sex, which includes discrimination against transgender persons.³² The U.S. Department

available at
<http://www.k12.wa.us/secondaryeducation/presentations/pubdocs/2015/GenderIdentity.pdf> (“Public schools must allow students to use the restroom that corresponds to their gender identity.”).

³² Title IX provides that, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance” 20 U.S.C. § 1681(a); *see also* U.S. Dep’t of Educ., Office for Civil Rights, *Questions and Answers on Title IX and Sexual Violence* B-2 (2014), available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

of Education Office for Civil Rights has explained that Title IX protects transgender students. Title IX thus requires schools to treat transgender students equally, respecting their gender identities and promoting their wellbeing as they do for other students.

ii. *The Right To Use A Restroom At School That Corresponds With Their Gender Identity Is Crucial For Transgender Students, As It Is For All Students.*

Any student isolated in a separate restroom would feel stigmatized and harmed. *Cf. Huezo v. L.A. Cnty. Coll. Dist.*, No. CV04-9772MMM(JWJx), 2007 WL 7289347, at *8-9 (C.D. Cal. Feb. 27, 2007) (lack of support for student with disability resulted in student becoming “the focus of unwanted attention” and being “dissuaded from taking a class altogether”); *Coleman v. Zatechka*, 824 F. Supp. 1360, 1373 (D. Neb. 1993) (“[T]he university’s policy at issue here of excluding plaintiff from the roommate assignment program . . . sanctions the attitude that students with disabilities are less desirable and suggests that others should not be required to live with them.”). The same is true for transgender students. *See Doe v. Reg'l Sch. Unit 26*, 86 A.3d 600, 606 (Me. 2014) (“[I]n keeping with the information provided to the school by Susan’s family, her therapists, and experts in the field of transgender children, the school determined that Susan should use the girls’ bathroom[,] . . . provid[ing] her with the same access to public facilities that it provided other girls.”); *cf. Snyder ex rel. R.P. v. Frankfort-Elberta Area Sch.*

Dist., No. 1:05-CV-824, 2006 WL 3613673, at *1-2 (W.D. Mich. Dec. 11, 2006) (concluding that exclusion of African American student from regular school restrooms in response to harassment from other students could constitute race discrimination).

Forcing a transgender student to use a separate restroom serves as a constant reminder that the school views the student as different from all of the other students at the school. In fact, in Plaintiffs' case, they have found using a separate restroom so stigmatizing that they have withheld going to the restroom all day long rather than use the separate facility. *See Karen Saeger, Finding Our Way: Guiding a Young Transgender Child*, 2 J. of GLBT Family Studies 207, 235 (2006) ("For months [the transgender boy] was uncomfortable using even the unisex bathroom, which was far from the classroom, preferring to wet himself instead.").

The Pine-Richland School District itself recognizes the Plaintiffs as students whose educational needs require support for their gender identity in all aspects of his school environment, including restroom use. Indeed, the school district allowed the Plaintiffs to use the restroom that matched their gender identity for several years before the policy adopted by the school board took effect. *See Doe*, 86 A.3d at 606 ("[The school's] later decision to ban Susan from the girls' bathroom, based not on a determination that there had been some change in Susan's status but on others' complaints about the school's well-considered decision, constituted

discrimination . . .”). Relegating the Plaintiffs to a separate, single-stall restroom after this period of use conflicted with the support that the Plaintiffs’ mental health providers and the school identified as essential to the Plaintiffs’ academic and social achievement.

CONCLUSION

All adolescents must undertake the significant and life-long task of developing a sense of self. Schools, as a primary locus for peer relationships and social bonding, have a critical role to play in supporting healthy adolescent development. This applies equally to all students, including transgender students. Providing appropriate support to transgender students requires supporting their gender identity in all aspects of school life, just as the school does for other students, including their use of restrooms. Otherwise, transgender students experience stigmatizing and isolating treatment that places their wellbeing in jeopardy.

The school board policy at issue in this case contradicts the clear medical consensus on the appropriate support for transgender adolescents and undermines the school’s support of the Plaintiffs by enforcing stigmatizing and harmful mistreatment. Amici curiae therefore urge this Court to reverse the district court’s ruling.

Dated: November 23, 2016

Respectfully submitted,

/s/ Erin Stottlemeyer Gold

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CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2016, I electronically filed the foregoing Amici Curiae Brief of the World Professional Association for Transgender Health, Pediatric Endocrine Society, et al. in Support of Plaintiffs' Motion for Preliminary Injunction with the Clerk of the Court using the CM/ECF system, which will automatically serve electronic copies upon all counsel of record.

/s/ Erin Stottlemyer Gold
Erin Stottlemyer Gold

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JULIET EVANCHO; *et al.*,

Plaintiffs,

v.

PINE-RICHLAND SCHOOL DISTRICT; *et al.*,

Defendants.

PITTSBURGH DIVISION

Civil Action No. 2:16-cv-01537-MRH

ORDER

Upon consideration of the Motion for Leave to File of Brief of Amici Curiae World Professional Association for Transgender Health, Pediatric Endocrine Society, et al. it is hereby ordered that said motion is granted.

SO ORDERED.

Date

J.