IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

Equality Florida, *et al,*

Plaintiffs,

v.

Case No. 4:22-cv-00134-AW-MJF

Ronald D DeSantis, *et al*

Defendants.

Christian Action Network's Motion for Leave to File a Brief as Amicus Curiae in Support of Defendants' Motions to Dismiss [DINs 62, 63 & 65-68]

Christian Action Network, a Virginia nonprofit corporation qualified under Internal Revenue Code § 501(c)(3) moves the court for an order granting it leave to file a brief as amicus curiae in support of the defendant's motions to dismiss the First Amended Complaint. A Memorandum in Support follows, and a copy of the proposed amicus brief is attached hereto.

Respectfully submitted,

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Memorandum in Support

Although the Federal Rules of Civil Procedure do not specifically provide for the filing of amicus curiae briefs at the district court level, "[D]istrict courts possess the inherent authority to appoint 'friends of the court' to assist in their proceedings." *In re Ford Motor Co.*, 471 F.3d 1233 1249 fn. 34 (11th Cir. 2006). See also, *Lathrop v. Unidentified, Wrecked & Abandoned Vessel*, 817 F.Supp. 953, 960 n. 10 (M.D.Fla.1993); *Resort Timeshare Resales, Inc. v. Stuart*, 764 F.Supp. 1495, 1500-01 (S.D.Fla.1991). Not surprisingly, the opportunity for a friend of the court to supply additional information is particularly important in matters of great public interest such as the present case.

Christian Action Network is a Virginia nonprofit corporation that is an education organization promoting family values. Christian Action Network has engaged in litigation in Virginia challenging the very sorts of challenges to the fundamental rights of parents over the education and health of their children. Accordingly, Christian Action Network brings a

unique perspective to assist the court in understanding and adjudicating the issues in this case raised by the one or more of the pending motions to dismiss.

Christian Action Network respectfully requests the court to grant its motion to file the attached brief of amicus curiae.

Although not common, United States District Courts have the inherent authority to permit nonparties to file the attached "Brief of Amicus Christian Action Network in Support of Defendants' Motions to Dismiss.".

Respectfully submitted,

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Local Rule 7.1(C) Certificate

I certify that I have contacted all counsel by email before filing this Motion at all counsel have either consented to Christian Action Network filing an amicus brief or failed to respond within a week.

/s/ David W. T. Carroll, Esq.

Certificate of Service

I certify that the undersigned electronically filed the foregoing with the clerk of the court via the CM/ECF system on July 5, 2022, and which will provide electronic notification to all counsel of record.

/s/ David W. T. Carroll, Esq.

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA
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Equality Florida, *et al,*

Plaintiffs,

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Case No. 4:22-cv-00134-AW-MJF

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Defendants.

BRIEF OF AMICUS IN SUPPORT OF DEFENDANTS' MOTIONS TO DISMISS [DINs 62, 63 & 65-68]

I. Introduction

Amicus Curiae, Christian Action Network, is a Virginia corporation qualified as an Internal Revenue Code § 501(c)(3) organization. Christian Action Network is engaged in education and advocacy of family values. Amicus supports H.B. 1557 in both its goals and its language to protect children of tender age from inappropriate proselytization of sexual lifestyles whether heterosexual, homosexual or transgender or anything else. H.B. 1557 is constitutional in all respects.

Equality Florida attacks H.B. 1557 on five constitutional grounds and one statutory ground that will be explored by the named parties. Your

amicus proposes to provide some perspective and background that others may not provide.

Each Count of the Amended Complaint is seriously flawed. Plaintiffs seek to make this court a super-legislature to repeal H.B. 1557 which is a reasonable, rational and constitutional piece of Florida legislation to protect the fundamental rights of parents in the education of their children.

The politically ascendant LGBTQ+ advocates have been successfully lobbying school districts to adopt procedures that would allow the school district to withhold information from children's parents and even lie to them when a child says that it was born the wrong sex, including children in kindergarten through third grade. Their theory is that schools should affirm the child's statement of a different gender identity without providing medical or psychological evidence that the child is truly gender dysphoric and in need of such treatment.

Activists such as Equality Florida point to the high rates of suicide among transgender people, thankfully a very small minority. The high rates of suicide continue even after gender transition surgery. The activists theorize that the suicide rates result from societal rejection of people with

gender dysphoria. However, it is just as reasonable to suppose that the suicide rates result from an unfortunate dissatisfaction with the body and sex with which the person was conceived and born.[1]

As a result, the activists seek to make laboratories out of the school districts and children as guinea pig to test the theory that affirming children's dissatisfaction with their chromosomal sex is healthier than affirmations that make children feel more comfortable with their actual body and sex.

Furthermore, the activists such as Equality Florida want school districts to hide from parents this practice of affirming a child's dissatisfaction with his or her body, for fear that the parents will stop the experiment.

Parents may reasonably believe it is mentally healthier for them and the school to affirm the child's natural body and sex rather than promote dissatisfaction as proposed for the radical social experiment.

[1] It is likely that the plaintiffs in this case will refer to "sex assigned at birth" as if a person's sex were not biologically determined by their chromosomes and genes. Unfortunately, that is a modern nonsensical characterization that caused one United States Senator to ask future Supreme Court Justice Ketanji Brown-Jackson if she could define a woman, eliciting the answer, "I am not a biologist."

In practice, gender dysphoria among prepubescent children when left alone typically resolves naturally sometime after puberty. Well-informed parents have every right to be involved with these decisions concerning the welfare of their children and to decline to permit the school district to experiment on their children based upon an unproven social/psychological theory that affirming bodily dissatisfaction is always better for children than encouraging satisfaction with their natural bodies. Continued bodily dissatisfaction presumably leads to drastic sex-transition therapies such as hormones and surgery.

Since suicide rites continue to be high even after surgeries and hormonal therapies, there is no evidence to support the dangerous experiment which appears likely to lead to even more transition hormones and surgeries and suicides.

The Equality Florida plaintiffs have no constitutional right to force school districts to engage in such dangerous experimentation or to prevent schools from communicating with parents about their children's welfare.

H.B. 1557 is a simple common sense parental rights bill. The bill requires each district school board to adopt procedures to notify a student's

parent if there is a change in the student services or monitoring related to the student's mental, emotional, or physical health or well-being and the school's ability to provide a safe and supportive learning environment for the student. The procedures "must reinforce the fundamental right of parents to make decisions regarding the upbringing and control of their children...." §1001.42(8)(c)(1).

The procedures may not prohibit parents from accessing any of their student's education and health records, which is consistent with the federal Family Education Rights and Privacy Act (FERPA) which provides that "No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students ... the right to inspect and review education records of their children." 20 U.S.C. § 1232g(1)(A). The procedures may not prohibit school district personnel from notifying parents about their students' mental, emotional or physical health or well-being.

This is consistent with the parental rights established by Florida's S.B. 582 which became effective July 1, 2021, and which created a "Parents' Bill

of Rights" in Florida Statutes Chapter 1014. Among other things, S.B. 582 recognizes the fundamental right of a parent of a minor child "to direct the education and care of his or her minor child"; "to direct the upbringing and the moral or religious training of his or her minor child"; "to access and review all school records relating to his or her minor child"; "the right to make healthcare decisions for his or her minor child"; "the right to access and review all medical records of his or her minor child" and so on. Florida Statutes § 1014.04(4) (enacted by S.B. 582) also recognizes that:

> A parent of a minor child in this state has inalienable rights that are more comprehensive than those listed in this section, less those rights have been legally waived or terminated. This chapter does not prescribe all rights to a parent of a minor child in this state. Unless required by law, the rights of a parent of a minor child in the state may not be limited or denied. This chapter check may not be construed to apply to a parental action or decision that would end life."

H.B. 1557 is entirely consistent with the pre-existing Parents' Bill of Rights enacted by S.B. 582.

Furthermore, Equality Florida plaintiffs mischaracterize H.B. 1557's bill that prohibits classroom instruction on gender identity matters for children of tender years in grades kindergarten through third grade, typically ages six through 10. Section 1001.42(8)(c)(3) prohibits school

personnel or third parties from delivering classroom instruction on sexual orientation or gender identity in kindergarten through third grade or in a manner that is not age-appropriate or developmentally appropriate for students in accordance with state standards. It is perfectly rational for the legislature to decide that sexual education of any kind is inappropriate for such young children.

In contrast to S.B. 582's enactment of administrative penalties for violating parental consent requirements, nothing in H.B. 1557 creates penalties for people who violate this prohibition which pretty much eliminates any void for vagueness problem. "A plaintiff must establish that the challenged ordinance is `so vague and indefinite as really to be no rule or standard at all.'" *Vfw John O'Connor Post v. Santa Rosa County, Fl*, 506 F.Supp.2d 1079, 1092 (N.D. Fla. 2007); *Seniors Civil Liberties Ass'n, Inc. v. Kemp*, 965 F.2d 1030, 1036 (11th Cir.1992) (quoting *Boutilier v. INS*, 387 U.S. 118, 123, 87 S.Ct. 1563, 1566, 18 L.Ed.2d 661 (1967)).

It has never been the norm for schools to deliver sex education to children of tender years in grades kindergarten through third grade. Thus

avoiding all sex education in those grades presents no real challenge of understanding.

It is surely within the legislature's prerogative to prohibit education about the sexuality of an extremely small minority of students until that education is both age-appropriate and developmentally-appropriate as mandated by Florida Statutes 1001.42(8)(c)(3) in H.B. 1557. What could be more reasonable, rational, or constitutional than prohibiting sex education which is not age-appropriate or developmentally appropriate?

Similarly, plaintiffs suggest nothing constitutionally infirm in any of the following sections enacted by H.B. 1557:

§ 1001.42(8)(c)(4) requires that student support services conform to student services guidelines, standards and frameworks established by the Department of Education.

§ 1001.42(8)(c)(5) Parents have the right to decline specific services offered by the student's school.

§ 1001.42(8)(c)(6) requires the school to obtain parents' permission before administering a student well-being questionnaire or health screening form to children in kindergarten through grade 3.

§1001.42(8)(c)(7) requires schools to adopt procedures for a parent to notify the principal or designee about any concerns and to establish a process for resolving those concerns within seven calendar days after the parents' notification. Parents have a right to bring a declaratory judgment action against the school district or practice that violates this section.

Finally, the Department of Education by June 30, 2023 must review and update as necessary school counseling frameworks and standards, educated practices and professional conduct principles and any other student services personnel guidelines, standards, or frameworks.

II. Conclusion

H.B. 1557 effective July 1, 2022, is common-sense legislation that primarily reinforces and expands upon the Parents' Bill of Rights adopted in 2021 by S.B. 582.

H.B. 1557 recognizes that parents have the primary rights and responsibilities with respect to their children's health, education and welfare, and not the children's school district. H.B. 1557 allows classroom instruction on sexual matters only when it is age and developmentally

appropriate. These simple principles of parental rights violate no one's constitutional rights.

Respectfully submitted,

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Certificate of Service

I certify that the undersigned electronically filed the foregoing with the clerk of the court via the CM/ECF system on July 5, 2022, and which will provide electronic notification to all counsel of record.

/s/ David W. T. Carroll, Esq.