

No. 18-35708

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

PARENTS FOR PRIVACY; KRIS GOLLY and JON GOLLY, individually and
as guardians ad litem for A.G.; NICOLE LILLY; MELISSA GREGORY,
individually and as guardian ad litem for T.F.; and PARENTS RIGHTS IN
EDUCATION, an Oregon nonprofit corporation,

Appellants,

v.

DALLAS SCHOOL DISTRICT NO. 2; OREGON DEPARTMENT OF
EDUCATION; GOVERNOR KATE BROWN, in her official capacity as
SUPERINTENDENT OF PUBLIC INSTRUCTION; UNITED STATES
DEPARTMENT OF EDUCATION; BETSY DEVOS, in her official capacity as
United States Secretary of Education; UNITED STATES DEPARTMENT OF
JUSTICE; WILLIAM P. BARR, in his official capacity as U.S. Attorney General,

Appellees,

BASIC RIGHTS OREGON,

Intervenor-Defendant-Appellee.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

***AMICI CURIAE* BRIEF OF SCHOOL ADMINISTRATORS FROM
THIRTY STATES AND THE DISTRICT OF COLUMBIA
IN SUPPORT OF APPELLEE DALLAS SCHOOL DISTRICT NO. 2 AND
INTERVENOR-DEFENDANT-APPELLEE**

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INTEREST OF *AMICI CURIAE*¹

Amici are school districts, superintendents, principals, school board members, general counsel, social workers, and other officials from schools and school districts that have adopted, or are in the process of adopting, inclusive policies and practices for their transgender students.² Together, *amici* represent a broad cross-section of schools

¹ No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae*, their members, or their counsel made a monetary contribution to its preparation or submission.

² Individual *amici* are Leah Fregulia, Adelita Grijalva, David Vannasdall, Ed.D., Judy Chiasson, Ph.D., Mónica García, Julie Vitale, Ph.D., San Diego Unified School District, Wendy Ranck-Buhr, Ph.D., San Diego Cooperative Charter Schools, Eldridge Greer, Ph.D., Achievement First Public Charter Schools, Emily Banks, Morgan Barth, Gregory R. Meece, Diana K. Bruce, Carlyne Albert-Garvey, Denise Palazzo, Jeremy Majeski, Karen Carney, Sarah Shirk, Beth Bazer, Ed.D., Thomas Weber, Thomas A. Aberli, Ed.D., Matthew Haney, Howard Colter, Ken Kunin, Robert A. Motley, Roger Bourgeois, Cyndy Taymore, Tommy Chang, Ed.D., Lizbeth DeSelm, DeLois Cooke Spryszak, Craig McCalla, Mary Doran, Pamela Retzlaff, Ed.D., Washoe County School District, James C. Morse, Sr., Ed.D., School District of South Orange and Maplewood, Thomas Smith, Ed.D., Craig Vaughn, Arthur DiBenedetto, John O'Reilly, Heidi Carter, Las Cruces Public Schools, Gregory Ewing, Ed.D., Wendi Miller-Tomlinson, Ph.D., Eric Doss, Peyton Chapman, Ziad W. Munson, Ph.D., Rachel Santa, Ed.D., Kellie M. Hargis, Ed.D., Lindsey Pollock, Ed.D., Brian Schaffer, the Worcester School District, Lisa Love, Dylan Pauly, Sherie Hohs, Sherri Cyra, Laura H. Love, Jill

and districts from thirty States plus the District of Columbia, collectively responsible for educating approximately 1.7 million students annually. *Amici* offer valuable perspectives on the issues in this case, based on their broad collective experience with adopting, implementing, and enforcing such policies in their schools. Counsel for *amici* conducted interviews with certain individual *amici* to obtain their input for this or earlier versions of this brief; synopses of *amici* interviews are on file with *amici*'s counsel Pillsbury Winthrop Shaw Pittman LLP. *Amici* who were not interviewed or are not quoted in this brief have experiences consistent with those expressed herein. The appendix submitted in conjunction with this brief includes information on the background and relevant experience of each *amicus*.

Amici file this brief pursuant to Federal Rule of Appellate Procedure 29(a)(2). All parties consent to the filing of this brief.

Gurtner, Monica Schommer, Paru Shah, Ph.D., and Tim Kenney. With the exception of *amici* Las Cruces Public Schools, San Diego Cooperative Charter Schools, San Diego Unified School District, Achievement First Public Charter Schools, Washoe County School District, the School District of South Orange and Maplewood, and the Worcester School District, *amici* join this brief in their individual capacities based on their experiences as school administrators and not as representatives of their respective schools or districts.

SUMMARY OF ARGUMENT

Thousands of transgender students attend American schools every day, many of whom have come forward to request from their schools the same support and respect for their gender identity that all other students receive as a matter of course. In *amici's* view, it is both the legal and professional obligation of all educators to provide that support and respect to *all* students.

Amici's collective experiences rebut frequently-raised concerns that allowing all students to use sex-specific facilities and amenities that match their gender identity will lead to general disruption; will violate the privacy or “comfort” of other students; or will lead to the abolition of gender-segregated facilities and activities for all students. *Amici* have addressed—and in some cases personally grappled with—many of the same fears and concerns in their own schools and districts. However, in *amici's* professional experience, none of those fears and concerns has materialized in the form of actual problems in their schools. Instead, inclusive policies not only fully support the reality of transgender students' circumstances but also foster a safer and more welcoming learning environment for all students.

To the extent that *amici* have received complaints from cisgender students similar to those raised by Appellants here – although in *amici*'s experience such cases have been very rare – they address those concerns in the same way that they would address any privacy-related concern raised by a student: by offering alternatives to the complaining student. The *amici* stress that the answer can never be to forcibly separate transgender students from other students, or to require transgender students to use sex-specific facilities that do not correspond to their gender, a situation that only creates more problems while solving none.

ARGUMENT

I. Policies Respectful of Every Student's Gender Identity Ultimately Minimize Disruptions and Help to Create a Safe, Welcoming, and Productive Learning Environment for All Students.

At first, we had our concerns. Would letting students participate in activities and facilities that were consistent with their gender identity create problems? What would happen?

Ultimately, we decided that we as the adults needed to manage our fears and give students the respect and dignity that they deserved. And I'm pleased to say that none of our fears has materialized.

Dr. Judy Chiasson, Testimony to the California Senate Education Committee on A.B. 1266 (June 12, 2013) (“Chiasson Testimony”).³

As educators who have devoted much of their lives to young people, *amici* recognize that all students deserve the equal respect of, and equal treatment by, their educators. *Amici’s* schools and districts allow transgender students to use the same facilities and opportunities as other students of the same sex. *Amici’s* collective experience is that inclusive policies are necessary for a learning environment that is accessible, safe, and welcoming, which in turn enhances the educational experience for all students. Respecting students’ gender identity eliminates the disruption that results from singling out, stigmatizing, and discriminating against transgender students, and avoids disrupting the normal social interactions involved in use of communal facilities. By contrast, refusing to respect a student’s gender identity is “toxic for the student – it says ‘you are not welcome,’ every day.” Robert Motley Interview, Oct. 11, 2016.

³ Available at <https://www.youtube.com/watch?v=Xmq9dIQdsNE> (last visited March 7, 2019).

Many *amici* initially had concerns over the imagined consequences of fully integrating transgender students into the school community, but *amici's* experiences over time have revealed that these fears are unfounded. *Amici's* experiences with the inclusive policies in place in their schools – some for more than a decade – have instead been overwhelmingly positive. Far from being disruptive, invasive, or potentially unsafe, inclusive policies have *minimized* these concerns. The only disruptions, if any, are typically caused by an initial lack of clarity about how to support transgender students. As Ms. Bruce of the District of Columbia observes, “A policy that requires equal treatment is not difficult to implement. Beyond sorting it out at the beginning, it’s not an ongoing, lingering issue[.]” Diana Bruce Interview, Oct. 5, 2015 (“Bruce Interview”). As educators, “[o]ur goal is to make sure that every young person is as present and as able to engage in academic work as possible. Promoting a safe and welcoming environment is a way to promote education.” *Id.* The results have been overwhelmingly successful, not only for transgender students, but for all students, faculty, administrators, and the whole community.

A. Students' Experiences in Schools with Inclusive Policies Have Typically Been Positive.

The concerns raised by Appellants are unfounded, based on *amici's* years of collective professional experience. Indeed, not only are specific complaints by students very rare, but fears and concerns about inclusive policies are often driven by adults, not students. Most frequently, the students set a leading example recognizing transgender students' rightful place in school facilities that match their gender identity. *E.g.*, Howard Colter Interview, June 6, 2016 ("As to the students, I am most impressed. They are very understanding and accepting of their classmates. It feels like the adult community is struggling with it more."); Bruce Interview ("Young people are pretty savvy and comfortable, and can understand and empathize with someone who just wants to use the bathroom."); Roger Bourgeois Interview, Oct. 8, 2015 ("Bourgeois Interview") ("Most of the problem is with the adults; the students are pretty accepting of these issues."); Dr. Eldridge Greer Interview, Oct. 14, 2016 ("Greer Interview") ("Students are much more resilient and forward-thinking than we as adults are."); Dr. Rachel Santa Interview, May 27, 2016 ("Santa Interview") ("Adults have more issues than the students do."); Dr. David Vannasdall

Interview, Sept. 9, 2016 (“Vannasdall Interview II”) (“With the kids, there hasn’t been a problem at all.”); Kathy Canavan, *Transgender bathrooms already happening in Delaware*, DELAWARE BUSINESS TIMES, May 13, 2016 (“Meece Interview”) (quoting Gregory Meece) (“We had a few parents ask some questions, and we’ve had some express thoughts on it, but the students are 100% accepting.”)⁴; Sherie Hohns Interview, Oct. 15, 2015 (“This isn’t a kid issue. It’s an adult issue.”). Based on her more than ten years’ experience working with the inclusive policies in place at Los Angeles Unified School District (“LAUSD”), the second-largest school district in the country, Dr. Judy Chiasson recounts:

Our experience has been that the fears of the adults rarely play out. The students are very affirming and respectful of their classmates. Most of the reaction that I’ve ever encountered has been in response to people’s fears, not the students’ experiences. The students’ experiences have been overwhelmingly positive. I have yet to be called into a situation to respond to an actual incident; I’ve only had to respond to fears, and the fears are unfounded.

Dr. Judy Chiasson Interview, Sept. 23, 2015 (“Chiasson Interview”).

Several *amici* have themselves wrestled with many of the same concerns that Appellants raise here, when they were first faced with the

⁴ Available at <http://www.delawarebusinesstimes.com/transgender-bathrooms-already-happening-delaware/> (last visited March 7, 2019).

need to adopt an inclusive policy. Indeed, Dr. Vannasdall’s district’s initial experience with a transgender student resulted in a complaint and investigation by the U.S. Department of Justice (“DOJ”) and the U.S. Department of Education, Office for Civil Rights (“OCR”). He well understands what it is like to grapple with the actual and anticipated negative reactions from some school community members. Dr. Vannasdall recalls that administrators and others within the school district were concerned that respecting the transgender student’s gender identity by treating him like any other boy would be disruptive and burdensome. Dr. David Vannasdall Interview, Sept. 23, 2015 (“Vannasdall Interview I”).

A simple, open conversation between administrators and the transgender student and his family revealed their concerns to be erroneous assumptions. *Id.* In that conversation, it became “obvious that this student had no intentions of creating a disruption – he just wanted a home and a place to learn, and not worry about which restroom to use.” *Id.* Once the administrators understood that the student was simply asking to be treated like any other boy, their

obligation as educators became clear: to help this student, and all of their students, “come to school ready to learn.” *Id.*

If they’re worrying about the restroom, they’re not fully there to learn, but instead just trying to navigate their day. Give students the opportunity to just be a kid, to use the bathroom, and know that it’s not a disruption, it just makes sense.

Id. Dr. Vannasdall’s district reached a voluntary resolution agreement in 2013 with the DOJ and OCR. The resolution agreement included adopting a comprehensive policy respecting students’ gender identity covering, among other things, an equal ability to use sex-segregated restrooms and locker rooms consistent with gender identity.⁵ The outcome over the past three years has been “very positive for the school, the district, and the students.” *Id.*

Dr. Vannasdall now regularly consults with educators across the country, giving informal advice and guidance on inclusive policies for

⁵ *See* Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Office of Civil Rights, OCR Case No. 09-12-1020/DOJ Case No. 09-12-1020 (July 24, 2013), *available at* http://www.justice.gov/sites/default/files/crt/legacy/2013/07/26/arcadia_agree.pdf (last visited March 7, 2019). *See also* Letter from DOJ and OCR to Arcadia School District (July 24, 2013), *available at* <http://www.justice.gov/sites/default/files/crt/legacy/2013/07/26/arcadial etter.pdf> (last visited March 7, 2019).

transgender students. *Id.* He understands what it is like to grapple with the actual and anticipated concerns from parents and the community, but when those are the primary concern, “you have people making decisions from the basis of fear and extremes, and that’s never good for kids.” Julie Bosman & Motoko Rich, *As Transgender Students Make Gains, Schools Hesitate Over Bathroom Policies*, N.Y. TIMES, Nov. 4, 2015, at A14 (quoting Dr. Vannasdall).⁶ The “game-changer” for Dr. Vannasdall’s district and for other districts with which he has consulted is when educators “remember what we are here to do,” *i.e.*, to help kids learn. Vannasdall Interview I. Dr. Vannasdall believes that generally school administrators new to dealing with transgender students are “overthinking this issue. This doesn’t need to be as tough as some people make it. It can be a good experience for that student and other students as well.” *Id.*

Similarly, Dr. Thomas Aberli of Louisville, Kentucky was unfamiliar with this issue when it first arose and had concerns about possible disruptions or privacy issues. But Dr. Aberli tried to

⁶ A version of this article is available online at: <http://www.nytimes.com/2015/11/04/us/as-transgender-students-make-gains-schools-hesitate-at-bathrooms.html> (last visited March 7, 2019).

understand the student’s request on both a personal level and in terms of the legal obligations of the schools. Dr. Thomas Aberli Interview, Oct. 7, 2015 (“Aberli Interview”). He then developed a policy through an extensive collaborative effort with a panel of school administrators, teachers and parents, in which “[w]e considered the issue very carefully and thoughtfully and posted all of the evidence we reviewed online.” Aberli Interview.⁷ Some in the community expressed the view that inclusive policies might be fine for schools in Los Angeles, but not in their own community (Kentucky). But as Dr. Aberli pointed out in his testimony to the Kentucky Senate Education Committee, empathy and equality do not stop at state borders:

The value of human life is the same in Kentucky as it is anywhere else in this nation. And when we’re talking about an issue of civil rights, we’re talking about the value we put on human individuals.

⁷ The materials Dr. Aberli references are posted online at <http://schools.jefferson.kyschools.us/High/Atherton/SBDM.html> (last visited March 7, 2019). Dr. Thomas Aberli explained Atherton’s decision-making process further in his testimony before the Kentucky Senate Education Committee on Feb. 19, 2015 (“Aberli Testimony”) (available at <https://www.youtube.com/watch?v=QodplMWsEvQ> (last visited March 7, 2019)).

Aberli Testimony. Understanding that the policy is about protecting students' basic civil rights helped clarify the issue.

It helped people to understand that this wasn't about providing a special accommodation or "special rights" – this is about eliminating discrimination. When you tell a person you will do something that makes them stand out from everyone else, *that's* when you start discriminating against them.

Aberli Interview. When the issue was unfamiliar to many in the community, adults and a handful of students questioned the new policy.

I respect that some people may disagree or even feel uncomfortable with the policy, because honestly, for many people – including myself until a few months ago – they simply weren't knowledgeable, or it wasn't a close enough personal issue in terms of interacting with openly LGBT people to have a comfort level. I acknowledge and respect that. But I am not going to use someone's discomfort as a means for discriminating against a protected population.

Id. Despite the initial opposition, in practice Dr. Aberli "received zero complaints regarding a specific incident of concern for a violation of privacy. The concerns raised by individuals have all been philosophical."

*Id.*⁸

⁸ Atherton students interviewed by PBS News Hour for a segment that aired in June 2016 agreed that Atherton's policy has not caused any issues in practice. As one student remarked, "It's just going to the bathroom. You go do your business, then you wash your hands, and then you leave. It's just simple. And when people make a big deal

Indeed, in *amicis*'s experience, "an affirming policy has a positive effect on other students as well. If everyone is taken care of, students see that and they value that." Denise Palazzo Interview, Oct. 3, 2015 ("Palazzo Interview"). "When kids see that you are respecting all students, then they know that they will be respected. We are showing them how to treat people respectfully and know they will be treated the same." Santa Interview. As Principal Peyton Chapman of Portland, Oregon relates:

Students have high integrity radars – if some youth are made fun of, then they know it could happen to them. These fears keep all students in small boxes. They don't try things out, engage their creativity and figure out who they are and can be. If schools define "who" students need to be and how

about it, it just kind of gets blown out of proportion." Another related her experience that: "Coming from, like, a religious background, like, I am Christian, and people don't necessarily agree with that type of stuff. But I have been going to this school for two years, and it's just routine. Like, everyone gets to the restroom, everyone gets out. It's nothing, nothing. It's not a big deal." This news segment, which tells the story of how Atherton's policy was developed and implemented after one student identified herself as transgender, is available to view in its entirety on PBS' website. *As Transgender Teens Struggle, Here's How One Kentucky School Leads the Way*, PBS News Hour (June 7, 2016), <https://www.pbs.org/newshour/show/as-transgender-teens-struggle-heres-how-one-kentucky-school-leads-the-way> (last visited March 7, 2019). The website also provides a full transcript of the segment.

they should behave, then they are less free to explore themselves, cultures and communities.

Peyton Chapman Interview, May 27, 2016. Respecting every student's gender identity, by contrast, fosters mutual respect and "creates open and innovative environments." *Id.*; see also Meece Interview ("I'm really proud of the students who see a student as a human being before they see gender or disability or race.").

B. Frequently-Raised, Hypothetical Concerns About Disruptions in Restrooms and Locker Rooms Have Not Materialized.

There have not been any issues regarding this policy in locker rooms or bathrooms. But it has brought greater awareness of how we can increase privacy for all students.

Aberli Interview.

No student should be denied use of any gender-specific facilities that are available to other students of the same gender identity solely because he or she is transgender. *Amici* have experience with the hypothetical fears and concerns commonly raised when schools integrate transgender students into gender-specific facilities, including the fear that some individuals might use an inclusive practice to gain access to the facilities designed for use by the other gender for an

improper purpose. *Amici* have found such fears and concerns to be wholly unfounded in practice.

1. Concerns about disruptions in restrooms have not materialized.

“Questions about bathrooms come up in every staff training, and it’s an important thing that school staff want to understand. I think there’s an assumption that there will be disruption around restrooms.” Bruce Interview. But all schools routinely “deal[] with many more adolescent behavior issues than just who’s using the bathroom based on gender identity,” and are adept at addressing those issues. *Id.* As with any behavior issue, “oftentimes disruption in our experience has been around inconsistency by staff – and that’s why clear guidance for schools is important[.] . . . Our transgender students just want to use the restroom and be safe when they do it, and that’s all they’re trying to do.” *Id.*

Dr. Aberli of Kentucky similarly reports that Atherton has

multiple transgender individuals in our school, and restroom access has not been an issue. . . . [T]here has not been any issue at all with respect to the implementation. It’s not a big deal when you look at it from a standpoint of, we’re dealing with real people, we’re dealing with children. Even at the high school level we’re dealing with people who have had a hard enough time as it is, and they’re just looking for

reasonable support from the school in a very challenging social context, or during a very difficult process, as it is for many of them.

Aberli Interview; *see also Gender Inclusive Leadership in Action*, Video Interview by Gender Spectrum with Dr. Pamela Retzlaff, Nov. 17, 2016 (“Retzlaff Interview”⁹) (“He’s interested in using the toilet, that’s it. Not looking at anybody’s genitals. Not doing anything else in the bathroom. It’s just using the toilet.”).

2. Concerns about disruptions in locker rooms have not materialized.

Similarly, *amici’s* experiences with inclusive locker room policies have also been positive. As with bathroom use, *amici* related that their transgender students have only sought to use locker room facilities for their intended purpose and without incident. Diana Bruce explains that “our transgender students are not interested in walking around the locker rooms and checking out anatomy. They’re just trying to get through P.E. safely.” Bruce Interview. Similarly, transgender students often have their own sense of modesty, particularly about differences in their bodies that do not match their gender identity. As Dr. Vannasdall

⁹ Available at <https://www.genderspectrum.org/blog/gender-inclusive-leadership-in-action-episode-1/> (last visited March 7, 2019).

explains, “Transgender [s]tudents dealing with this are very discreet. . . . The student’s goal is just not to stand out.” Vannasdall Interview I. Mary Doran of Minnesota concurs: “[W]hen the *coaches* tell me ‘this [transgender policy] isn’t an issue, isn’t a big deal,’ that really says something.” Mary Doran Interview, Oct. 16, 2015.

Educators are already well-equipped to deal with individual students’ requests for additional privacy beyond that afforded by common spaces, because students make such requests for many reasons, most of them having nothing to do with gender identity. As Denise Palazzo explains, “[l]ocker rooms aren’t a [special] concern because we are already accustomed to dealing with students who have unique or special needs in the locker room context. This is just one more type of student that may need additional support in that space.” Palazzo Interview. Dylan Pauly, formerly of the Madison, Wisconsin Metropolitan School District, concurs:

It’s our goal to have every student comfortable in their learning environment. But if we had a student with a health condition that wasn’t comfortable changing in a locker room with everyone else, we wouldn’t have a “health condition locker room” and a “non-health condition locker room.” This is the same thing. This allows us to offer the same accommodation to every student to allow them to be comfortable.

Dylan Pauly Interview, October 15, 2015 (“Pauly Interview”).

In the rare instances that *amici* have needed to address locker room misbehavior issues, it has been to ensure the safety of the transgender students. “The sad truth is that our transgender children are significantly more likely to be the targets of student misconduct, rather than the perpetrators of it.” Chiasson Interview; *see also* Ken Kunin Interview, June 10, 2016 (“Kunin Interview”) (“The real risk is to people who identify as transgender, or gay, or just ‘other.’”).

3. Concerns about students “posing” as transgender to use facilities improperly have not materialized.

Amici have also frequently addressed the concern that transgender students might just be “confused” or likely to change their minds often about their gender identity, or that non-transgender students might falsely claim to be transgender for some nefarious purpose. Those concerns have not materialized either. Moreover, *amici’s* policies allow schools to make reasonable assessments of individual requests for accommodation. As Dr. Chiasson explained in a letter to Dr. Aberli:

It is reasonable to expect that a student will exercise consistency with respect to their identity and access to

facilities. Students cannot switch their identity arbitrarily or opportunistically. [. . .]

If the school strongly suspects that the request is not legitimate, they should provide accommodation for the student while continuing the conversation to better understand the student's motivation for the request. Being transgender is a deeply rooted identity. . . . It is not subject to arbitrary whims.

Letter from Dr. Chiasson to Dr. Aberli, May 29, 2014 (“Chiasson Letter”).¹⁰ Similarly, Mr. Bourgeois explains that at his school in Massachusetts,

A student can't just show up and say, “I'm a male, but I want to start using the girls' locker room today.” People worry some football player will show up and want to get into the girls' locker room, but we would not allow that. There's a process we go through to work with them and their families, and verify their identity.

Bourgeois Interview. All *amicus*'s schools follow a similar practice, and as a general matter, it is easy to identify genuine requests.

Some people fear someone will masquerade . . . as transgender to be predatory. . . . I've never had that happen, where someone has pretended to be transgender for nefarious reasons. It's just plain silly to think that [a male student] is going to come to school for months on end, wear female attire, present as female to all of his friends and teachers, just so he can go into the female locker room.

¹⁰ A copy of Dr. Chiasson's letter to Dr. Aberli is included among the materials posted by Atherton. *See supra* footnote 7.

Chiasson Interview; *see also* Santa Interview (“The hysteria is from misunderstanding. The concern is that the policy will allow a typical high school boy to say he is transgender so he can go peek at girls in the bathroom. I haven’t seen it[.]”). Indeed, schools are very adept at dealing with instances of misbehavior in restrooms and locker rooms precisely because it is not particularly difficult for a student to gain access to another gender’s facilities.

Adolescents can be impulsive, and we have had boys and girls dart into the other bathroom. We find them and deal with them. They certainly don’t need to masquerade as transgender to engage in that misconduct.

Id.; *see also* Greer Interview (“There are easier ways to get into the girls’ bathroom [than posing as transgender] – and we have policies and consequences to address that.”).

In other words, schools routinely deal with all sorts of behavioral problems – and *amici* would of course “have a problem” with any student actively violating another student’s privacy for any reason and would deal with that misconduct as it arises. Brian Schaffer Interview, June 1, 2016. Parents, teachers, and administrators alike are always looking out for the safety of *all* students. Ultimately, a practice of

respecting transgender students is likely to thwart misbehavior in these spaces, not to cause it.

II. Schools Can and Should Fully Respect Both the Gender Identity and the Privacy Concerns of All Students.

As is the case with Appellants here, many of the concerns raised regarding inclusive policies for transgender students involve perceived threats to the “privacy” or “comfort” of other students. As educators, *amici* are respectful of the needs and concerns of all their students. But *amici* strongly disagree that a school should discriminate against transgender students in order to accommodate complaints that *other* students are “uncomfortable” with sharing restroom or locker room facilities with a transgender person. That is simply not how educators deal with students’ discomfort with others or with themselves. To the extent that a student has concerns about sharing facilities with transgender students, schools must help the student deal with that discomfort in a way that does not impinge upon other students’ rights to equal treatment.

Amici agree that one simple solution is to offer private facilities to the student who does not want to use the same facilities as a transgender student. Most of *amici*’s schools offer private facilities that

may be used by persons of either gender, in addition to gender-segregated facilities. Ms. Bruce recounts that, in DC public schools,

[a]ccording to our policy guidance, if a student has a problem, we can make another bathroom available to that student. I haven't heard from our schools, however, of students that have asked to use a different restroom in that circumstance. When I train our school staff, some want to ask hypotheticals, but in our experience, this has not been an issue.

Bruce Interview. Indeed, some students may prefer to use these private facilities for any number of reasons, and those students are permitted to do so without the need to provide an explanation – including in the rare circumstance that a student might not want to use the same facility as a transgender student.

[A]ny student who, for whatever reason, feels uncomfortable in a communal setting – whether because of weight, personal comfort, body image, social anxiety, or other reasons – we will accommodate that without the need for explanation, and they can use a private setting such as a nurse's room.

Chiasson Interview. Likewise, Dr. Aberli's school allows any student who wants to use a private restroom to do so.

Any student may use the front office restroom. We don't ask why. There's a thousand reasons that a student needs privacy, so it's our responsibility to accommodate any student for any reason. It could be shyness, or trauma.

Aberli Interview.

When separate facilities are not available or practical to meet student requests for additional privacy, there are other means of providing extra privacy to students when needed, such as using a curtain to create a separate area or allowing a student to use the locker room before or after other students. Matthew Haney Interview, June 6, 2016. Accommodating individual students' needs is "something educators do every day," and educators have proven themselves "very flexible and adaptable in adopting new policies for their students" in order to meet their needs. Vannasdall Interview II. Providing transgender students what they need to thrive in school is no different. Lauren Slager, *Schools Take Steps to Address Needs of LGBTQ Students*, mLIVE Michigan, Apr. 21, 2016 (quoting Craig McCalla) ("We make accommodations for all kids in all different ways. We always have, and there's no reason not to for a specific group of people.").¹¹

Even where a student might express discomfort with sharing facilities with a transgender student, the solution is not to deny the transgender student's use of those facilities. Any student expressing

¹¹ Available at http://www.mlive.com/news/ann-arbor/index.ssf/2016/04/schools_take_steps_to_address.html (last visited March 7, 2019).

such discomfort should be offered alternative facilities or arrangements to address their concerns. As Mr. Bourgeois explains:

[W]e're not going to tell the transgender student they can't go where they're comfortable. I can still remember the remnants of white people being uncomfortable with black people being in same locker rooms and restrooms, so it's not about whether everyone is "comfortable." Just because some people were uncomfortable didn't mean you treated people as second-class citizens.

Bourgeois Interview; *see also* Arthur DiBenedetto Interview, Nov. 29, 2016 ("The outcry will be similar to the arguments put forth by those who were faced with black students in white schools when desegregation became the law."). Mr. Kunin of Maine agrees that "being uncomfortable doesn't overrule someone's rights," but he also emphasizes that "there are also ways to support the person who is uncomfortable – we would want that person to feel safe and participate, too." Kunin Interview. Although schools should accommodate requests for extra privacy from any student, no transgender student should ever be *forced* to use segregated facilities in order to accommodate the actual or anticipated discomfort of other students.

Particularly in the educational context, policies like those that Appellants advocate single out transgender students and require them

either to use facilities that are patently inconsistent with their gender, which is not a viable option for many transgender students, or to use a separate restroom – which no other student is required to use – simply because they are transgender. Having to navigate this problem daily seriously interferes with transgender students’ education, impairs their ability to learn and socialize, and results in real physical and emotional harm. Ms. Bruce explains that when transgender students “have reported worrying about whether they can use the restroom that matches their gender identity, they have said they just don’t go to the bathroom at school. That can’t possibly help them learn.” Bruce Interview.

We don’t want them preoccupied with trying not to use the bathroom when they’re supposed to pay attention to trigonometry. . . . We want them to know where they can use the restroom, so they can feel more like anyone else in their school and not like an outsider.

Id.; see also Kunin Interview (“A school day is too long a time to wait to use the restroom because one is uncomfortable with the options.”). Although, as noted above, *amici* routinely offer separate facilities to any student requesting additional privacy for any reason (including but certainly not limited to transgender students), no student should ever

be forced to use a separate facility simply because they are transgender.

Dr. Aberli agrees that forcing transgender students to use separate facilities is no answer at all:

Tell me what we would say to that child – that there’s something so freakish about you, and so many people are uncomfortable with you, that you have to use a completely separate restroom than the one you feel like you should be using?

Aberli Interview. Instead, in *amici’s* experience, all students’ needs are best served when educators can treat all students equally.

III. Gender-Segregated Spaces and Activities Are Fully Consistent with School Policies Respecting Every Student’s Gender Identity.

Amici have also addressed the lurking hypothetical concern that permitting individuals to use facilities consistent with their gender identity will lead to the abolition of gender-specific facilities. Contrary to that “slippery slope” argument, however, all *amici* continue to maintain gender-segregated facilities in their schools. In fact, respecting the gender identity of transgender students *reinforces* the concept of separate facilities for girls and boys; requiring a girl who is transgender to use the boys’ restroom or a boy who is transgender to use the girls’ restroom *undermines* the notion of gender-specific spaces.

Dr. Chiasson offers an example from her own district, in which a new male student who was transgender had been using the female facilities, incorrectly assuming that, because he was assigned a female sex at birth, that he would be required to do so.

It was equally uncomfortable for him to use the girls' facilities as it was for the girls themselves. When the administration learned of the situation, they told the young man that he could use the boys' facilities. Everyone was relieved.

Chiasson Letter (emphasis added); *see also* Retzlaff Interview (“[H]is classmates were also somewhat relieved because they knew, too, something’s not right [about a boy who is transgender being forced to use the girls’ restroom].”). Mr. O’Reilly similarly commented that, until he considered the effect of forcing a transgender student to use a restroom inconsistent with gender identity, he “hadn’t really understood the literal meaning of the word ‘misfit.’ When forced to use the restroom for the gender they do not associate with, a student literally becomes a *misfit*: someone being forced into a place they don’t belong.” John O’Reilly Interview, Sept. 20, 2015.

In *amicus’s* experience, transgender students do not seek to eliminate gender-specific facilities – they merely want to use the

facilities that correspond with their gender identity. “Far from being disruptive, our experience has been that those students just want to blend in.” Bourgeois Interview. “Transgender-affirming policies solve problems, not create them. Even if the law allowed it, forcing a transgender boy to use the female facilities would be extremely uncomfortable for all parties involved.” Chiasson Interview.

CONCLUSION

Appellants argue that respecting an individual’s gender identity is disruptive and impinges upon the rights and well-being of non-transgender individuals. *Amici’s* experience as school administrators has proven otherwise: showing respect for each student’s gender identity supports the dignity and worth of all students by affording them equal opportunities to participate and learn. Moreover, such policies have not been disruptive – either to the academic climate or to the maintenance of gender-specific facilities – and instead protect the safety and privacy of all youth. *Amici* respectfully request that the Court affirm the District Court’s dismissal of Appellants’ complaint and motion for preliminary injunction.

Respectfully submitted,

Dated: March 11, 2019

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CERTIFICATE OF COMPLIANCE

Cynthia Cook Robertson, counsel for *amici curiae* school administrators, hereby certifies that:

1. I am a member in good standing of the Bar of the United States Court of Appeals for the Ninth Circuit.
2. This brief complies with the type-volume limitations of Fed. R. App. P. 29(a)(5) and Fed. R. App. P. 32(a)(7)(B) because this brief contains 5,998 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).
3. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in Times New Roman style, with 14-point font.

DATED: March 11, 2019

/s/ Cynthia Cook Robertson
Cynthia Cook Robertson

CERTIFICATE OF SERVICE

I hereby certify that on this date I filed the foregoing *Amici Curiae* Brief of School Administrators from Thirty States and the District of Columbia in Support of Appellee Dallas School District No. 2 and Intervenor-Defendant-Appellee with the Clerk of the Court using the CM/ECF system, which will automatically serve electronic copies upon all counsel of record.

DATED: March 11, 2019

/s/ Cynthia Cook Robertson
Cynthia Cook Robertson

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

PARENTS FOR PRIVACY; KRIS GOLLY and JON GOLLY, individually and as guardians ad litem for A.G.; NICOLE LILLY; MELISSA GREGORY, individually and as guardian ad litem for T.F.; and PARENTS RIGHTS IN EDUCATION, an Oregon nonprofit corporation,

Appellants,

v.

DALLAS SCHOOL DISTRICT NO. 2; OREGON DEPARTMENT OF EDUCATION; GOVERNOR KATE BROWN, in her official capacity as SUPERINTENDENT OF PUBLIC INSTRUCTION; UNITED STATES DEPARTMENT OF EDUCATION; BETSY DEVOS, in her official capacity as United States Secretary of Education; UNITED STATES DEPARTMENT OF JUSTICE; WILLIAM P. BARR, in his official capacity as U.S. Attorney General,

Appellees,

BASIC RIGHTS OREGON,

Intervenor-Defendant-Appellee.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

**APPENDIX TO *AMICI CURIAE* BRIEF OF SCHOOL
ADMINISTRATORS FROM THIRTY STATES AND THE DISTRICT OF
COLUMBIA IN SUPPORT OF APPELLEE DALLAS SCHOOL DISTRICT
NO. 2 AND INTERVENOR-DEFENDANT-APPELLEE**

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Supplemental Information Regarding the Background and Experience of *Amici Curiae*

Amici are school districts and superintendents, principals, school board members, general counsel, social workers, and other officials from schools and school districts that have adopted or are in the process of adopting inclusive policies for their transgender students. They represent a broad cross-section of schools and districts from across thirty States plus the District of Columbia, collectively responsible for educating approximately 1.7 million students annually.¹

Arizona

Leah Fregulia is the Head of School and CEO for Arizona School for the Arts, a non-profit public charter school that educates more than 800 students in the fifth through twelfth grades in Phoenix, Arizona. Ms. Fregulia was a founding faculty member when the school opened in 1995, served as the school principal for nine years, and has led the school in her current role since 2007. Before moving to Arizona, she taught in a variety of public and private educational settings in Seattle, California, and New Orleans.

¹ With the exception of *amici* Las Cruces Public Schools, San Diego Cooperative Charter Schools, San Diego Unified School District, Achievement First Public Charter Schools, Washoe County School District, the School District of South Orange and Maplewood, and Worcester School District, *amici* join this brief in their individual capacities based on their experiences as school administrators and not as representatives of their respective schools or districts.

Adelita Grijalva is a member of the Governing Board for the Tucson Unified School District (“TUSD”), which educates approximately 50,000 students. As a native Tucsonan educated in TUSD schools and the University of Arizona, Ms. Grijalva has worked with youth and their families for the past twenty-four years. Ms. Grijalva has worked at the Pima County diversion program for juvenile offenders, Pima County Teen Court for the last twenty-one years, and has served as Director for the last eighteen years.

California

David Vannasdall, Ed.D. has worked in the education field for twenty-two years and been Superintendent for Arcadia Unified School District (“Arcadia”) in Arcadia, California since July 2014, having previously served as Arcadia’s Deputy Superintendent for two years and principal of Arcadia High School for eight years. He developed Arcadia’s policy for supporting transgender students. Dr. Vannasdall has consulted with school officials nationally on transgender issues, and has presented on Arcadia’s policy to other superintendents. Arcadia has approximately 10,000 students and has three years of experience with inclusive policies for transgender students.

Judy Chiasson, Ph.D. is the Program Coordinator for the Office of Human Relations, Diversity and Equity in the Los Angeles Unified School District (“LAUSD”), which has been formally advocating on behalf of LGBTQ students,

families, and staff since 1984. Dr. Chiasson helped author LAUSD's formal guidance documents on transgender students and has overseen the implementation of LAUSD's policy since it was adopted approximately fifteen years ago. Dr. Chiasson has given legislative testimony based on LAUSD's approximately ten years of experience with its policies² and has consulted with other school administrators across the country on transgender and other diversity issues.

Mónica García has served as a member of the Board of Education of LAUSD since her election in 2006. During that time she was elected by her fellow Board Members as Board President, a position that she held for an unprecedented six years. Prior to her time with LAUSD, she served as an academic guidance counselor in two schools in Los Angeles and for four years as chief of staff to a former LAUSD Board President.

Julie Vitale, Ph.D. has served as superintendent of Oceanside Unified School District in San Diego County, California since June of 2018. Oceanside educates approximately 19,000 students at 23 schools in kindergarten through twelfth grade. Previously, she served as the Superintendent of Romoland School District in Riverside County, California. She has also served as Assistant Superintendent for Monrovia Unified School District and served 19 years, in

² Dr. Chiasson's 2013 testimony to the California Senate Education Committee is available at: *LAUSD's Judy Chiasson's Testimony on AB 1266*, YouTube (June 12, 2013), <https://www.youtube.com/watch?v=Xmq9dIQdsNE> (last visited March 8, 2019).

various positions, in the Corona-Norco Unified School District. In 2015, with the support of the Board of Education, she oversaw the expansion and adoption of Romoland's then-existing non-discrimination policy to include a formal policy that addresses transgender students. Since then, she has worked with principals in her district to develop and implement this policy.

San Diego Cooperative Charter Schools (“SDCCS”) is comprised of two schools that educate over 690 elementary and middle school students. SDCCS has had a long history of respecting the gender identities of its students. Students are permitted to use the bathroom that corresponds to the student's gender identity. Additionally, when students travel for extended field trips, students share accommodations in accordance with their gender identity. These policies and practices have functioned smoothly and without disruption to students' lives at SDCCS since its inception in 2002. **Wendy Ranck-Buhr, Ph.D.** was the Principal of SDCCS from 2005 until 2013 when she was promoted to Superintendent. She is now the Instructional Support Officer for San Diego Unified School District.

San Diego Unified School District (“SDUSD”) is the second largest district in California and is one of the largest urban school districts in the United States. SDUSD is the second largest school district in California, encompassing 181 schools across the City of San Diego and serving approximately 106,000

preschool, elementary, middle school, and high school students. SDUSD has had a formal policy of respecting student's gender identity since October 2010.

Colorado

Eldridge Greer, Ph.D. is the Associate Chief of Student Equity and Opportunity for Denver Public Schools ("DPS"). DPS comprises 199 schools and educates over 90,000 students. Dr. Greer has been an educator for over twenty-six years and has been with DPS since 2007. DPS's formal transgender policy was already in place when Dr. Eldridge came to DPS; he has since been responsible for developing practice guides for teachers and principals for applying the policy.

Connecticut

Achievement First Public Charter Schools is a network of thirty-two schools across Connecticut, New York, and Rhode Island and educates over 11,600 scholars. **Morgan Barth** is the Principal of Achievement First Amistad High School, a public charter school in New Haven, Connecticut. Mr. Barth previously served as the Regional Superintendent for a group of Achievement First elementary and middle schools in Connecticut. Before that, he worked at the Connecticut State Department of Education where he led the Turnaround Office, supporting school improvement around the state. **Emily Banks** is the Principal of Achievement First Hartford High School in Hartford, Connecticut. Ms. Banks is in her fifth year as principal and thirteenth year in education.

Delaware

Gregory R. Meece is the School Director of Newark Charter School in Newark, Delaware, which he has led since the school's inception in 2001. Newark Charter School educates more than 2,300 students through its elementary, middle, and high school campuses. Mr. Meece has worked in Delaware's schools at the elementary school, middle school, high school, and college levels since 1981. Mr. Meece has served as the President of the Governing Board of the Delaware Charter Schools Network, which represents twenty-two Delaware charter schools and more than 10,000 families. Mr. Meece received the Commitment to Education Award from the University of Delaware in 2005. In 2011 the Delaware Charter Schools Network selected him as recipient of its highest honor, the Catalyst in Education Award.

District of Columbia

Diana Bruce served from 2008 to 2019 as the Director of Health and Wellness for the District of Columbia Public Schools ("DCPS"), a district that educates approximately 46,500 students across 111 schools. DCPS has provided transgender students access to facilities in accordance with their gender identity since 2006, and Ms. Bruce led the effort surrounding the school district's adoption of a policy providing in-depth guidance in June 2015. Currently, Ms. Bruce works

as a consultant in the Washington, D.C. area, focusing on gender inclusivity, diversity, and equity in schools and in the workplace.

Carolyn Albert-Garvey is an Interim Instructional Superintendent for the District of Columbia Public Schools (“DCPS”) and oversees approximately a dozen principals within DCPS. Ms. Albert-Garvey previously served as the Principal of Maury Elementary School in Washington, D.C. from 2009 to 2018. She spent the first eleven years of her career in education at the elementary level, and she has served as the principal in various schools for the last fifteen years. Ms. Albert-Garvey’s major accomplishments include a Rockefeller Foundation Fellowship for Foreign Language Teachers in 1991, a National Endowment for the Humanities Fellowship for Foreign Language Teachers in 1996, a Department of Education Blue Ribbon while at Murch Elementary School in 2007, and becoming an Ashoka Changemaker School Leader in 2013.

Florida

Denise Palazzo is the statewide Safe Schools Director for Equality Florida and in her role consults with the 67 school districts across Florida about LGBTQ needs, challenges, best practices, and resiliency. She offers district leadership professional and technical assistance such as professional development trainings, crisis consultation, gay-straight alliance support, and structural implementation design and direction. Ms. Palazzo is a past Instructional Facilitator and Diversity

and LGBTQ Coordinator for BCPS, where she had taught for fourteen years. Ms. Palazzo spearheaded BCPS's effort to adopt a formal policy allowing transgender students access to programs and facilities in accordance with their gender identity, which was finalized in 2015 and enhances the recommendations and guidance that BCPS adopted in 2012. Ms. Palazzo also advises officials throughout the country about inclusive policies for transgender students and continues to consult with BCPS and other school districts throughout Florida and the nation.

Illinois

Jeremy Majeski is a former principal of Komensky Elementary School ("Komensky") in Berwyn, Illinois. He has been an educator for thirteen years and was Komensky's principal for four years. Mr. Majeski directed the development and implementation of an inclusive policy at Komensky after a transgender student requested support and then helped to direct implementation of the policy throughout Berwyn South School District 100 ("Berwyn"), which educates approximately 4,000 students. Berwyn was honored by the Illinois Safe Schools Alliance as the Ally of the Year for 2015.

Karen Carney is the Head of School at Chicago Friends School, an independent Quaker elementary school serving students from kindergarten through the fifth grade in Chicago, Illinois. Prior to this position, Ms. Carney worked as a senior specialist in science curriculum for American Institutes for Research. She

has also worked in instruction and teacher development at the University of Illinois-Chicago (“UIC”) Center for the Study of Learning and has authored more than twenty scholarly papers, book chapters, and conference presentations. **Sarah Shirk** is the former Clerk of the Board of Trustees for Chicago Friends School, her term having expired in mid-2017. Ms. Shirk has over ten years’ experience managing a kindergarten through twelfth grade mentoring program at the UIC Women in Science and Engineering program. In addition, she has authored several award-winning programs for STEM gender equity initiatives and is a recipient of the Presidential Award for Excellence in Science, Mathematics, and Engineering Mentoring for her leadership of the Women in Science and Engineering Program at UIC.

Beth Bazer, Ed.D. served as principal of LaSalle Language Academy, a National Blue Ribbon school serving 560 students in Chicago. In 2018, Dr. Bazer transitioned to become the Executive Director of Schools That Can, a non-profit organization designed to realize a cohesive education to employment pathway for deserving students from under-resourced communities. Previously, Dr. Bazer worked for Chicago Public Schools and in the education field for over fifteen years and has dedicated her career to ensuring equity and opportunity for all students. Dr. Bazer partners with the Illinois Safe Schools Alliance and Lurie Children’s

Hospital to provide professional development for teachers in creating respectful and inclusive classroom and school environments for LGBT students and families.

Iowa

Thomas Weber is Head of School at Scattergood Friends School & Farm (“Scattergood”), a Quaker boarding school serving a diverse population of high school students in rural West Branch, Iowa. He taught history, geography, and civics to the sixth through twelfth grades in New Mexico for fifteen years, while coaching basketball and Model United Nations. Mr. Weber also served as a middle school director and head of school for two different schools from 2001 to 2012, before joining Scattergood in 2013. Mr. Weber has collaborated actively with other schools on initiatives to deepen student and educator understanding of diversity issues.

Kentucky

Thomas A. Aberli, Ed.D. is the Principal of J.M. Atherton High School (“Atherton”) in Louisville, Kentucky. He became Atherton’s principal in 2010, and based on his success in that role, was given a two-year assignment (August 2016 to July 2018) as the Interim Principal of Highland Middle School in Louisville, Kentucky. At the conclusion of that assignment in July 2018, he returned to serving full time as Principal of Atherton. Atherton educates approximately 1,500 students and has had a formal policy of respecting students’

gender identity since June 2014. Dr. Aberli oversaw the adoption of this anti-discrimination policy through a thoughtful process that engaged the public, a twelve-member decision-making council, and the superintendent. Dr. Aberli testified about Atherton’s policy before the Kentucky Senate Education Committee.³ The Kentucky Association of School Administrators (“KASA”) named Dr. Aberli 2016 Kentucky Administrator of the Year. From 2010 to 2016, Dr. Aberli served on the Principal’s Advisory Committee to the Commissioner of Education and was selected to serve on both the state Youth Bullying Prevention Task Force and the state’s School Curriculum, Assessment and Accountability Council. He was also elected to the KASA Board of Directors, on which he currently serves as the representative for the Ohio Valley region.

Maine

Howard Colter served as the Interim Superintendent of the Cape Elizabeth School Department, in Cape Elizabeth, Maine from 2016 to 2018. Previously, he also served as Superintendent of Mount Desert Island Regional School System (“MDIRSS”). MDIRSS serves eleven schools and over 1,500 students, including approximately 571 students at Mount Desert Island High School. In 2015, the policy committee of the MDIRSS board forwarded to its individual schools

³ A video excerpt from Dr. Aberli’s testimony (Aberli Testimony) is available at: KET – Kentucky Educational Television, *Principal Thomas Aberli on Transgender Student Policy Legislative Update KET*, YouTube (Feb. 19, 2015) <https://www.youtube.com/watch?v=QodplMWsEvQ> (last visited Mar. 8, 2019).

recommended guidelines that aim to foster a learning environment that is safe and free from discrimination, harassment, and bullying and to assist in the educational and social integration of transgender students in its schools. Mr. Colter has worked in education for forty-six years and obtained a Master's Degree in Education and School Administration Credentials. He served as a superintendent for thirty-five years in school systems in California, Massachusetts, New Hampshire, and Maine, with sixteen years at MDIRSS before becoming the Interim Superintendent at Cape Elizabeth. He has also served as a principal at the elementary, middle, and high school levels.

Matthew Haney is Principal of Mount Desert Island High School in Bar Harbor, Maine. Mr. Haney, now completing his nineteenth year in education, began as a collegiate coach and athletic director. Since then, he has served for eight years as an assistant principal and for six years as a principal at Mount Desert High School. Before becoming principal, Mr. Haney was dean of curriculum at Mount Desert Island High School. Mr. Haney holds a Master's Degree in Educational Leadership.

Ken Kunin is the Superintendent of South Portland Public Schools in South Portland, Maine, a district that includes eight schools and educates approximately 3,000 students. Mr. Kunin began as Superintendent in August 2015, and previously served as principal of one of the most diverse high schools north of

Boston for five years, and as middle and high school principal of an international school in Rome, Italy, for four years. Mr. Kunin holds a Master's degree in Special Education and a Certificate of Advanced Studies in Educational Leadership.

Maryland

Robert A. Motley is the Principal of Atholton High School in Columbia, Maryland, which educates approximately 1,500 students. Prior to becoming Principal at Atholton, Mr. Motley served as Principal of Glenwood Middle School in Glenwood, Maryland. Mr. Motley has eleven years of experience as a middle school principal and twenty years of experience as an educator and school administrator. In 2006, Mr. Motley was recognized as the Maryland State Assistant Principal of the Year by the Maryland Association of Secondary School Principals ("MASSP"). Mr. Motley was recently appointed to a four-year term on the Board of Directors of the National Association of Secondary School Principals ("NASSP"). NASSP is the leading organization of and national voice for middle level and high school principals, assistant principals, and all school leaders from across the United States and thirty-five countries. As a member of the NASSP Board of Directors, Mr. Motley will participate in shaping the organization's federal education policy agenda that advocates for the needs of secondary schools and their students.

Massachusetts

Roger Bourgeois is the former Superintendent-Director of Greater Lowell Technical Regional School District, a single-school district that educates approximately 2,200 students in Massachusetts. Before his retirement in late 2017, Mr. Bourgeois served eight years as a superintendent with schools that allow students to access facilities and programs in accordance with their gender identity. Mr. Bourgeois served by appointment of the governor on the Massachusetts Commission on LGBTQ Youth, for which he served on the Safe Schools Committee. He also participated in school trainings through the Massachusetts Department of Education's Safe Schools Program and has testified at state legislative hearings involving transgender youth issues.

Tommy Chang, Ed.D. served as Superintendent of Boston Public Schools from 2015 to 2018, where he led the nation's first school district in serving more than 56,000 students in 125 schools. Dr. Chang previously served as the Local Instructional Superintendent, Intensive Support & Innovation Center ("ISIC") at the Los Angeles Unified School District, where he oversaw 135 schools and approximately 95,000 students. Dr. Chang is a former teacher and principal.

Cyndy Taymore is Superintendent of Schools for Melrose Public Schools, a public school district that educates more than 3,800 students in pre-kindergarten through twelfth grade. Ms. Taymore started her career in education as a science

teacher, English teacher, and program manager for special education. Ms. Taymore has served as Chair of the Professional Development Program for the Massachusetts Association of School Superintendents (“MASS”), a member of MASS’ executive board, and was the 2016 recipient of the Bobbie D’Alessandro Leadership Award from the Massachusetts Association of School Superintendents Women’s Educational Leadership Network. **Lizbeth DeSelm** is a member of the Melrose School Committee. Melrose School Committee writes and maintains policies that guide the Melrose Public Schools. Ms. DeSelm was part of the process that led Melrose to become the twelfth municipality in Massachusetts to pass an equal access ordinance guaranteeing the rights and freedoms of transgender people. Ms. DeSelm served as co-president and treasurer of the parent-teacher organization at Roosevelt Elementary School during the 2014-2015 and 2013-2014 school years, respectively.

Dylan Pauly is the School Attorney for the Barnstable Public School District, in Barnstable, Massachusetts. Until 2018, she served as General Counsel for Madison Metropolitan School District (“MMSD”), the second-largest school district in Wisconsin with more than 27,000 students. Ms. Pauly drafted MMSD’s policy for transgender students and presented the policy to the Wisconsin Association of School Boards and the National School Boards Association.

Michigan

DeLois Cooke Spryszak is the Assistant Principal of Birmingham Groves High School, which educates approximately 1,800 students as part of the Birmingham Public School District (“Birmingham”). Previously, Ms. Spryszak served as the Principal of Detroit School of Arts, a Blue Ribbon performing arts high school as part of the Detroit Public Schools Community District (“Detroit Public Schools”). Between Birmingham and Detroit Public Schools, Ms. Spryszak has served twenty-nine years as an educator, beginning her career as a teacher in 1990. During her career, she has worked in various curricular and administrative positions, such as Staff Development Specialist, Peer Coach, and Assistant Principal. Since becoming the principal of Detroit School of Arts in 2014 and now in her capacity as Assistant Principal at Birmingham, Ms. Spryszak has worked with her staff to develop inclusive policies for transgender students.

Craig McCalla is Principal of Anchor Elementary School (“Anchor”) in Dexter, Michigan, where he has served the school in that role for thirteen years. Mr. McCalla began his career in 1996 teaching emotionally impaired students. Mr. McCalla was named 2012 Principal of the Year by Region 2 of the Michigan Elementary and Middle School Principals Association and the 2017 Michigan Outstanding Practicing Principal. Mr. McCalla is also a 2018 Nationally Distinguished Principal. Mr. McCalla is a member of the Transgender Task Force

hosted by the Washtenaw Intermediate School District. Anchor educates over 400 elementary students each year. Anchor's approach to education is founded on the idea that children learn best when they feel safe, respected, and valued as members of a caring school community.

Minnesota

Mary Doran is the former chair of the Saint Paul Public Schools ("SPPS") Board of Education; her term-limited term ended December 31, 2015. She served on the Board of Education for four years, including the last two years as chair, during which she led the effort to craft, pass, and implement the SPPS Gender Inclusion Policy, which passed with unanimous support from Board of Education members in March 2015 and was implemented at the start of the 2015-16 academic year. SPPS is one of Minnesota's largest school districts, with more than 37,000 students, fifty-six schools, and more than 5,500 full-time staff members, including over 3,000 teachers.

Missouri

Pamela Retzlaff, Ed.D. has spent the past thirty-five years educating students in schools in Missouri and Wisconsin. More than half of that time was spent at Edgar Road Elementary School in Webster Groves, Missouri. After retiring in 2015, she served again as Associate Principal at Hixson Middle School in the same district. Dr. Retzlaff is an accomplished leader, teacher, workshop

presenter, and volunteer who is dedicated to engaging students and families in the educational process.

Nevada

Washoe County School District (WCSD) is a public school district providing public education to students in Washoe County, Nevada, including the cities of Reno and Sparks, and the unincorporated communities of Verdi, Incline Village, and Gerlach. WCSD is the second-largest school district in Nevada with approximately 63,000 students enrolled in ninety-three schools. In February 2015, WCSD adopted Administrative Regulation 5161, which provides that transgender students shall have access to restrooms, locker rooms, and other use facilities that correspond to the gender identity expressed by the student and asserted at school.

New Hampshire

James Morse, Sr., Ed.D., is the Superintendent of Schools for the Oyster River Cooperative School District, serving approximately 2,100 students across four schools in Durham, Lee, and Madbury, New Hampshire. Before serving as Superintendent for Oyster River, Dr. Morse served as the superintendent for the Portland School District – Maine’s largest school district. Dr. Morse has worked in public education for forty years, including thirty years as a superintendent, three years as an assistant superintendent, and seven years as a principal. In September 2015, Dr. Morse implemented the state’s first public school policy that defines the

terms “gender identity,” “gender expression,” “transgender,” and “cisgender” and provides for a written plan related to privacy and gender identity disclosure. The policy also provides transgender students access to bathrooms and locker rooms in accordance with their gender identity and provides alternative, private facilities for all students should they choose to use them.

New Jersey

The School District of South Orange and Maplewood (“South Orange-Maplewood”) is a public school district, serving students from two communities in Essex County, New Jersey. South Orange-Maplewood is responsible for educating more than 6,800 students in nine schools, including six elementary schools, two middle schools, and one high school. In July 2016, South Orange-Maplewood adopted several policies to increase equity in education and extracurricular programs and to reduce bias-based incidents. Among these is Policy 5756, protecting the rights of transgender students, and providing that students shall have access to restroom and locker room facilities in accordance with students’ sincerely held, core gender identity.

Thomas Smith, Ed.D., is the Superintendent of Schools at Hopewell Valley Regional School District, a comprehensive regional public school district serving approximately 4,000 students in preschool through twelfth grade from three communities in Mercer County, New Jersey. Dr. Smith has worked in the

education field for over twenty years and has been Superintendent at Hopewell for over six years. Hopewell has provided transgender students access to facilities in accordance with their gender identity since at least 2009, and Dr. Smith has consulted with administrators throughout the state about Hopewell's experience with inclusive policies for transgender students.

Craig Vaughn is the Superintendent/Principal of Springfield Township School District ("Springfield"), a public school district that serves students in kindergarten through sixth grade in Jobstown, New Jersey. Mr. Vaughn has worked in the field of education for nearly two decades, after beginning his career as an elementary school teacher, and becoming a school administrator in 2006. Mr. Vaughn worked as Director of Human Resources for the eight schools and nearly 5,000 students in Marlboro Township School District, before becoming the Superintendent/Principal of Springfield in 2015.

Arthur DiBenedetto is the Superintendent of Schools of Hopatcong Borough Schools ("Hopatcong"), in Sussex County, New Jersey. Hopatcong's five schools serve approximately 1,800 students in kindergarten through twelfth grade. Mr. DiBenedetto has been an educator for over forty-four years, including twenty-four years as a superintendent and often in a dual role as head of special education.

New Mexico

Las Cruces Public Schools (“LCPS”) is a school district which educates approximately 25,000 students from the cities of Las Cruces and White Sands Missile Range, the settlement of Doña Ana, and the town of Mesilla in New Mexico. LCPS is the second largest school district in the state, with forty schools encompassing pre-kindergarten through the twelfth grade. LCPS has had formal non-discrimination protections for its transgender students since 2014. **Gregory Ewing, Ed. D**, has served as the Superintendent of LCPS since 2016. Before his time with LCPS, Dr. Ewing spent approximately 30 years as a teacher and school administrator in Marietta, Georgia. He was named the Hispanic Serving Administrator of the Year by the Association of Latino Administrators & Superintendents for his work, passion, and commitment to education. He also received the 2016 Special Educator Award from Univision. **Wendi Miller-Tomlinson, Ph.D**, has served as the Associate Superintendent of Curriculum & Instruction at LCPS since 2018. Previously, she served as the Assistant Superintendent of Teaching and Learning and the Director of High School Instruction, both at LCPS. Dr. Miller-Tomlinson has worked for over 25 years as an educator, teacher, and administrator.

New York

John O'Reilly is the Principal of the Academy of Arts and Letters, Public School/Middle School 492 (“A&L”) in Brooklyn, New York (part of the New York City Department of Education which serves 1.1 million students in over 1,800 schools). A&L educates students from kindergarten through the eighth grade and has implemented inclusive practices for transgender students.

North Carolina

Heidi Carter is the former chair of the Durham Public Schools Board of Education in Durham, North Carolina. She served as chair for four years and on the board for a total of twelve years until the end of her term in June 2016. Durham Public Schools is one of the ten largest school districts in North Carolina, comprising over forty schools and educating approximately 33,500 students from pre-kindergarten through high school. It is one of the top thirty school districts in the nation for employing National Board Certified Teachers, and two of its schools were included on *US News & World Report's* “Best High Schools” list in 2015. In April 2016, Durham Public Schools revised its non-discrimination policy to prohibit discrimination based on gender identity.

Oklahoma

Eric Doss is Executive Director of the Tulsa School of Arts and Sciences (“TSAS”) in Tulsa, Oklahoma. Mr. Doss has over 16 years of experience in

education and a deep knowledge of charter schools in Oklahoma and nationally. TSAS is a public charter high school that serves 300 students in grades nine through twelve and ranks at the top of Tulsa County in ACT averages and state grades. TSAS is a 2015 National Blue Ribbon School Recipient.

Oregon

Peyton Chapman has been the principal of the 1,700-student Lincoln High School in Portland, Oregon for thirteen years. She has also been a vice principal at another high school, and taught sixth through twelfth grades for eight years, in both high- and low-poverty schools. Ms. Chapman holds a Master's Degree in Teaching and a *Juris Doctor* degree. She has worked closely with School Psychologist Jim Hanson to expand Lincoln's community-based "Health Action Network" stakeholder group, to implement gender equity professional development for staff, coaches, and parents, and to empower student voices through diversity clubs such as Lincoln's Queer Straight Alliance. Ms. Chapman has been interviewed by the Associated Press and a local NBC television affiliate regarding her experience with policies that support transgender students.

Pennsylvania

Ziad W. Munson, Ph.D. has been an elected member of the East Penn School Board since 2013. The East Penn School District serves over 8,000 students in Emmaus, Pennsylvania. The Board unanimously adopted a non-

discrimination policy that includes protections for transgender students in February 2016. Dr. Munson is the father of two children in the district, ages fourteen and seventeen.

Rhode Island

Rachel Santa, Ed.D. is the Director of Special Education for the Cumberland, Rhode Island School District, which serves approximately 4,500 students. Dr. Santa has worked in special education since 1990 and has over twelve years of experience in school administration and providing services for students in the public school setting. The Rhode Island Interscholastic League policies provide transgender students access to bathrooms and locker rooms and participation in team sports in accordance with their gender identity. Dr. Santa was an integral part of Cumberland School District's unanimous passage of an official district-wide policy this year that gives all students an opportunity to use alternative facilities, should they feel uncomfortable using a gender-designated facility for any reason. Dr. Santa works in collaboration with school committees in developing policies, processes, and procedures that support the equitable education of all students.

Tennessee

Kellie M. Hargis, Ed.D. is the Executive Principal of Hume-Fogg Magnet High School ("Hume-Fogg"), which educates nearly 1,000 academically advanced

high school students in Nashville, Tennessee and was recognized as a 2018 National Blue Ribbon Award School. Dr. Hargis began her career as an educator for grades seven through twelve in Madisonville, Kentucky, where she was honored with the Centre College's Outstanding Educator Award through the Governor's Scholar Program. After Dr. Hargis began serving in the administration at Hume-Fogg, she was also selected by Vanderbilt University to participate in the Principals' Leadership Academy of Nashville. Dr. Hargis also is a former member of the Tennessee Department of Education College & Career Leadership Council.

Texas

Lindsey Pollock, Ed.D. is the Principal of a Montessori magnet school in Houston, Texas that serves approximately 760 students from pre-kindergarten through eighth grade. She has served as principal of her school since July 2008. In 2014, Dr. Pollock provided an interview to the cable news outlet CNN regarding her school's policy supporting transgender students. *6 Ways to Embrace Gender Differences at School* (Oct. 3, 2014), available at <https://www.cnn.com/2014/10/03/living/children-gender-inclusive-schools/index.html> (last visited March 8, 2019).

Vermont

Brian Schaffer is the Principal of Lamoille Union High School in Hyde Park, Vermont. Mr. Schaffer has sixteen years of experience as an educator and

school administrator, including nine years as Principal. He was selected as the 2016 Vermont Principal of the Year by the National Association of Secondary School Principals and as the 2015 Outstanding Educator of the Year by Outright Vermont.

The Worcester School District oversees pre-kindergarten through sixth grade education for Worcester, Vermont and is governed by elected school directors. It is a member of the Washington Central Supervisory Union, which follows the State of Vermont Agency of Education's Best Practices, which requires schools to treat transgender students consistent with their gender identity.

Washington

Lisa Love is the Manager of Health Education for Seattle Public Schools ("SPS"), a school district which educates approximately 54,000 students in 104 schools. Ms. Love's position with SPS includes providing technical assistance to families and staff seeking support for LGBT students, training staff on LGBT issues, and developing district policies and procedures. Ms. Love holds a Master's Degree in Education and has been in the field of education for twenty-five years. She directed the efforts that led to SPS's adoption in 2012 of a formal superintendent procedure that respects students' gender identity.

Wisconsin

Sherie Hohs is the LGBTQ+ Lead with Madison Metropolitan School District (“MMSD”), the second-largest school district in Wisconsin with more than 27,000 students. She has sixteen years of experience in the district. Her work focuses on supporting the needs of LGBTQ students, providing professional development trainings to staff, working with parents and community partners, and administrating MMSD’s policy for transgender students. Ms. Hohs consults with administrators across the state and from other parts of the country about inclusive policies for transgender students.

Sherri Cyra is Assistant Superintendent for Middleton-Cross Plains Area School District (“MCPASD”), a public school district that educates approximately 7,500 elementary, middle, and high school students in Middleton, Wisconsin.

Laura H. Love, Ed.D., serves the district as Director of Teaching and Learning for Secondary Education, **Jill Gurtner** is Principal of Clark Street Community School, and **Monica Schommer** is Principal of Park Elementary School, both of which are within MCPASD.

Paru Shah, Ph.D. is President of the Board of Education of the Shorewood School District, which serves approximately 2,000 students in Shorewood, Wisconsin. In February 2014, the Shorewood School Board approved Policy 411-Equal Educational Opportunities as well as Guideline 411-Nondiscrimination

Related to Students Who Are Transgender and Students Nonconforming to Gender Role Stereotypes. In May 2016, the U.S. Department of Education cited the Shorewood School District in a report highlighting school districts across the nation that are at the forefront of emerging policies and practices for supporting transgender students. Dr. Shah has been a school board member since January 2014 and an associate professor at the University of Wisconsin-Milwaukee since September 2011. **Tim Kenney** is Principal of Shorewood High School and has worked in the Shorewood School District for over twenty years as a teacher, assistant principal, and principal.

Dated: March 11, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on this date I filed the foregoing Appendix to *Amici Curiae* Brief of School Administrators from Thirty States and the District of Columbia in Support of Appellee Dallas School District No. 2 and Intervenor-Defendant-Appellee with the Clerk of the Court using the CM/ECF system, which will automatically serve electronic copies upon all counsel of record.

DATED: March 11, 2019

/s/ Cynthia Cook Robertson
Cynthia Cook Robertson