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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

AIDEN STOCKMAN; NICOLAS  
TALBOTT; TAMASYN REEVES;  
JAQUICE TATE; JOHN DOES 1-2;  
JANE DOE; and EQUALITY  
CALIFORNIA,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

CASE NO. 5:17-cv-01799-JGB-KK

**NOTICE OF MOTION AND MOTION  
FOR LEAVE TO FILE AMICUS  
BRIEF**

**Hearing:**

Date: November 20, 2017  
Time: 9:00 a.m.  
Place: Riverside, Courtroom 1  
Judge: Hon. Jesus G. Bernal

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on November 20, 2017, or as soon as this matter  
3 may be heard before the Honorable Jesus G. Bernal, United States District Court  
4 Judge, in Courtroom 1 of the United States District Court for the Central District of  
5 California, the Trevor Project will and hereby does move the Court for leave to file the  
6 attached *amicus curiae* brief in support of Plaintiffs’ Motion for Preliminary Injunction  
7 in the above-captioned matter (D.E.-15).

8 This Motion is made on the grounds that the concurrently submitted brief will  
9 aid the Court in adjudicating Plaintiffs’ Motion for Preliminary Injunction. The Trevor  
10 Project is the nation’s largest lesbian, gay, bisexual, transgender, queer, and  
11 questioning (“LGBTQ”) youth crisis intervention and suicide prevention organization.  
12 Founded in 1998, the Trevor Project offers the only accredited, free, and confidential  
13 phone, instant message, and text messaging crisis intervention services that are  
14 available 24/7 for LGBTQ youth. These services are utilized by thousands of  
15 individuals each month. By monitoring, analyzing, and evaluating data obtained from  
16 these services, the Trevor Project produces innovative research that brings new  
17 knowledge and clinical implications for issues affecting LGBTQ youth. Furthermore,  
18 as a leader and expert voice in issues affecting LGBTQ youth, the Trevor Project  
19 provides in-person trainings designed for adults who work with youth, a free online  
20 learning module with resources for middle school and high school teachers, and other  
21 resources for youth and adults.

22 The Trevor Project has a substantial interest in opposing governmental action  
23 premised on discrimination against the transgender youth it serves. The Trevor Project  
24 has worked firsthand with transgender youth for decades, thereby developing  
25 significant expertise on the issues that affect the community.

26 This Court “has broad discretion to appoint *amici curiae*.” *Hoptowit v. Ray*, 682  
27 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515  
28 U.S. 472 (1995). “An amicus brief should normally be allowed” when “the amicus has

1 unique information or perspective that can help the court beyond the help that the  
2 lawyers for the parties are able to provide.” *Cnty. Ass’n for Restoration for the Env’t*  
3 *v. DeRuyter Bros. Dairy*, 54 F. Supp. 2d 975, 975 (E.D. Wash. 1999). As the largest  
4 organization of its kind, the Trevor Project is uniquely positioned to provide insight  
5 into the real-world effect of discriminatory government action on the mental health of  
6 transgender youth. By analyzing data and anecdotes from users of its crisis  
7 intervention services, the Trevor Project is able to speak both quantitatively and  
8 qualitatively to the effect that the transgender military ban has already had on  
9 transgender youth throughout the country.

10 The Trevor Project’s proposed *amicus* brief provides the Trevor Project’s  
11 insights into the substantial psychological harm caused by the transgender military  
12 ban, while also demonstrating that transgender individuals are ready and able to fight  
13 for this country.

14 This Notice of Motion and Motion are based on the foregoing, the concurrently  
15 filed brief, all pleadings, records, and files in the above-captioned case, all matters of  
16 which the Court shall take judicial notice, and on such argument as may be presented  
17 by counsel at any hearing on this Motion.

18 Undersigned counsel confirmed that Plaintiffs consented to the filing of this  
19 motion and that Defendants take no position as to the filing of this motion.

### 20 CONCLUSION

21 For the foregoing reasons, the Trevor Project hereby requests that the Court  
22 grant leave to file the proposed *amicus* brief in support of Plaintiffs’ Motion for  
23 Preliminary Injunction.

1 Dated: October 25, 2017

2 GIBSON, DUNN & CRUTCHER LLP

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*Counsel for The Trevor Project*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 25, 2017, I filed the foregoing document via the Court’s CM/ECF system. The document will be served electronically on counsel of record for the parties.

/s/ Doug M. Champion  
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CASE NO. 5:17-cv-01799-JGB-KK

**AMICUS BRIEF OF THE TREVOR PROJECT**

**Hearing:**

Date: November 20, 2017  
Time: 9:00 a.m.  
Place: Riverside, Courtroom 1  
Judge: Hon. Jesus G. Bernal

**CORPORATE DISCLOSURE STATEMENT**

*Amicus curiae* hereby certifies that it has no parent corporation and that no publicly held corporation owns 10% or more of its stock.

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1 **I. STATEMENT OF INTEREST**

2 The Trevor Project, which is the nation’s largest lesbian, gay, bisexual,  
3 transgender, queer, and questioning (“LGBTQ”) youth crisis intervention and suicide  
4 prevention organization, respectfully submits this *amicus curiae* brief in support of  
5 Plaintiffs’ Motion for Preliminary Injunction (D.E. 15). Founded in 1998, the Trevor  
6 Project offers the only accredited, free, and confidential phone, instant message, and text  
7 messaging crisis intervention services for LGBTQ youth. These services are utilized by  
8 thousands of individuals each month. By monitoring, analyzing, and evaluating data  
9 obtained from these services, the Trevor Project produces innovative research that brings  
10 new knowledge and clinical implications for issues affecting LGBTQ youth.  
11 Furthermore, as a leader and expert voice in issues affecting LGBTQ youth, the Trevor  
12 Project provides in-person trainings designed for adults who work with youth, a free  
13 online learning module with resources for middle school and high school teachers, and  
14 other resources for youth and adults.

15 The Trevor Project has a substantial interest in opposing governmental action  
16 premised on discrimination against the transgender youth it serves. The Trevor Project  
17 has worked firsthand with transgender youth for decades, thereby developing significant  
18 expertise on the issues that affect the community. The Trevor Project is acutely aware  
19 of the negative mental health effects that government discrimination has on youth.<sup>1</sup>

20 **II. ARGUMENT**

21 Transgender people are those whose gender identity or gender expression differs  
22 from their sex at birth. The life experiences of transgender people are often unfamiliar  
23 to the public or policy makers, but they make, and have always made, meaningful  
24 contributions to their communities—including in the military. As courts have  
25 recognized, the transgender community “has traditionally been unrecognized,  
26

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27 <sup>1</sup> No party’s counsel authored this brief in whole or in part. No party or party’s  
28 counsel contributed money that was intended to fund preparing or submitting this  
brief. No person other than *amicus curiae*, its members, or its counsel contributed  
money that was intended to fund preparing or submitting the brief.

1 unrepresented, and unprotected.” *G.G. v. Gloucester Cty. Sch. Bd.*, 853 F.3d 729, 730  
2 (4th Cir. 2017) (mem.) (Davis, J., concurring). Through its decades of service to the  
3 LGBTQ community, the Trevor Project has developed a unique understanding not only  
4 of the force for good that transgender individuals can be, but also of the harmful effects  
5 of government-sponsored discrimination. The transgender military ban brings another  
6 iteration of discrimination against transgender people, with the President announcing his  
7 intent to prohibit transgender individuals from serving in the armed forces because of  
8 the supposed “disruption that transgender [*sic*] in the military would entail.”<sup>2</sup>

9 Transgender service members are not a “disruption” or a risk to national security.  
10 They are people who have heeded the call to defend the country they love and have  
11 served with distinction. They have the same hopes and desires and worries and fears  
12 that their cisgender<sup>3</sup> peers have. But while many transgender individuals are well-  
13 adjusted and living their lives to the fullest, some transgender individuals – like their  
14 cisgender counterparts – are trying to cope with mental health issues. Scientific studies  
15 cast serious doubt on any attempts to paint transgender people as inherently more  
16 susceptible to these issues, while also demonstrating that government-sanctioned  
17 discrimination causes tangible harms that make it more difficult for transgender youth  
18 to live the lives they are meant to live.

19 The Trevor Project has seen firsthand the harmful effects that the announced ban  
20 on military service by transgender individuals has had on the transgender community it  
21 serves—transgender service members and transgender youth more broadly as well. A  
22 decision by this Court invalidating the ban would be an important step for the protection  
23 of transgender youth.

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25 \_\_\_\_\_  
26 <sup>2</sup> Donald J. Trump (@realDonaldTrump), Twitter (July 26, 2017, 6:08 AM) (D.E.  
27 28-6).

28 <sup>3</sup> The term cisgender refers to individuals whose sense of gender identity corresponds  
to their sex at birth.

1    **A.    Excluding Transgender Individuals from Military Service Denies Them the**  
2    **Ability to Participate Fully in Society.**

3           The Supreme Court has long recognized the substantial psychological harm that  
4    government-sanctioned discrimination has on youth. In *Brown v. Board of Education*,  
5    the Court based its reasoning in part on the fact that *de jure* segregation of black  
6    schoolchildren “generates a feeling of inferiority as to their status in the community that  
7    may affect their hearts and minds in a way unlikely ever to be undone.” 347 U.S. 483,  
8    494 (1954). The Court noted that the detrimental impact on the children “is greater when  
9    it has the sanction of the law.” *Ibid.*

10           More recently, the Court has considered the stigmatic impact of laws that target  
11    LGBTQ people. In *Lawrence v. Texas*, 539 U.S. 558, 575 (2003), the Court observed  
12    that “[w]hen homosexual conduct is made criminal by the law of the State, that  
13    declaration in and of itself is an invitation to subject homosexual persons to  
14    discrimination both in the public and in the private spheres.” Concluding that “[t]he  
15    State cannot demean their existence or control their destiny by making their private  
16    sexual conduct a crime,” the Court overruled its prior decision in *Bowers v. Hardwick*,  
17    478 U.S. 186 (1986), which had allowed states to criminalize homosexual conduct, and  
18    invalidated the Texas criminal sodomy statute. *Id.* at 578-79. Subsequently, in striking  
19    down parts of the Defense of Marriage Act, the Court stated that the discriminatory  
20    marriage law causes stigmatic harm to same-sex couples by “tell[ing] those couples, and  
21    all the world, that their otherwise valid marriages are unworthy of federal recognition.”  
22    *United States v. Windsor*, 133 S. Ct. 2675, 2694 (2013). When the Court recognized the  
23    constitutional right for same-sex couples to marry, it explained that state bans on same-  
24    sex marriage forced children of same-sex couples to “suffer the stigma of knowing their  
25    families are somehow lesser.” *Obergefell v. Hodges*, 135 S. Ct. 2584, 2600 (2015). The  
26    Court acknowledged that its own past decision in *Bowers v. Hardwick*, caused “pain and  
27    humiliation” that “no doubt lingered long after *Bowers* was overruled.” *Id.* at 2606. The  
28



1 Court recognized that “[d]ignitary wounds cannot always be healed with the stroke of a  
2 pen.” *Ibid.*

3 Exclusion from service in the armed forces is particularly demeaning and prevents  
4 individuals from being treated as full citizens in society. For centuries, the “supreme  
5 and noble duty of contributing to the defense of the rights and honor of the nation as the  
6 result of a war” has called millions of this nation’s youth to enlist in the armed forces.  
7 *Arver v. United States*, 245 U.S. 366, 390 (1918). As President Kennedy once remarked,  
8 there is “no more rewarding career” than “to serve the cause of freedom and your country  
9 all over the globe, to hold positions of the highest responsibility, to recognize that upon  
10 your good judgment in many cases may well rest not only the well-being of the men  
11 with whom you serve, but also in a very real sense the security of your country.”<sup>4</sup> Those  
12 who serve deserve to be respected and honored by all of us, and, indeed, the people  
13 “constituting our Armed Forces are treated as honored members of society.” *Winters v.*  
14 *United States*, 89 S. Ct. 57, 60 (1968).

15 In August 1782, George Washington proclaimed that “the road to glory in a  
16 Patriot army and a free country is . . . open to all.”<sup>5</sup> While that has not always been the  
17 case in practice, the military is proud of its commitment to being an inclusive force,  
18 allowing individuals to serve regardless of their sex, race, color, national origin, religion,  
19 or, most recently, sexual orientation. After the military opened its ranks to gay, lesbian,  
20 and bisexual service members, former Secretary of Defense Leon Panetta proudly  
21 proclaimed that “[t]he successful repeal of ‘Don’t Ask, Don’t Tell’ proved to the Nation  
22 that just like the country we defend, we share different backgrounds, different values,  
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25 <sup>4</sup> John F. Kennedy, Jr., Remarks at the U.S. Naval Academy (Aug. 1, 1963),  
26 *available at* <http://www.presidency.ucsb.edu/ws/?pid=9367>.

27 <sup>5</sup> George Washington, *Aug. 7, 1782 General Orders*, in 24 *The Writings of George*  
28 *Washington from the Original Manuscript Sources: 1745-1799*, at 487, 488 (John  
C. Fitzpatrick ed., 1938).

1 and different beliefs—but together, we are the greatest military force in the world.”<sup>6</sup>  
2 Secretary Panetta averred that he was “committed to removing as many barriers as  
3 possible to make America’s military a model of equal opportunity, to ensure all who are  
4 qualified can serve in America’s military, and to give every man and woman in uniform  
5 the opportunity to rise to their highest potential.”<sup>7</sup>

6 The military has recognized that, over the last decade and a half of conflict in the  
7 Middle East, “transgender men and women in uniform have been there with us, even as  
8 they often had to serve in silence alongside their fellow comrades in arms.”<sup>8</sup> In response  
9 to the military’s prior ban on transgender service members, former Secretary of Defense  
10 Ash Carter stated that the military has “transgender soldiers, sailors, airmen, and  
11 Marines – real, patriotic Americans – who I know are being hurt by an outdated,  
12 confusing, inconsistent approach that’s contrary to our value of service and individual  
13 merit.”<sup>9</sup> Indeed, the plaintiffs in this case and countless others prove that to be true. *See*  
14 Part II.D, *infra*. That is why, effective July 13, 2015, the Department of Defense decided  
15 that no service member shall be involuntarily separated or denied reenlistment or  
16 continuation of active or reserve service on the basis of their gender identity, pending  
17 further evaluation.<sup>10</sup>

18 As part of its evaluation, the Department of Defense commissioned a study by the  
19 RAND National Defense Research Institute to: (1) identify the health care needs of the

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21 <sup>6</sup> Leon Panetta, Sec’y, Dep’t of Defense, Video Message for Lesbian, Gay, Bisexual,  
22 Transgender Pride Month from the Pentagon (June 15, 2012), *available at*  
<http://archive.defense.gov/transcripts/transcript.aspx?transcriptid=5062>.

23 <sup>7</sup> *Ibid.*

24 <sup>8</sup> Ash Carter, Sec’y, Dep’t of Defense, Statement by Secretary of Defense Ash Carter  
25 on DOD Transgender Policy (July 13, 2015) (D.E. 28-2).

26 <sup>9</sup> *Ibid.*

27 <sup>10</sup> Ash Carter, Sec’y, Dep’t of Defense, Memorandum for Secretaries of the Military  
28 Departments: Transgender Service Members (July 28, 2015) (D.E. 22-1).

1 transgender population, transgender service members' potential health care utilization  
2 rates, and the costs associated with extending health care coverage for transition-related  
3 treatments; (2) assess the potential readiness implications of allowing transgender  
4 service members to serve openly; and (3) review the experiences of foreign militaries  
5 that permit transgender service members to serve openly.<sup>11</sup> Despite the previous ban on  
6 transgender people serving in the military, the study found that there are between 1,320  
7 and 6,630 active service members who are transgender, and an additional 830 to 4,160  
8 service members who are transgender in the Selected Reserve.<sup>12</sup> Another study  
9 estimates that, as of 2014, there were approximately 134,300 transgender people who  
10 were veterans or retired from Guard or Reserve service.<sup>13</sup> Of more than 27,000  
11 respondents to a 2015 nationwide survey of transgender adults, 18% reported previous  
12 or current military service, with 15% being veterans.<sup>14</sup> In comparison, only 8% of  
13 Americans are veterans.<sup>15</sup>

14 The RAND study noted that Australia, Canada, Israel, and the United Kingdom  
15 all allow transgender personnel to serve openly, and these countries have seen zero  
16 negative effects on military cohesion, operational effectiveness, or readiness.<sup>16</sup> In

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18 <sup>11</sup> RAND National Defense Research Institute, *Assessing the Implications of*  
19 *Allowing Transgender Personnel to Serve Openly*, at iii (2016) (D.E. 22-2).

20 <sup>12</sup> *Id.* at 16.

21 <sup>13</sup> The Williams Institute, *Transgender Military Service in the United States* (May  
22 2014), [https://williamsinstitute.law.ucla.edu/wp-content/uploads/Transgender-](https://williamsinstitute.law.ucla.edu/wp-content/uploads/Transgender-Military-Service-May-2014.pdf)  
23 [Military-Service-May-2014.pdf](https://williamsinstitute.law.ucla.edu/wp-content/uploads/Transgender-Military-Service-May-2014.pdf).

24 <sup>14</sup> S.E. Herman et al., *The Report of the 2015 U.S. Transgender Survey 167* (2016),  
25 *available at* [https://www.transequality.org/sites/default/files/docs/USTS-Full-](https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF)  
26 [Report-FINAL.PDF](https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF).

27 <sup>15</sup> *Ibid.*

28 <sup>16</sup> RAND, *supra* note 11, at 45. In addition, Austria, Belgium, Bolivia, Czech  
Republic, Denmark, Estonia, Finland, France, Germany, Netherlands, New  
Zealand, Norway, Spain, and Sweden all allow transgender personnel to serve  
openly, and the study was aware of no negative effects on the cohesion, operational  
effectiveness, or readiness for those militaries. *Id.* at 50.

1 contrast, prohibiting transgender service members from fighting in the military and  
2 separating transgender service members “can involve costly administrative processes  
3 and result in the discharge of personnel with valuable skills who are otherwise  
4 qualified.”<sup>17</sup> Furthermore, the study found that allowing transgender service members  
5 access to health care would have only “a marginal impact on health care costs.”<sup>18</sup>

6 In light of that study’s conclusions, the Department of Defense announced, on  
7 June 30, 2016, that transgender individuals are able to serve openly in the military.<sup>19</sup> As  
8 Secretary Carter explained: “This is the right thing to do for our people and for the force  
9 . . . . We’re talking about talented Americans who are serving with distinction or who  
10 want the opportunity to serve. We can’t allow barriers unrelated to a person’s  
11 qualifications prevent us from recruiting and retaining those who can best accomplish  
12 the mission.”<sup>20</sup>

13 With no record to counter the RAND study that the Department of Defense just  
14 recently commissioned, the federal government has announced an about-face. President  
15 Trump declared that “the previous Administration failed to identify a sufficient basis”  
16 to warrant allowing transgender service members to fight for their country and that he  
17 needed to see more data about whether allowing these people to serve would “hinder  
18 military effectiveness and lethality, disrupt unit cohesion, or tax military resources.”<sup>21</sup>  
19 Secretary Mattis responded by stating that the Department of Defense would “develop a

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21 <sup>17</sup> *Id.* at 46.

22 <sup>18</sup> *Id.* at 69.

23 <sup>19</sup> U.S. Dep’t of Defense, *Secretary of Defense Ash Carter Announces Policy for*  
24 *Transgender Service Members* (June 30, 2016),  
25 <https://www.defense.gov/News/News-Releases/News-Release-View/Article/821675/secretary-of-defense-ash-carter-announces-policy-for-transgender-service-members/>.

26 <sup>20</sup> *Ibid.*

27 <sup>21</sup> Presidential Mem. for the Sec’y of Defense and Sec’y of Homeland Sec., Aug. 25,  
28 2017 (D.E. 28-7).

1 study and implementation plan, which will contain the steps that will promote military  
2 readiness, lethality, and unit cohesion, with due regard for budgetary constraints and  
3 consistent with applicable law.”<sup>22</sup> However, the government has not contended that  
4 there is any data indicating that service by transgender individuals would have  
5 deleterious effects on military readiness, lethality, or unit cohesion.

6 Without any supporting data, the government has told transgender people that  
7 they are unfit to heed that supreme and noble call to fight for their country. The  
8 military—the broadest-based, most inclusive organization in the United States—is now  
9 sending the message that it will welcome everyone else who can do the job—people of  
10 any sex, race, color, national origin, religion, or sexual orientation—everyone except  
11 transgender service members. That is the one group that cannot be tolerated. Whereas  
12 convicted felons and deserters may receive “moral waivers” to allow them to serve in  
13 the armed forces, *see* 10 U.S.C. § 504(a), transgender individuals are deemed inherently  
14 and irrevocably unworthy to fight for the country they love. Notwithstanding these  
15 individuals’ desires to fight beside their comrades-in-arms, the military now must turn  
16 them away simply because of a fear, contrary to fact, that they may constitute a  
17 “disruption.” That statement from the highest levels of their government has severe  
18 consequences for transgender individuals—service members and other youth alike.

19 **B. Discrimination Can Cause Serious Psychological Harm, but Being**  
20 **Transgender Is Not Inherently More Likely to Lead to Mental Health**  
21 **Issues.**

22 The medical community has united around the position that the Trevor Project  
23 knows to be true based on its own experience: Transgender people are every bit as  
24 capable as their cisgender peers to serve in the military, but discrimination against them

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26 <sup>22</sup> Statement by Sec’y of Defense Jim Mattis on Military Service by Transgender  
27 Individuals, Aug. 29, 2017, <https://www.defense.gov/News/News-Releases/News-Release-View/Article/1294351/statement-by-secretary-of-defense-jim-mattis-on-military-service-by-transgender/>.  
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1 can have profoundly harmful effects. The American Medical Association has stated that  
2 “there is no medically valid reason to exclude transgender individuals from service in  
3 the US military.”<sup>23</sup> The American Psychiatric Association has added its voice to the  
4 opposition to the military ban: “Banning transgender service members from serving our  
5 country harms not just those transgender Americans who have dedicated themselves to  
6 service of others, but it unfairly casts a pall over all transgender Americans.  
7 Discrimination has a negative impact on the mental health of those targeted.”<sup>24</sup> And the  
8 American Psychological Association confirms the key point: “Research has shown that  
9 discrimination is a significant source of stress for . . . transgender people and has  
10 substantial adverse effects on their health and well-being.”<sup>25</sup>

11 Indeed, institutional discrimination is particularly noxious. For example, one  
12 study found a statistically significant association between denial of access to bathrooms  
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16 <sup>23</sup> American Medical Ass’n, *Military Medical Policies Affecting Transgender*  
17 *Individuals H-40.966* (2015), [https://policysearch.ama-](https://policysearch.ama-assn.org/policyfinder/detail/Military%20Medical%20Policies%20Affecting%20Transgender%20Individuals%20H-40.966?uri=%2FAMADoc%2FHOD.xml-0-3487.xml)  
18 [assn.org/policyfinder/detail/Military%20Medical%20Policies%20Affecting%20Tra](https://policysearch.ama-assn.org/policyfinder/detail/Military%20Medical%20Policies%20Affecting%20Transgender%20Individuals%20H-40.966?uri=%2FAMADoc%2FHOD.xml-0-3487.xml)  
[nsgender%20Individuals%20H-40.966?uri=%2FAMADoc%2FHOD.xml-0-](https://policysearch.ama-assn.org/policyfinder/detail/Military%20Medical%20Policies%20Affecting%20Transgender%20Individuals%20H-40.966?uri=%2FAMADoc%2FHOD.xml-0-3487.xml)  
[3487.xml](https://policysearch.ama-assn.org/policyfinder/detail/Military%20Medical%20Policies%20Affecting%20Transgender%20Individuals%20H-40.966?uri=%2FAMADoc%2FHOD.xml-0-3487.xml).

19 <sup>24</sup> American Psychiatric Ass’n, Press Release, *APA Opposes Banning Transgender*  
20 *Service Members from Serving in Military* (July 27, 2017),  
[https://www.psychiatry.org/newsroom/news-releases/apa-opposes-banning-](https://www.psychiatry.org/newsroom/news-releases/apa-opposes-banning-transgender-service-members-from-serving-in-military)  
21 [transgender-service-members-from-serving-in-military](https://www.psychiatry.org/newsroom/news-releases/apa-opposes-banning-transgender-service-members-from-serving-in-military).

22 <sup>25</sup> American Psychological Ass’n, Press Release, *APA Questions Announcement to*  
23 *Bar Transgender People From US Military* (July 26, 2017)  
<http://www.apa.org/news/press/releases/2017/07/transgender-military.aspx>; *see*  
24 *also* Vickie M. Mays et al., *Mental Health Correlates of Perceived Discrimination*  
*Among Lesbian, Gay, and Bisexual Adults in the United States*, 91(11) *Am. J. Pub.*  
25 *Health* 1869, 1874 (Nov. 2001) (“[T]he experience of discrimination can result in  
26 negative psychologic and physiologic changes.”); Joseph G. Kosciw et al., *The*  
*2015 National School Climate Survey* 45, 49 (2016),  
[https://www.glsen.org/sites/default/files/2015%20National%20GLSEN%202015%](https://www.glsen.org/sites/default/files/2015%20National%20GLSEN%202015%20National%20School%20Climate%20Survey%20%28NSCS%29%20-%20Full%20Report_0.pdf)  
27 [20National%20School%20Climate%20Survey%20%28NSCS%29%20-](https://www.glsen.org/sites/default/files/2015%20National%20GLSEN%202015%20National%20School%20Climate%20Survey%20%28NSCS%29%20-%20Full%20Report_0.pdf)  
[%20Full%20Report\\_0.pdf](https://www.glsen.org/sites/default/files/2015%20National%20GLSEN%202015%20National%20School%20Climate%20Survey%20%28NSCS%29%20-%20Full%20Report_0.pdf) (finding that anti-LGBTQ discrimination in the school  
28 environment correlated with lower self-esteem, higher rates of depression, lower  
educational achievement, and school absenteeism).

1 or campus housing and lifetime suicide attempts among transgender people.<sup>26</sup> In another  
2 study, researchers found a marked increase in the prevalence of psychiatric disorders  
3 among gay, lesbian, and bisexual people who lived in states that adopted constitutional  
4 amendments prohibiting same-sex marriage in 2004 and 2005.<sup>27</sup>

5 For transgender people, recent studies have found that any disproportionately high  
6 rates of psychological distress in that community are not “a manifestation of gender  
7 dysphoria,” but instead correlate with “enacted and felt stigma.”<sup>28</sup> Another study that  
8 assessed the impact of discrimination on LGBTQ youth found that LGBTQ youth who  
9 did *not* report experiencing discrimination had similarly low levels of depressive  
10 symptoms as did their heterosexual and cisgender counterparts.<sup>29</sup> In contrast, LGBTQ  
11 youth who reported experiencing discrimination had significantly higher levels of  
12 depressive symptoms, revealing a correlation between discrimination and negative  
13 mental health outcomes.<sup>30</sup>

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16 <sup>26</sup> Kristie L. Seelman, *Transgender Adults’ Access to College Bathrooms and Housing*  
17 *and the Relationship to Suicidality*, 63(10) *J. Homosexuality* 1378, 1393 (2016).

18 <sup>27</sup> Mark L. Hatzenbuehler et al., *The Impact of Institutional Discrimination on*  
19 *Psychiatric Disorders in Lesbian, Gay, and Bisexual Populations: A Prospective*  
*Study*, 100(3) *Am. J. Pub. Health* 452, 455-56 (Mar. 2010).

20 <sup>28</sup> Walter O. Bockting et al., *Stigma, Mental Health, and Resilience in an Online*  
21 *Sample of the US Transgender Population*, 103(5) *Am. J. Pub. Health* 943, 948  
22 (May 2013). The study also found that family support, peer support, and identity  
23 pride were all negatively associated with psychological distress. *Ibid.*; see also  
24 American Psychological Ass’n, *Answers to Your Questions About Transgender*  
*People, Gender Identity, and Gender Expression*, at 3 (2011),  
<http://www.apa.org/topics/lgbt/transgender.pdf> (“[I]dentifying as transgender does  
not constitute a mental disorder. For these individuals, the significant problem is  
finding affordable resources . . . and the social support necessary to freely express  
their gender identity and minimize discrimination.”).

25 <sup>29</sup> Joanna Almeida et al., *Emotional Distress Among LGBT Youth: The Influence of*  
26 *Perceived Discrimination Based on Sexual Orientation*, 38 *J. Youth & Adolescence*  
1001, 1008, 1010 (2009).

27 <sup>30</sup> *Ibid.*  
28

1 Court cases involving transgender youth provide additional evidence of the  
2 mental and even physical harm that results from institutional discrimination on the basis  
3 of gender identity. A recently prominent example involves restrictions designed to  
4 compel transgender persons to use the bathroom that corresponds with their sex at birth.  
5 One high school student who was forbidden by his school to use the boys' bathroom  
6 severely restricted his water intake to avoid using the bathroom at school, which caused  
7 him to faint. *Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034,  
8 1041 (7th Cir. 2017). The student, Ash Whitaker, "suffered from stress-related  
9 migraines, depression, and anxiety because of the [school] policy's impact on his  
10 transition and what he perceived to be the impossible choice between living as a boy or  
11 using the restroom," and "[h]e even began to contemplate suicide." *Ibid.* Ash is not  
12 alone. A 2015 survey of 27,715 transgender adults revealed that 59% of respondents  
13 had avoided using public bathrooms in the preceding year for fear of confrontation or  
14 other problems, and 32% had avoided drinking or eating so that they would not need to  
15 use the bathroom.<sup>31</sup>

16 Additional plaintiffs in similar cases have also experienced feeling "marginalized  
17 . . . causing them genuine distress, anxiety, discomfort and humiliation" sufficiently  
18 severe and irreparable to warrant a preliminary injunction against assigned-sex  
19 bathroom restrictions. *Evancho v. Pine-Richland Sch. Dist.*, 237 F. Supp. 3d 267, 294  
20 (W.D. Pa. 2017); *see also Bd. of Educ. of the Highland Local Sch. Dist. v. U.S. Dep't of*  
21 *Educ.*, 208 F. Supp. 3d 850, 878 (S.D. Ohio 2016) (finding irreparable harm in "[t]he  
22 stigma and isolation Jane feels when she is singled out and forced to use a separate  
23 bathroom" and granting preliminary injunction). The day-to-day stress that transgender  
24 people endure because of this kind of institutional discrimination and the stigma of being  
25 singled out for differential treatment based on their identity is unfathomable to many.

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27 <sup>31</sup> Herman, *supra* note 14, at 228-29; *see also Carcano v. McCrory*, 203 F. Supp. 3d  
28 615, 650 (M.D.N.C. 2016) (describing transgender plaintiffs in "bathroom bill"  
case who "limit[ed] their fluid intake and resist[ed] the urge to use a bathroom  
whenever possible," leading to medical consequences for one of the plaintiffs).



1 It should come as no surprise that support and acceptance, by contrast, benefit  
2 transgender youth significantly. New evidence demonstrates that supporting  
3 transgender children in accordance with their gender identities is positively correlated  
4 with developmentally normative levels of depression and anxiety in those children.<sup>32</sup>  
5 Studies confirm that “allowing children to present in everyday life as their gender  
6 identity rather than their natal sex is associated with developmentally normative levels  
7 of depression and anxiety.”<sup>33</sup> When transgender youth are supported by their families,  
8 “results provide clear evidence that transgender children have levels of anxiety and  
9 depression no different from their nontransgender siblings.”<sup>34</sup> And when LGBTQ  
10 students receive institutional support through non-discriminatory policies, they not only  
11 report lower levels of depressive symptoms, but also significantly lower absenteeism,  
12 higher self-esteem, and greater educational achievement.<sup>35</sup> With support and  
13 acceptance, transgender people are no different than their cisgender peers.

14 **C. The Trevor Project Has Witnessed First-Hand the Negative Effects of the**  
15 **Transgender Military Ban on the Mental Health of Transgender Youth.**

16 The Trevor Project recognizes and attempts to heal the psychological wounds  
17 caused by discrimination against the LGBTQ community. In support of this mission,  
18 the Trevor Project provides several crisis intervention and suicide prevention services.  
19 Specifically, Trevor Lifeline is a telephone hotline that LGBTQ youth can call in times  
20 of trouble, and TrevorChat and TrevorText are online chat and text messaging services,  
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23 <sup>32</sup> Kristina R. Olson et al., *Mental Health of Transgender Children Who Are*  
24 *Supported in Their Identities*, 137(3) *Pediatrics* 1, 5 (Mar. 2016); *see also* Herman,  
25 *supra* note 14, at 70 (describing survey findings that transgender adults with  
26 supportive families were more likely to be employed, less likely to have  
27 experienced homelessness, and less likely to report currently experiencing serious  
28 psychological distress than those whose families were unsupportive).

<sup>33</sup> Olson, *supra* note 32, at 5.

<sup>34</sup> *Id.* at 7.

<sup>35</sup> Kosciw, *supra* note 25, at 45, 49.

1 respectively, that LGBTQ youth can utilize as an alternative to speaking on the  
2 telephone.

3 The Trevor Project maintains statistical data regarding the people who utilize its  
4 crisis intervention services. This data, consistent with the studies described above,  
5 shows that events of discrimination and stigmatization, including government-sponsored  
6 discrimination, are sources of psychological stress for transgender youth. In the Trevor  
7 Project's decades of experience, its counselors have consistently seen spikes in youth  
8 contacting the Trevor Project in crisis in response to the enactment or announcement of  
9 discriminatory laws and in response to discriminatory statements by government  
10 officials or other respected individuals.

11 The connection between discriminatory statements and youth in crisis applies  
12 with equal force to transgender youth. For example, after the announcement of the so-  
13 called "bathroom bill" in Texas, which would prevent transgender students and adults  
14 from using bathrooms that correspond with their gender identity, the Trevor Project  
15 observed a sharp increase in contacts to Trevor Lifeline, TrevorChat, and TrevorText  
16 from transgender youth in Texas.<sup>36</sup>

17 The same was true of the President's tweet announcing his intent to ban  
18 transgender people from the military. Within 24 hours of the tweet, the percentage of  
19 self-identified transgender people who contacted the Trevor Project through all  
20 channels—Trevor Lifeline, TrevorChat, and TrevorText—more than doubled from  
21 7.3% to 17.5% of all contacts.<sup>37</sup> This upswing was not merely a temporary statistical  
22 blip. In the eleven-month period from August 2016 to July 2017, an average of 45.6  
23 percent of people who contacted TrevorChat identified as transgender; however, in  
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25 <sup>36</sup> The Trevor Project, *Victory! "Bathroom Bills" Threatening Trans Youth Defeated*  
26 *in Texas* (Aug. 15, 2017), [http://www.thetrevorproject.org/blog/entry/victory-  
bathroom-bills-threatening-trans-youth-defeated-in-texas1](http://www.thetrevorproject.org/blog/entry/victory-bathroom-bills-threatening-trans-youth-defeated-in-texas1).

27 <sup>37</sup> The Trevor Project, *Spike in Crisis Contacts Related to Anti-Trans Rhetoric* (Aug.  
28 2, 2017), [https://www.thetrevorproject.org/blog/entry/spike-in-crisis-contacts-  
related-to-anti-trans-rhetoric](https://www.thetrevorproject.org/blog/entry/spike-in-crisis-contacts-related-to-anti-trans-rhetoric).

1 August 2017, the first month after the announcement of the transgender ban, that figure  
2 spiked to a record high of 54.5 percent. The Trevor Project continues to have  
3 conversations with transgender youth who are in crisis as a result of these  
4 announcements of government-sanctioned discrimination against transgender people.

5 The grave ramifications of President Trump’s actions are exhibited not only by  
6 this alarming increase in transgender youth seeking the Trevor Project’s crisis  
7 intervention services after the announcement of the ban, but also by the experiences that  
8 many of these individuals have shared with professionals at the Trevor Project. In this  
9 *amicus* brief, the Trevor Project provides anonymized excerpts of conversations between  
10 transgender users of the Trevor Project’s Trevor Lifeline and TrevorChat services and  
11 the accredited professionals who staff these services.

12 The Trevor Project has observed that, for many of the transgender youth that use  
13 its services, the military often represents not only an opportunity to fight for their  
14 country, but also a means to a better life. The military provides tuition assistance, health  
15 and life insurance, veterans’ benefits, pension rights, and a steady source of income.<sup>38</sup>  
16 When transgender schoolchildren are bullied by their classmates, discriminated against  
17 by their teachers, and rejected by their parents, the Trevor Project has seen some place  
18 all their hopes and dreams for a better life on joining the military. In the military, they  
19 hope to be valued for their contribution toward the service of this country, rather than  
20 for how well they comply with traditional gender norms.

21 For example, one individual explained that they<sup>39</sup> had dreamed of joining the  
22 military since childhood as they believed it was their only path to an affordable college  
23 education. This individual, who is an honors student and junior ROTC member, felt that  
24 the announcement of the ban had completely stripped away their hope and plans for the

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26 <sup>38</sup> *Military Benefits at a Glance*, Military.com, [http://www.military.com/join-armed-](http://www.military.com/join-armed-forces/military-benefits-overview.html)  
27 [forces/military-benefits-overview.html](http://www.military.com/join-armed-forces/military-benefits-overview.html) (last visited Oct. 11, 2017).

28 <sup>39</sup> Where appropriate, this brief uses “they” and “their” as singular, gender-neutral pronouns.

1 future. However, despite feeling upset, angry, and hopeless, this individual showed  
2 great strength in stating that they would still pursue their plans if the military ban were  
3 repealed. Another individual stated that they, too, had plans of joining the military and  
4 that they felt despondent that they were being told they were too much of a burden to do  
5 so. As a result, this individual said they felt badly about themselves and who they are.

6 Even transgender youth who are not contemplating military service reached out  
7 to the Trevor Project's crisis services because of the announcement of the ban. To hear  
8 from the leader of your country that you are a burden and not good enough to defend  
9 your own country is profoundly hurtful. Several young people explained that they were  
10 contemplating suicide as a direct result of the President's announcement. One individual  
11 explained that they were an activist in the community and generally a strong and  
12 strategic thinker, but that President Trump's words had surprised and completely  
13 overwhelmed them. Another individual was in a state of crisis because it seemed like  
14 the President thought that they were less than human, and they were afraid that this  
15 message would incite violence against transgender people. One stated that President  
16 Trump's words made them regret ever coming out as transgender. Another individual  
17 stated that the announcement made them question whether undergoing the medical  
18 transition they had planned for and desired was still worth pursuing.

19 The common theme that the Trevor Project has witnessed is that transgender  
20 youth feel that the transgender military ban means that they are unwanted burdens and  
21 unwelcome in society. They feel that the government does not value them and does not  
22 want them to exist. Youths who should be living happy, care-free lives are instead  
23 fearing that government-sanctioned discrimination against them will incite their  
24 classmates and teachers to bully them and treat them as unhuman. The Trevor Project  
25 sees this backlash whenever the government broadcasts a message of discrimination,  
26 and enough is enough. These children do not deserve this pain.

1 **D. The Court Can Help Transgender Youth Be All They Can Be.**

2 Notwithstanding the negative effects of discrimination, there is still hope.  
3 Transgender youth can be as well-adjusted as their peers and are often ready and able to  
4 make society a better place. The Trevor Project has created a Youth Ambassador  
5 Council, which consists of bright LGBTQ youth who are looking forward to contributing  
6 to society and who serve as role models for their peers. Alex, for instance, is a 16-year-  
7 old transgender man who has “had the privilege of encountering some great teachers and  
8 administrators” and is the perfect example of how living in an accepting environment  
9 can help transgender people live ordinary, well-adjusted lives.

10 Transgender service members have served admirably for years in the military. A  
11 survey of transgender veterans conducted in 2015 found that 30% of respondents  
12 indicated that they would return to the military if transgender people were allowed to  
13 serve, and another 30% said that they would consider returning.<sup>40</sup> These figures  
14 demonstrate that many transgender people answered the call to serve their country  
15 despite knowing they would have to remain closeted to do so. For many willing and  
16 able veterans, the only thing holding them back from continued service is the inability  
17 to serve openly.

18 Transgender people have demonstrated their ability to serve capably and  
19 honorably in the military, even at great personal sacrifice. The plaintiffs here—four  
20 transgender service members and three prospective service members—demonstrate the  
21 positive impact that transgender individuals can have in the military. Plaintiffs’ Motion  
22 for Preliminary Injunction and the plaintiffs’ respective declarations describe their  
23 service and explain that they have received early promotions, achievement medals,  
24 commendation medals, and Colonel Coins of Excellence for their exemplary service.  
25 (D.E. 15, at 7-10.) These are honorable people who have heeded the call to serve. They  
26 have attested to how happy they are that they have been able to serve openly, with one

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28 <sup>40</sup> Herman, *supra* note 14, at 173.

1 remarking that “I finally felt like I could be myself.” Redacted Decl. in Support of Pls.’  
2 Mot. for Preliminary Injunction ¶ 13 (D.E. 29-4). They have told the Court that their  
3 fellow service members have supported them when they revealed that they were  
4 transgender. Redacted Decl. in Support of Pls.’ Mot. for Preliminary Injunction ¶¶ 18,  
5 20 (D.E. 29-3).

6 These individuals do not stand alone. Many other transgender service members  
7 have filed suit against the transgender military ban in recent weeks. *See, e.g., Karnoski*  
8 *v. Trump*, No. 2:17-cv-1297-MJP (W.D. Wash. filed Aug. 28, 2017); *Stone v. Trump*,  
9 No. 1:17-cv-2459-MJG (D. Md. filed Aug. 28, 2017); *Doe v. Trump*, No. 1:17-cv-01597  
10 (D.D.C. filed Aug. 9, 2017). Like plaintiffs here, these plaintiffs have served admirably  
11 in the military or wish to heed the supreme and noble call. For instance, the *Karnoski*  
12 plaintiffs “have fought terrorism, served in far-flung locations around the world, and  
13 promoted stability in strife-riven regions”; they “have collectively served our country  
14 for decades, and each represents a significant investment of public resources, including  
15 specialized training.” Plaintiffs’ Motion for Preliminary Injunction at 4, *Karnoski v.*  
16 *Trump*, No. 2:17-cv-1297-MJP (W.D. Wash. Sept. 14, 2017) (D.E. 32). Likewise, the  
17 *Stone* plaintiffs include Petty Officer Stone, who has served for over eleven years,  
18 including a nine-month deployment to Afghanistan, as well as Technical Sergeant  
19 Tommie Parker, who has served in the military for over thirty years, and several  
20 additional service members who have helped the military be all that it can be. Plaintiffs’  
21 Memorandum in Support of Motion for Preliminary Injunction at 13-17, *Stone v. Trump*,  
22 No. 1:17-cv-2459-MJG (D. Md. Sept. 14, 2017) (D.E. 40-2). Furthermore, the *Doe*  
23 plaintiffs have also received an array of medals, commendations, and ribbons for their  
24 service. Plaintiffs’ Motion for Preliminary Injunction at 9, *Doe v. Trump*, No. 1:17-cv-  
25 01597 (D.D.C. Aug. 31, 2017) (D.E. 13).

26 Additional transgender service members have told their stories to the press.  
27 Kristin Beck offers just one of many examples: She served in the Navy for twenty years,  
28 including on the elite SEAL Team 6, and earned a Bronze Star for valor and the Purple

1 Heart.<sup>41</sup> These service members have found fulfillment in their service. Trish King, a  
2 transgender staff sergeant in the Army, stated that her peers told her: “‘We have your  
3 back and you have our support’ . . . . And I felt better because I knew that camaraderie  
4 that I’ve come to know the last 18 years was still there and that I was still a part of this  
5 amazing team.”<sup>42</sup> Navy Lieutenant Commander Blake Dremann proudly stated that  
6 transgender service members have proven to their peers that they are “not burdens,” but  
7 rather are “fully qualified” and “fully deployable.”<sup>43</sup> These service members reported  
8 that their colleagues in the military “weren’t concerned with [their] gender”; rather,  
9 “[w]hat they were concerned with is [their] history of service and the fact that they . . .  
10 could do [their] job.”<sup>44</sup>

11 These transgender individuals simply want what we all want: an opportunity to  
12 be a valuable member of society and to be judged on their merits. They want the same  
13 opportunity as their cisgender peers to stand beside other service members and defend  
14 this country from those who reject our freedom. And even for those transgender  
15 individuals who may never join the military, countless benefits flow from being granted  
16 equal opportunity under the law. By excluding transgender people from military service,  
17 the military ban strips transgender individuals of full citizenship and tells the country  
18 that they are inherently inferior and unworthy. The soldiers who fight for our country  
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21 <sup>41</sup> Paul Szoldra, *Kristin Beck, Transgender Navy SEAL Hero: ‘Let’s Meet Face to*  
22 *Face and You Tell Me I’m Not Worthy’*, Business Insider (July 26, 2017),  
23 <http://www.businessinsider.com/kristin-beck-trump-transgender-ban-2017-7>.

24 <sup>42</sup> Meghan Keneally, *Transgender Service Members Speak Out Against Trump’s Ban*,  
25 ABC News (July 27, 2017), <http://abcnews.go.com/Politics/transgender-service-members-speak-trumps-ban/story?id=48883441>.

26 <sup>43</sup> Emanuella Grinberg & Paul P. Murphy, *Transgender Troops: “We’re Not*  
27 *Burdens,”* CNN (July 26, 2017),  
28 <http://www.cnn.com/2017/07/26/politics/transgender-troops-voices/index.html>.

<sup>44</sup> Keneally, *supra* note 42.

1 are heroes and role models, and, by denying transgender people the opportunity to serve,  
2 the government demeans all transgender people and legitimizes prejudices against them.

3 The Trevor Project hopes that this Court will allow transgender youth to have the  
4 same opportunities as their peers to serve and to thrive. As Gavin Grimm, the plaintiff  
5 in *Gloucester County School Board v. G.G.*, 137 S. Ct. 1239 (2017) (mem.), has said:  
6 “I am not the only transgender [person] . . . and I deserve the rights of every other human  
7 being. I am just a human. I am just a boy. Please consider my rights when you make  
8 your decision.”<sup>45</sup>

### 9 III. CONCLUSION

10 The message that the Trevor Project has heard from transgender youth is clear:  
11 we are ready; we are able; let us fight beside you. This Court should not make the same  
12 mistake the Supreme Court made in *Bowers v. Hardwick* by allowing the government to  
13 discriminate against the LGBTQ community, which caused “pain and humiliation” that  
14 “no doubt lingered long after *Bowers* was overruled.” *Obergefell*, 135 S. Ct. at 2606.  
15 For the foregoing reasons, the Trevor Project hereby requests that the Court grant  
16 Plaintiffs’ Motion for Preliminary Injunction.

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<sup>45</sup> ACLUvideos, *Gavin Grimm at Gloucester County School Board Meeting*,  
YouTube (Sept. 1, 2016), [https://youtu.be/My0GYq\\_Wydw](https://youtu.be/My0GYq_Wydw).



1 Dated: October 25, 2017

Respectfully Submitted,

2  
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7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10  
11 AIDEN STOCKMAN; NICOLAS  
TALBOTT; TAMASYN REEVES;  
12 JAQUICE TATE; JOHN DOES 1-2;  
13 JANE DOE; and EQUALITY  
CALIFORNIA,

14 Plaintiffs,

15 v.

16 DONALD J. TRUMP, et al.,

17 Defendants.  
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CASE NO. 5:17-cv-01799-JGB-KK

**[PROPOSED] ORDER GRANTING  
THE TREVOR PROJECT'S MOTION  
FOR LEAVE TO FILE AS AMICUS  
CURIAE**

