

No. 18-35708

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

PARENTS FOR PRIVACY, *et al.*,

Plaintiffs-Appellants,

v.

DALLAS SCHOOL DISTRICT NO. 2, *et al.*,

Defendants-Appellees,

On Appeal from the United States District Court
for the District of Oregon, No. 3:17-cv-01813
The Honorable Marco A. Hernandez

**BRIEF OF *AMICI CURIAE* ANTI-DEFAMATION LEAGUE *ET AL.* IN
SUPPORT OF APPELLEE AND SUPPORTING AFFIRMANCE**

Steven M. Freeman
Kimberley Plotnik
David Barkey
Melissa Garlick
ANTI-DEFAMATION LEAGUE
605 Third Avenue, 10th Floor
New York, NY 10158
Tel: 212-885-7700

George G. Gordon
Ryan M. Moore
Thomas J. Miller
DECHERT LLP
Cira Centre, 2929 Arch Street
Philadelphia, PA 19104-2808
Tel: 215-994-4000

Counsel for Amicus Curiae Anti-Defamation League

CORPORATE DISCLOSURE STATEMENT

Amici curiae Anti-Defamation League; Americans United for Separation of Church and State; Bend the Arc Jewish Action; Central Pacific Conference of the United Church of Christ; Corvallis-area Lavender Women; Greater Seattle Business Association; Hadassah, The Women's Zionist Organization of America, Inc.; Human Rights Campaign; Jewish Council for Public Affairs; Jewish Federation of Greater Portland; Keshet: For LGBTQ Equality in Jewish Life; National Center for Transgender Equality; National Center for Youth Law; National Council of Jewish Women; National Queer Asian Pacific Islander Alliance; OCA - Asian Pacific American Advocates; People For the American Way Foundation; Public Counsel; South Asian Americans Leading Together; Union for Reform Judaism; and Central Conference of American Rabbis have no parent corporations, nor does any publicly held corporation own 10% or more of their stock.

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INTERESTS OF AMICI CURIAE¹

Anti-Defamation League (“ADL”) was founded in 1913 to combat anti-Semitism and other forms of prejudice, and to secure justice and fair treatment to all. Today, ADL is one of the nation’s leading civil rights organizations. As part of its commitment to protecting the civil rights of all persons, ADL has filed *amicus* briefs in numerous cases addressing the unconstitutionality or illegality of discriminatory practices or laws, as well as *amicus* briefs supporting anti-discrimination laws and policies that protect historically persecuted groups. ADL has a substantial interest in this case. As a leading provider of anti-bias education, ADL works with educators, students, and communities in understanding and challenging bias, and ensuring safe, respectful, and inclusive learning environments where all students can learn and thrive. ADL’s education work is nationally recognized, and our programs are implemented in schools across the country.

Americans United for Separation of Church and State is a national, nonsectarian public-interest organization that is committed to preserving the constitutional principles of religious freedom and separation of church and state. Since its founding in 1947, Americans United has participated as a party, counsel,

¹ No person or party, other than ADL and its counsel, authored this brief in whole or in part; and no person or party contributed money that was intended to fund preparing or submitting this brief. *See* Fed. R. App. P. 29(a)(4)(E). All parties have consented to the filing of this brief.

or *amicus curiae* in many of the leading church-state cases decided by the U.S. Supreme Court, this Court, and federal and state appellate and trial courts across the country. Americans United represents more than 125,000 members and supporters, including many within the jurisdiction of this Court. Americans United recognizes that people of faith may hold strong—and conflicting—religious beliefs on what policies public schools should have relating to transgender students. Americans United joins this brief because it believes that religion should never be used to justify discrimination against or exclusion in any government-supported activity—including public education—and that public-policy decisions should not be based on religious doctrines.

Bend the Arc Jewish Action, A Jewish Partnership for Justice is the nation’s leading progressive Jewish voice empowering Jewish Americans to be advocates for the nation’s most vulnerable. Bend the Arc mobilizes Jewish Americans beyond religious and institutional boundaries to create justice and opportunity for all, through bold leadership development, innovative civic engagement, and robust progressive advocacy.

Central Pacific Conference of the United Church of Christ and The United Church of Christ in Oregon have a long history of supporting and upholding LGBTQIA+ rights, and are glad to stand with the Dallas, Oregon schools in their work to affirm the personhood of transgender students.

Corvallis-area Lavender Women includes and supports transwomen and supports the rights of transgender students to consideration in line with Oregon’s public accommodations law, which provides for protection on the basis of sexual orientation and gender identity.

Greater Seattle Business Association is the largest LGBTQ chamber of commerce and the home to the first LGBTQ scholarship fund.

Hadassah, The Women’s Zionist Organization of America, Inc. (“Hadassah”) is the largest Jewish and women’s membership organization in the United States, with over 300,000 members, Associates and supporters nationwide. While traditionally known for its role in developing and supporting health care and other initiatives in Israel, Hadassah has a proud history of protecting the rights of women and the Jewish community in the United States. Hadassah vigorously condemns discrimination of any kind and, as a pillar of the Jewish community, understands the dangers of bigotry.

Human Rights Campaign (“HRC”) is the largest national lesbian, gay, bisexual, and transgender political organization. HRC envisions an America where lesbian, gay, bisexual, and transgender people are ensured of their basic equal rights, and can be open, honest, and safe at home, at work, and in the community. Among those basic rights is freedom from discrimination and access to equal opportunity.

Jewish Council for Public Affairs (“JCPA”) is an umbrella body that represents 125 local Jewish community relations councils and 17 national Jewish agencies, including civil and human rights organizations and the four streams of American Judaism (Orthodox, Conservative, Reform and Reconstructionist). Together JCPA and its network advocates for a just and pluralistic American society, human rights around the world, and Israel’s quest for peace and security. JCPA has long-standing policy advocating for civil rights protections to be extended to transgender people.

Jewish Federation of Greater Portland supports local, state and federal legislation/policies that extend civil rights protections to individuals based on their real or perceived gender identity or expression.

Keshet: For LGBTQ Equality in Jewish Life (“Keshet”) works for the full equality of LGBTQ Jews in Jewish life. Keshet turns values at the heart of Judaism—equality, inclusion, and human dignity—into action in Jewish communities because when communities stand by and allow LGBTQ Jews to be excluded, all of Jewish life is held back from reaching its full potential. Keshet equips Jewish organizations with the tools to build LGBTQ-affirming communities, creates spaces for queer Jewish teens to feel valued as queer and Jewish, and mobilizes the Jewish community to fight for LGBTQ justice nationwide.

National Center for Transgender Equality (“NCTE”) is a national social justice organization founded in 2003 and devoted to advancing justice, opportunity, and well-being for transgender people and their families through education, advocacy, and research. NCTE works with policymakers and communities around the country to develop fair and effective public policies, and has helped many state and local education agencies develop and implement effective equal opportunity policies to support their students.

National Center for Youth Law (“NCYL”) is a private, non-profit organization that uses the law to help children in need nationwide. For more than 40 years, NCYL has worked to protect the rights of low-income children and to ensure that they have the resources, support, and opportunities necessary for healthy and productive lives. NCYL focuses its advocacy on vulnerable and marginalized youth, such as children at risk of entering the juvenile justice system and children in foster care. In particular, NCYL works to ensure that low-income children get the education they need. NCYL values diversity in all forms, including gender identity, and believes that inclusive school policies effectively reduce bias, harassment, and bullying and contribute to a safer school environment.

National Council of Jewish Women (“NCJW”) is a grassroots organization of 90,000 volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCJW strives for social justice by improving the quality of life

for women, children, and families and by safeguarding individual rights and freedoms. NCJW's Resolutions state that it resolves to work for "Laws, policies, programs, and services that protect every child from abuse, neglect, exploitation, bullying, and violence and provide equal rights for individuals and couples of any and all sexual orientation, gender identity, and gender expression."

National Queer Asian Pacific Islander Alliance ("NQAPIA") is a federation of LGBT Asian American, South Asian, Southeast Asian, and Pacific Islander organizations. NQAPIA builds the capacity of local LGBT Asian Pacific Islander groups, develops leadership, promotes visibility, educates the community, invigorates grassroots organizing, encourages collaborations, and challenges anti-LGBT bias and racism.

OCA - Asian Pacific American Advocates is a non-profit organization whose mission is to advance the social, political, and economic well-being of Asian Pacific Americans in the United States. The organization supports inclusive and protective policies for transgender students to access restrooms and locker rooms consistent with their gender identity.

People For the American Way Foundation ("PFAWF") is a nonpartisan civic organization established to promote and protect civil and constitutional rights, including religious liberty, as well as American values like equality and opportunity for all. Founded in 1981 by a group of civic, educational, and religious leaders,

PFAWF now has hundreds of thousands of members nationwide. Over its history, PFAWF has conducted extensive education, outreach, litigation, and other activities to promote these values.

Public Counsel, based in Los Angeles, California, is the nation's largest not-for-profit law firm specializing in delivering pro bono legal services. Public Counsel's Children's Rights Project works to improve the lives of children, youth, and their families on a variety of civil legal issues, including access to education. The organization unites litigation, policy change, direct services, and community partnerships to advance education reforms in California and nationwide. Public Counsel believes schools need to create opportunity, foster equality, and promote success for all students. Public Counsel strongly supports policies that ensure gender equity and inclusion as these are in the best interests of all students and promote safe and successful school environments.

South Asian Americans Leading Together ("SAALT") is a national, nonpartisan, non-profit organization that fights for racial justice and advocates for the civil rights of all South Asians in the United States. Its ultimate vision is dignity and full inclusion for all.

Union for Reform Judaism, whose 900 congregations across North America include 1.5 million Reform Jews and the **Central Conference of American Rabbis**, whose membership includes more than 2000 Reform rabbis, are committed to

ensuring equality for all of God's children. It opposes discrimination against all individuals "for the stamp of the Divine is present in each and every human being."

SUMMARY OF ARGUMENT

Dallas School District No. 2 (“Dallas”) implemented a Student Safety Plan permitting a transgender student to access the restrooms and locker rooms consistent with his gender identity (the “Policy”). Dallas’s Policy is similar to policies upheld by courts around the country and reflects Dallas’s compliance with anti-discrimination protections under federal law. In a detailed opinion rejecting Appellants’ challenge to the Policy, the District Court approvingly cited case law from around the country holding that schools have a compelling interest in protecting transgender students from discrimination, and that policies such as Dallas’s are narrowly tailored to serve that interest. The Policy also reflects a core American constitutional principle: the prevention of discrimination, which the Supreme Court has acknowledged is particularly important in a school environment. These grounds alone warrant affirming the District Court.

The District Court’s decision is also consistent with social science and empirical research demonstrating that Dallas’s Policy serves the interests of all students, including those who are transgender. Transgender students face a disproportionate amount of discrimination, bias, and harassment. Policies such as Dallas’s help prevent discrimination and harassment by promoting a safe, inclusive, and tolerant school and learning environment. They also enhance a school’s ability to shield transgender students from bias and harassment and teach a generation of

children the importance of inclusivity, tolerance, and respect. For these reasons, and as explained further below, *amici curiae* respectfully request that this Court affirm the District Court’s decision.

ARGUMENT

I. DALLAS HAS A COMPELLING INTEREST IN PREVENTING DISCRIMINATION AGAINST TRANSGENDER STUDENTS

Dallas’s Policy permits a transgender student to access the restrooms and locker rooms consistent with his gender identity. *See* Appellants’ Excerpt of Record (“E.R.”) at 132–33. The Policy serves Dallas’s interest in promoting policies of nondiscrimination throughout the district. *See* E.R. at 16–18 (Dist. Ct. Op. at 7–9).

The District Court’s decision should be affirmed for several reasons. First, the District Court properly rejected Appellants’ contention that the Policy violated a constitutionally protected privacy interest. *Id.* at 31–44 (Dist. Ct. Op. at 22–35). Indeed, the purported fundamental right at issue—that “high school students have a constitutional right not to share restrooms or locker rooms with transgender students whose sex assigned at birth is different than theirs”—has been uniformly rejected.²

² *See* E.R. at 32 (Dist. Ct. Op. at 23); *see also Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 531 (3d Cir. 2018); *Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1051 (7th Cir. 2017); *Students and Parents for Privacy v. U.S. Dep’t of Educ.*, No. 16-4945, 2016 WL 6134121, at *23 (N.D. Ill. Oct. 18, 2016); *Bd. of Educ. of the Highland Local Sch. Dist. v. U.S. Dep’t of Educ.*, 208 F. Supp. 3d 850, 874–75 (S.D. Ohio 2016).

Conversely, policies denying transgender children access to facilities consistent with their gender identities may violate the Equal Protection Clause and/or Title IX.³

Second, the District Court appropriately cited the growing body of case law holding that policies comparable to Dallas’s are narrowly tailored to serve “a compelling state interest in protecting transgender students from discrimination” and are therefore constitutional regardless of the level of scrutiny applied to Plaintiffs’ claims. *See* E.R. at 44–46 (Dist. Ct. Op. at 35–37).

Third, the District Court’s decision is consistent with the Supreme Court’s recognition of the harm caused by discrimination in educational settings and the deference that public educational institutions are entitled to receive in combating discrimination. The Supreme Court has emphasized that discrimination in an educational setting is particularly damaging to students because it “generates a feeling of inferiority as to [students’] status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” *Brown v. Bd. of Educ.*, 347 U.S. 483, 494 (1954). As a result, educational institutions have a compelling interest in preventing and remedying discrimination and are entitled to “a degree of deference” with respect to their efforts to do so. *Grutter v. Bollinger*, 539 U.S. 306, 328 (2003); *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971)

³ *See, e.g., Whitaker*, 858 F.3d at 1049; *Evancho v. Pine-Richland Sch. Dist.*, 237 F. Supp. 3d 267, 290–91 (W.D. Pa. 2017); *Adams v. Sch. Bd. of St. Johns County*, 318 F. Supp. 3d 1293, 1325 (M.D. Fla. 2018).

(public schools are “clearly charged with the affirmative duty to take whatever steps might be necessary” to eliminate state-sponsored discrimination in education). Dallas’s Policy—which creates an inclusive and non-discriminatory environment for all students, including transgender youth—is paramount to the District’s interest in promoting these core civic values.

II. DALLAS’S POLICY IS IN THE BEST INTERESTS OF THE ENTIRE SCHOOL COMMUNITY

Dallas’s Policy benefits both transgender youth and the entire school community. Transgender students face shockingly high rates of discrimination, bullying, and harassment while seeking an education. This kind of adverse treatment harms transgender students’ development and psyche, and negatively affects the whole student population. Conversely, inclusive policies help prevent and curtail these problems and reduce the impact of bullying and harassment more generally. As a result, the Policy is critically important to the physical and psychological well-being of all students.

A. Anti-Transgender Bias and Harassment Harms Transgender Students and the Student Population as a Whole

Transgender students suffer from substantially higher rates of harassment, abuse, and bullying than cisgender students. Indeed, such treatment is shockingly common. According to a 2017 study of Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning (“LGBTQ”) students, 83% of transgender students felt unsafe at

school because of their gender. Additionally, 85% experienced harassment and assault because of their gender.⁴ A 2015 study of 27,715 transgender adults in the United States showed similar results: 77% of the respondents who were openly transgender or perceived as transgender during grades K-12 experienced some form of mistreatment.⁵ This included 54% who were verbally harassed, 24% who were physically attacked, and 13% who were sexually assaulted because they were transgender.⁶ Nearly one in five left a school because of the severity of the mistreatment.⁷

While studies indicate that transgender students who are supported at school have mental health outcomes similar to their cisgender peers, those who face mistreatment at school tend to experience poor outcomes both at school and later in life.⁸ For example, the 2017 National School Climate Survey found that LGBTQ students who faced higher levels of victimization had lower levels of self-esteem

⁴ Joseph G. Kosciw et al., *The 2017 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation's Schools* 94-95 (2018).

⁵ Sandy E. James et al., *The Report of the 2015 U.S. Transgender Survey* 132 (2016).

⁶ *Id.*

⁷ *Id.*

⁸ *See, e.g.,* Lily Durwood et al., *Mental Health and Self-Worth in Socially Transitioned Transgender Youth*, 56 *J. Am. Acad. Child Adolescent Psychiatry* 116 (2017); Kristina R. Olson et al., *Mental Health of Transgender Children Who Are Supported in Their Identities*, 137 *Pediatrics* 2 (2016).

and higher levels of depression than other LGBTQ students.⁹ They also had poorer academic performance (including lower GPA), were three times as likely to have missed class in the previous month due to safety concerns, and were less inclined to pursue post-secondary education than other LGBTQ students.¹⁰ The impact of discrimination at school follows many transgender people throughout their lives. Adult respondents to the 2015 U.S. Transgender Survey who faced mistreatment at school were more likely to experience homelessness in their lifetimes, to live in poverty as adults, and to have attempted suicide.¹¹

Harassment and abuse of transgender people is often related to their use of restrooms. A comprehensive 2015 survey reported that, in the previous year, 24% of transgender respondents had been questioned or challenged when entering a restroom, 9% were denied access to a restroom, and 12% were verbally harassed, physically attacked, or sexually assaulted when accessing or using a restroom.¹² Additionally, 59% of transgender respondents avoided using the restroom due to fear of confrontation in the past year and 32% limited their food and fluid consumption

⁹ Kosciw et al., *supra* note 4, at 43.

¹⁰ *Id.*

¹¹ James et al., *supra* note 5, at 132.

¹² *Id.* at 224–25.

to reduce public restroom trips.¹³ A different study found that 80% of transgender students had avoided school restrooms because they felt unsafe or uncomfortable.¹⁴

Extensive research shows that discrimination related to transgender students' use of restrooms can cause severe harm. A 2016 report found a correlation between attempted suicide and exclusion of transgender people from school restrooms or other gender-specific facilities.¹⁵ Research also indicates that transgender students subjected to exclusionary policies may experience mental health challenges and physical ailments, including urinary tract infections.¹⁶ Experiences of stigmatization

¹³ *Id.*; see also Mark A. Schuster et al., *Beyond Bathrooms – Meeting the Health Needs of Transgender People*, 375(2) *New Eng. J. Med.* 101, 101–02 (2016) (discussing health issues caused by “[d]elayed bathroom use,” including “the ongoing fear of harassment and violence when using public bathrooms” and how it “can take a toll on mental health”).

¹⁴ Kosciw et al., *supra* note 4, at 96.

¹⁵ Kristie L. Seelman, *Transgender Adults' Access to College Bathrooms and Housing and the Relationship to Suicidality*, 63 *J. Homosexuality* 1378, 1388–89 (2016); see also Ayden Scheim et al., *Intervenable factors associated with suicide risk in transgender persons: a respondent driven sampling study in Ontario, Canada*. 15 *BMC Public Health*. 525, 526–27 (2015).

¹⁶ Jody L. Herman, *Gendered Restrooms and Minority Stress: The Public Regulation of Gender and its Impact on Transgender People's Lives*, 19 *J. Pub. Mgmt. & Soc. Pol'y* 65, 75 (2013); L.S. Weinhardt et al., *Transgender and Gender Nonconforming Youths' Public Facilities Use and Psychological Well-Being: A Mixed Method Study*, 2(1) *Transgender Health* 140, 148 (2017).

and mistreatment in social and educational contexts can be a major source of distress for transgender students.¹⁷

In educational environments, harassment and bias directed toward transgender students impacts all students.¹⁸ Studies have shown that “observing the victimization of other[] peers can have a significant negative impact on multiple indicators of mental health.”¹⁹ Indeed, children who have been previously bullied may empathize with the suffering of other victims and feel “revictimized” as a consequence.²⁰ Students who witness bullying also may experience elevated stress or anxiety based on a fear “that they too will be victimized at some point.”²¹ They may also suffer from wanting to intervene but failing to do so.²²

¹⁷ See Jason Rafferty, *American Academy of Pediatrics Policy Statement: Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142(4) *Pediatrics* 1, 3 (Oct. 2018); see also Am. Psychological Ass’n, *Resolution on Gender and Sexual Orientation Diversity in Children and Adolescents in School* (2014), <https://www.apa.org/about/policy/orientation-diversity>.

¹⁸ Ilan H. Meyer et al., *Sexual Orientation Enumeration in State Antibullying Statutes in the United States: Association with Bullying, Suicidal Ideation, and Suicide Attempts Among Youth*, 6.1 *LGBT Health* 9, 10–14 (Jan. 16, 2019) (observing that, in states with sexual orientation-inclusive bullying laws, there were lower rates of suicide attempts for both LGB **and** straight youth).

¹⁹ Ian Rivers et al., *Observing Bullying at School: The Mental Health Implications of Witness Status*, 24 *Sch. Psych. Q.* 211, 218 (2009).

²⁰ *Id.*

²¹ *Id.* (citing W. Craig, *Observations of bullying and victimization in the school yard*, *Canadian Journal of School Psychology* 2, 41–60 (1997)).

²² *Id.*

B. Dallas’s Inclusive Policy Benefits All Students

Dallas’s Policy is part of its broader effort to reduce discrimination and bias in school. Dallas has implemented both nondiscrimination and anti-bullying policies that specifically help prevent anti-transgender bias and harassment.²³ Dallas’s Policy permitting a transgender student to use restrooms consistent with his gender identity furthers those goals and promotes inclusivity to the advantage of the entire educational community.

Integrated efforts to combat and prevent discrimination, bias, and harassment, allow LGBTQ youth to feel safer and more comfortable while receiving an education, especially when teachers and staff are provided with appropriate tools and resources.²⁴ LGBTQ students living in states with comprehensive, enumerated “safe school” policies reported experiencing “lower levels of harassment and assault” and “a higher frequency of staff intervention in instances of harassment.”²⁵ Similarly, schools with gay-straight alliance groups report fewer anti-LGBTQ remarks and, in turn, a greater sense of security among LGBTQ students.²⁶

²³ See E.R. at 134–35 (Dallas Nondiscrimination Policy); see also *id.* at 147–50 (Dallas Harassment / Intimidation / Bullying / Cyberbullying / Teen Dating Violence / Domestic Violence Policy).

²⁴ See Stephen T. Russell et al., *Safe Schools Policy for LGBTQ Students*, 24(4) Soc. Pol’y Rep., 1, 6–7 (2010) [hereinafter “Russell”].

²⁵ Kosciw et al., *supra* note 4, at xxiii–xxiv.

²⁶ *Id.* at xxii; Russell, *supra* note 24, at 7 (students feel safer and more comfortable in schools with support groups or clubs such as gay-straight alliances).

Dallas’s Policy is critical to creating an inclusive educational environment. Policies communicate values and influence how children treat one another. Inclusive restroom policies are instrumental in the affirmation of transgender students’ gender identity, and “[g]ender affirmation—having one’s gender identity acknowledged and accepted in social, legal, and other settings—can greatly enhance overall psychological health.”²⁷ As the National Education Association has recognized, “it is essential to the health and well-being of transgender people for them to be able to live in accordance with their internal gender identity in all aspects of life and restroom usage is a necessary part of that experience.”²⁸ Respecting gender identity in other educational settings such as “dances, sports, physical

²⁷ Schuster et al., *supra* note 13, at 102; Durwood et al., *supra* note 8, at 120 (finding normal levels of depression in transgender children who had already socially transitioned as compared to a control group of non-transgender children, in contrast to previous studies’ findings of “markedly higher rates of anxiety and depression and lower self-worth” among “gender-nonconforming children who had not socially transitioned”); National Education Ass’n, Legal Guidance on Transgender Students’ Rights 24 (June 2016), https://www.nea.org/assets/docs/20184_Transgender%20Guide_v4.pdf (“An important stage in the transition is social transition, which means that the transgender person experiences living full-time as the transitioned gender. During this social transition, patients should present consistently, on a day-to-day basis and across all settings of life, in their desired gender role, including using sex-segregated facilities including restrooms and locker rooms.” (internal quotation marks omitted)).

²⁸ National Educational Ass’n, *supra* note 27, at 24; *see also* Laura J. Wernick et al., *Gender Identity Disparities in Bathroom Safety and Wellbeing among High School Students* 46 *J. Youth Adolescence* 917, 927 (2017) (“LGBT students may also benefit from interventions designed to ensure safe access to bathrooms for trans students.”).

education, [and] locker room environments” also promotes overall psychological well-being.²⁹

On the other hand, policies that ignore these health and safety consequences and bar transgender students from common spaces (such as restrooms consistent with their gender identity) can “send a message that transgender people are not welcome in workplaces or schools, reinforcing the stigma, bias, and fear that fuel discrimination against transgender people.”³⁰ Moreover, the benefits of inclusive policies with respect to restrooms cannot be obtained simply by offering private, single-user restrooms. As one study noted, single-user restrooms can be a “double-edged sword” that “offer[s] privacy on the one hand, but singl[es] [transgender students] out on the other.”³¹ For example, single-use bathrooms may be “locked or located in faculty/staff-only areas potentially exposing students to unwanted attention from peers and adults and being seen as different from their peers”³²

Inclusive policies protect transgender youth and benefit them in practical and measurable ways. Studies have recognized that receiving support from educators can improve student academic outcomes and improve transgender students’

²⁹ Jenifer K. McGuire et al., *School Climate for Transgender Youth: A Mixed Method Investigation of Student Experiences and School Responses*, 39 *J. Youth & Adolescence* 1175, 1177, 1186 (2010).

³⁰ Schuster et al., *supra* note 13, at 102.

³¹ Weinhardt et al., *supra* note 16, at 147.

³² *Id.*

commitment to completing high school.³³ Overall, Dallas’s Policy will cultivate students who are stronger college applicants, more competitive job candidates, and physically and mentally healthier adults.³⁴

In addition to these recognized benefits, Dallas’s Policy is critical to the welfare of all students. Dallas’s policy improves the overall learning environment and foster solidarity within the school community. School administrators nationwide have identified schools as “the ideal place to preach acceptance and courage among young people,”³⁵ and “enumerated policies” like Dallas’s create “stronger connections” among school communities.³⁶ Inclusive policies also impart values that prepare students for success later in life. When students are taught acceptance and empathy, they are more likely to embrace diversity, reject prejudice, and excel in an increasingly global and pluralistic society.³⁷ Dallas’s Policy

³³ Kosciw et al., *supra* note 4, at 73.

³⁴ See Russell, *supra* note 24, at 6–7.

³⁵ See Layla J. Kurt & Krystal H. Chenault, *School Policy and Transgender Identity Expression: A Study of School Administrators’ Experiences*, 12(3) *Int. J. Educ. Pol’y and Leadership*, 1, 8 (2017); see also N. Eugene Walls et al., *Gay-Straight Alliances and School Experiences of Sexual Minority Youth*, 41 *Youth & Society* 307, 323–25 (2010) (finding trans-inclusive policies and practices, appropriate response to bullying, and allowing transgender students to be acknowledged in accordance with their gender identity creates a more positive overall school climate, which leads to better outcomes for all students).

³⁶ Stephen T. Russell, *Are School Policies Focused on Sexual Orientation and Gender Identity Associated with Less Bullying? Teachers’ Perspectives*, 54 *J. Sch. Psychol.* 29, 30 (2016).

³⁷ See, e.g., Jeanne L. Reid & Sharon Lynn Kagan, *A Better Start: Why Classroom Diversity Matters in Early Education*, The Century Foundation and

promotes recognition of and respect for all individuals while sending a clear and vital message about their intrinsic value in the community.³⁸ In other words, adopting a policy that reflects the current global consensus of inclusion is advantageous to all Dallas students.³⁹ This Court should affirm the District Court’s opinion and support Dallas’s effort to educate, support and protect all students.

CONCLUSION

For the reasons discussed above, and the reasons discussed in the briefs of Defendants-Appellees, the District Court’s decision should be affirmed.

Poverty & Race Research Action Council at 9 (Apr. 2015), https://www.prrac.org/pdf/A_Better_Start.pdf.

³⁸ See *Diversity In Primary Schools Promotes Harmony, Study Finds*, ScienceDaily (July 26, 2008), <https://www.sciencedaily.com/releases/2008/07/080724064835.htm>; see also Jaana Juvonen et al., *Ethnic Diversity and Perceptions of Safety in Urban Middle Schools*, 17 Psychol. Science 393, 398 (2006) (finding ethnic diversity in schools is associated with “feelings of safety and social satisfaction in school” and students feeling “safer, less harassed, and less lonely”).

³⁹ See, e.g. Andrew R. Flores et al., *Public Support for Transgender Rights: A Twenty-three Country Survey*, The Williams Institute: UCLA School of Law at6 (2016), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/23-Country-Survey.pdf> (“A majority of respondents from 15 countries agreed that transgender people should be allowed to use the restroom associated with their gender identity.”); Kurt & Chenault, *supra* note 35, at 7 (“[S]tudents and faculty were mostly supportive and presented little resistance to the accommodation of transgender students, while parents and other community members exhibited the most resistance and were often the underlying source of what little animosity was demonstrated by students.”).

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Respectfully submitted,

s/ Ryan M. Moore

Ryan M. Moore

George G. Gordon

Thomas J. Miller

DECHERT LLP

Cira Centre, 2929 Arch Street

Philadelphia, P.A. 19104-2808

Tel: 215-994-4000

Steven M. Freeman

Kimberley Plotnik

David Barkey

Melissa Garlick

Anti-Defamation League

605 Third Avenue, 10th Floor

New York, NY 10158

Tel: 212-885-7700

*Counsel for Amicus Curiae Anti-Defamation
League*

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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