

Case No. 00-4003

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

EAST HIGH GAY/STRAIGHT ALLIANCE, an unincorporated association; **IVY FOX**, a minor, by and through her mother and next friend, **KAY KOSOW FOX**; **KEYSHA BARNES**, a minor, by and through her father and next friend, **JAMES BARNES**; and **LEAH FARREL**, by and through her mother and next friend, **KELLY FOGARTY**,

Plaintiffs-Appellants,

vs.

BOARD OF EDUCATION OF SALT LAKE CITY SCHOOL DISTRICT, a body corporate of the State of Utah; **DARLINE ROBLES**, Superintendent of Salt Lake City School District, in her official capacity; and **CYNTHIA SEIDEL**, Assistant Superintendent, in her official capacity,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Utah, Central Division in Civil No. 2:98-CV-193J,
The Honorable Bruce S. Jenkins

**BRIEF OF AMERICAN COUNSELING ASSOCIATION, COUNCIL FOR
EXCEPTIONAL CHILDREN, NATIONAL ASSOCIATION OF SCHOOL
PSYCHOLOGISTS, NATIONAL ASSOCIATION OF SOCIAL WORKERS, AND
SCHOOL SOCIAL WORK ASSOCIATION OF AMERICA
AS AMICI CURIAE
SUPPORTING PLAINTIFFS-APPELLANTS AND ENCOURAGING REVERSAL**

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INTRODUCTION

The issue before this Court is whether the Equal Access Act requires the Salt Lake City School District (the "School District") to permit students of the East High Gay/Straight Alliance (the "East High Alliance") to meet during noninstructional hours on school premises. The courts consistently have interpreted the Equal Access Act to preclude schools from excluding particular groups, such as the East High Alliance, because of their message. The School District should not be permitted to disregard the Equal Access Act to preclude the activities of a gay-straight peer group. The East High Alliance would provide vital benefits to its members by helping lesbian and gay students assimilate into their high school community, by reducing feelings of isolation that cause many lesbian and gay students to withdraw, mentally and physically, from the educational process, and by fostering the development of a positive sense of self-worth and greater self-acceptance, which are critical for an adolescent's mental health.

The critical importance to the healthy psychosocial development of lesbian and gay students of permitting groups like the East High Alliance to meet on school premises is well established. As Judge Carter of the Central District of California recently noted in granting a preliminary injunction in a case involving a student gay-straight alliance group in Orange County, California: "This injunction therefore is not just about student pursuit of ideas and tolerance for diverse viewpoints. As any concerned parent would understand, this case may involve the protection of life itself." Colin

v. Orange County Unified Sch. Dist. Bd. of Educ., 2000 U.S. Dist. LEXIS 1742 at *47
(Feb. 4, 2000) (A copy of the unreported decision is included in Appendix 1 to this brief.)

ARGUMENT

I. The Equal Access Act Was Enacted and Has Been Interpreted So As To Recognize the Importance Of Permitting Students To Meet Together

As the United States Supreme Court notes in Board of Education of the Westside Community Schools v. Mergens, 496 U.S. 226, 235 (1990), the Equal Access Act is based on First Amendment free speech principles. Specifically, the Mergens Court interpreted the Equal Access Act broadly to ensure maximum protection for groups of students wishing to meet on high school grounds. See Mergens, 496 U.S. at 239 ("A broad reading of the Act would be consistent with the views of those [Members of Congress] who sought to end discrimination by allowing students to meet and discuss religion before and after classes."). Thus, the very purpose of the Equal Access Act is to protect the ability of young people to gather on school premises for the purpose of sharing information and opinions, particularly where such opinions may be controversial. Mergens, 496 U.S. at 259 (Kennedy, J., concurring) ("one of the consequences of the [Equal Access Act], as we now interpret it, is that clubs of a most controversial character might have access to the student life of high schools that in the past have given official recognition only to clubs of a more conventional kind").

The legislative history of the Equal Access Act further demonstrates its purpose of protecting groups like the East High Alliance. See, e.g., 130 Cong. Rec.

20,944 (1984) (statement of Rep. Eckart) ("As much as the three "R's" are part of growing up in our society, so is the appreciation of divergent viewpoints in our society as well...."); S. Rep. No. 98-151 (1983), reprinted in 1984 U.S.C.C.A.N. 2306, 2368 (noting personal intercommunication among students as a vital part of education). Nowhere is positive social interaction, including participation in social groups on school premises, as vitally important to the psychosocial development of adolescents as it is for lesbian and gay students. Janet Black & Jackie Underwood, Young, Female, and Gay, 1 Prof. Sch. Counseling 15, 15 (1998); see also Michael Radkowsky & Lawrence J. Siegel, The Gay Adolescent: Stressors, Adaptations, and Psychosocial Interventions, 17 Clinical Psychol. Rev. 191, 195 (1997). In addition to the typical difficulties of adolescence shared with their heterosexual peers, lesbian and gay youth must cope with social and health challenges such as prejudice, harassment and occasional violence. In this environment, the need for peer support is critical to avoid isolation, and its attendant mental and physical problems, as lesbian and gay adolescents realize their sexual orientation.¹

¹ Recent studies indicate that, on average, adolescents have their first awareness of homosexual attraction at 9 years of age for males and at 10 years of age for females and self-identify as lesbian or gay at 16 years. Caitlin Ryan & Donna Futterman, Lesbian & Gay Youth: Care and Counseling, at 10 (1998); see also Daniela Altimari, Refusing To Hide In The Closet, Hartford Courant, Feb. 20, 2000, at B1. Self-identification as lesbian or gay at such young ages means greater stresses and a greater need for support. Anthony R. D'Augelli, "Lesbian, Gay and Bisexual Development During Adolescence and Young Adulthood," in Textbook of Homosexuality and Mental Health 267, 267-88 (Robert P. Cabaj & Terry S. Stein eds., 1996). (Copies of all secondary materials are provided in Appendix 2.)

II. Stigmatization And Anti-Gay Harassment Is An Overwhelming Obstacle To Childhood Development And Participation In The Educational Process

Social and cultural stigmatization creates difficult challenges for lesbians and gays, particularly during adolescence, in core aspects of human development.

Anthony R. D'Augelli et al., Lesbian, Gay, And Bisexual Youth And Their Families, 68 *Am. J. Orthopsychiatry* 361, 361 (July 1998). Recent studies demonstrate that lesbian and gay students face unique obstacles to learning and education. For example, eight quantitative studies have surveyed a total of 83,042 middle and high school students (of all sexual orientations) around the United States to explore issues related to the particular needs of lesbian and gay students.² The cumulative findings of these quantitative studies are conclusive about a number of things: (1) There are lesbian and gay children and youth in every community and every school district; and, (2) Lesbian and gay youth in general, as well as heterosexual youth who are harassed for being perceived to be homosexual, (a) are at increased risk for being threatened and assaulted, (b) are disproportionately likely to be fearful for their safety at school, to the point of skipping whole days because of it, and (c) are significantly more likely than their heterosexual peers to engage in self-destructive behavior, such as abusing alcohol and drugs or planning and

² The eight studies are as follows: 1996 Connecticut Voice of Connecticut Youth; 1987 Minnesota Adolescent Health Survey, conducted by the University of Minnesota; 1991 U.S. National American Indian Adolescent Health Survey; 1997 Vermont Youth Risk Behavior Survey ("YRBS"), coordinated by the United States Centers for Disease Control and Prevention; 1995 Seattle YRBS; 1997 San Francisco YRBS; 1997 Massachusetts YRBS, and; 1997 Wisconsin YRBS.

attempting suicide. Safe Schools Coalition of Washington State, Eighty-Three Thousand Youth: Introduction to the Eight Studies, at Conclusion (Mar. 1999) (hereinafter "83,000 Youth"). (Copies of the cited quantitative studies are provided in Appendix 1.)

Openly or stereotypically lesbian or gay students are particularly at risk for discrimination, violence, and rejection by family and peers. Significant numbers of lesbian and gay youths report having been verbally, physically, or sexually assaulted and abused by family members and peers. Neil W. Pilkington & Anthony R. D'Augelli, Victimization of Lesbian, Gay, and Bisexual Youth in Community Settings, 23 J. Community Psychol. 34 (1995). In studies conducted in 9 cities and 3 states, one-third to one-half of lesbian and gay participants report being victimized in junior and senior high school. Id. at 40-44, 50-53.

The Safe Schools Coalition of Washington State recently concluded a separate five-year qualitative study examining the phenomenon of anti-gay harassment and violence in its schools, kindergarten through grade twelve. They Don't Even Know Me: Understanding Anti-Gay Harassment and Violence in Schools (Jan. 1999) (hereinafter "They Don't Even Know Me"). The study revealed that, in Washington alone, 92 students reported being harassed or attacked based on actual or perceived sexual orientation at school, on school property, on the way to school, or at a school-sponsored event

over a five-year period.³ Id. The Washington findings illustrate what many lesbian and gay youth across the country are exposed to during school hours.⁴

III. Lesbian and Gay Youth Generally Lack Vital Support

Compounding these difficulties, lesbian and gay students often are shunned by the traditional social institutions that routinely provide emotional support and positive reinforcement for their heterosexual peers, i.e., families, religious organizations, schools, and peer groups. A. Damien Martin & Emery S. Hetrick, "Designing an AIDS Risk

³ Of these incidents, there were reported: 8 gang rapes, in which a total of 11 people were raped, including 2 sixth graders; 22 other physical assaults on a total of 24 people (victims were hit, kicked, punched, and/or injured with weapons); 17 cases of physical harassment or sexual assault, short of rape, including such things as: spitting on someone; throwing objects; being cornered; pushing; pulling clothes up or off or down; and, being grabbed and groped. They Don't Even Know Me, supra at Executive Summary. The study also revealed that, in most of these incidents, the ratio of offenders to the people they targeted was at least 2½ to 1. Id.

⁴ The Massachusetts Department of Education reports that lesbian and gay students are four times more likely to be threatened or injured with a weapon at school as are other students, three times more likely to carry weapons at school, and four and a half times more likely to skip school because they feel unsafe. 1997 Massachusetts Youth Based Risk Behavior Survey Results, Violence-Related Behaviors at Figure 5G (hereinafter Massachusetts YRBS). A survey conducted by the Rhode Island Department of Health and Education similarly cites reports indicating 41% of lesbian and gay youth have been violently attacked. Rhode Island Task Force on Gay, Lesbian, Bisexual and Transgendered Youth, School Shouldn't Hurt: Lifting the Burden from Gay, Lesbian, Bisexual and Transgendered Youth (March 1996) (hereinafter School Shouldn't Hurt). In Wisconsin, students who report experiencing anti-gay harassment are four times more likely as non-harassed youth (homosexual and straight) to have been threatened with or injured by someone with a weapon at school. Safe Schools Coalition of Washington, 83,000 Youth, supra at Table 5 (summarizing Wisconsin's 1997 Youth Risk Behavior Survey).

Reduction Program for Gay Teenagers: Problems and Proposed Solutions," in Biobehavioral Control of AIDS (David G. Ostrow ed., 1987). As a result, lesbian and gay youths must process feelings of rejection, incorporate their evolving sexual identity, and negotiate many important milestones without feedback or support. Lesbian and gay adolescents, lacking access to peer support, are unique in that often they are unable to develop a sense of group identity that is important for coping with discrimination. Radkowsky & Siegel, supra at 198. Also, unlike their heterosexual peers and minority students, lesbian and gay adolescents are the only social group who often must learn to manage a stigmatized identity with relatively little active support and modeling from parents and family. Ryan & Futterman, supra at 9.

Disclosure of a homosexual identity during adolescence often may result in verbal or physical abuse, rejection, or abandonment by parents.⁵ Accordingly, studies performed by state educators indicate that only one-half of all adolescents seek support from parents or guardians after experiencing anti-gay harassment. Id. Moreover, even if told, many parents, given that they have not experienced the stigmatization and the anti-

⁵ For example, studies show that some lesbian and gay youth have been expelled from their homes after their sexual orientation was disclosed or inadvertently discovered. James A. Farrow et al., Introduction (Special issue on homeless and runaway youth), 12 J. Adolescent Health 497 (1991); Emery S. Hetrick & A. Damien Martin, Developmental Issues and Their Resolution for Gay and Lesbian Adolescents, 14 J. Homosexuality, Nos. 1 / 2 1987, at 25, 29, 33; A. Damien Martin & Emery S. Hetrick, The Stigmatization of the Gay and Lesbian Adolescent, 15 J. Homosexuality, Nos. 1 / 2 1988, at 163, 170, 174. See also Pilkington & D'Augelli, supra at 53.

gay harassment their children suffer, are limited in their ability to help their children cope.⁶ Further, lesbian and gay youths may find it easier to avoid the issue because disclosing one's homosexual orientation is a complex challenge, and it is difficult for the adolescent to assess the responses, not just of parents, but of the complex, interwoven social network in which the adolescent lives.⁷ D'Augelli et al., supra at 367-70.

In the absence of groups like the East High Alliance, many lesbian and gay students find they have few people to rely on in dealing with anti-gay harassment or prejudice within their schools. A. Damien Martin, Learning to Hide: The Socialization of the Gay Adolescent, 10 *Adolescent Psychiatry* 52, 57 (1982); Pilkington & D'Augelli, supra at 44. Lesbian and gay youth typically feel uncomfortable talking to teachers and

⁶ Family support may buffer an adolescent against the harmful effects of victimization on mental health, but generally only when family support is high and victimization is low. And even youths who have family support demonstrate the strong residual effect of victimization on mental health. Scott L. Hershberger & Anthony R. D'Augelli, The Impact of Victimization on the Mental Health and Suicidality of Lesbian, Gay, and Bisexual Youths, 31 *Developmental Psychol.* 65, 72 (1995).

⁷ Lesbian and gay adolescents who belong to ethnic and racial minorities are particularly vulnerable in the face of family rejection. In a society that also discriminates on the basis of race and ethnicity, strong connections with family and ethnic community are essential for survival. Ryan & Futterman, supra at 14; John C. Gonsiorek & James R. Rudolph, "Homosexual Identity: Coming Out and Other Developmental Events", in Homosexuality: Research Implications for Public Policy 167-68 (John C. Gonsiorek & James D. Weinrich eds., 1991). As a result, these adolescents usually perceive disclosure to parents, extended family, and the broader ethnic minority community as overwhelmingly threatening. See Ritch C. Savin-Williams, "Lesbian, Gay, and Bisexual Youths' Relationships with Their Parents," in Lesbian, Gay, and Bisexual Identities in Families 91-93 (Charlotte J. Patterson & Anthony R. D'Augelli eds., 1998).

school administrators about their sexual orientation for fear of being further stigmatized. See 83,000 Youth, supra at Part One (noting that, in incidents of anti-gay harassment witnessed by adults, half of adults remained silent and, as a result, one-fifth of targeted students refused to report problems for fear of being further harassed or stigmatized).⁸ Moreover, significant numbers of teachers and education majors have reported feeling unprepared or unable to teach about homosexuality. S.K. Telljohann et al., Teaching About Sexual Orientation by Secondary Health Teachers, 65 J. Sch. Health 18, 20 (Jan. 1995). Even teachers who would otherwise be supportive often fear that supporting lesbian and gay students will jeopardize their job or safety. School Shouldn't Hurt, supra at Section 6. This fear is of even greater concern among lesbian and gay educators, who would initially seem the best equipped to understand the stresses faced by homosexual youths. Cf. Janet H. Fontaine, Evidencing A Need, 1 Professional Sch. Counseling 8, 12 (1998) (noting that lesbian and gay adolescents need positive adult role models, such as a gay or lesbian educator).

⁸ The story of Jamie Nabozny shows what some homosexual youth experience. See Nabozny v. Podlesny, 92 F.3d 446 (7th Cir. 1996) (holding school violated equal protection and due process rights in failing to respond to anti-gay harassment). From the time he entered Ashland Middle School in 1988 until he dropped out of Ashland High School as a junior in 1993, Jamie faced a campaign of relentless physical and verbal assaults because he is gay. Jamie reported these incidents to school authorities, and his parents repeatedly asked school officials to effectively discipline his attackers. School officials refused to act, taking the position that "boys will be boys," and that Jamie had to expect such abuse because he is gay.

For these reasons, it is critically important that lesbian and gay youth are able to share their issues and concerns with friends and peers whom they perceive as relatively less threatening (emotionally, physically and economically). See Ryan & Futterman, supra at 8-13, 16-17; see also Radkowsky & Siegel supra at 202. However, the identification of sympathetic friends and peers often is not easy. Many lesbian and gay adolescents have no friends who are lesbian or gay, and many fear the loss of heterosexual friends. See Gary Remafedi, Adolescent Homosexuality: Psychosocial and Medical Implications, 79 *Pediatrics* 331 (1987) (noting nearly all (93%) of gay male adolescents reported friends as their most important source of help for problems or worries and that 41% reported loss of friends after disclosing their gay identity); Anthony R. D'Augelli & Scott L. Hershberger, Lesbian, Gay, and Bisexual Youth in Community Settings: Personal Challenges and Mental Health Problems, 21 *Am. J. Community Psychol.* 421, 433 (1993) (14-city study revealed nearly 75% of lesbian and gay youth first disclosed their sexual identity to friends and nearly half lost a friend as a result).

IV. The Drastic Consequences of Facing Stigmatization and Discrimination Alone

Fear and uncertainty lead many lesbian and gay youths to hide their sexual identities, or, in colloquial terms, stay "in the closet." For adolescents (and adults) the stress of hiding one's identity can be extreme; even casual conversations must be monitored and screened. Although hiding may appear to protect "closeted" lesbians and gays from discrimination and rejection, it isolates closeted students. Moreover, hiding is

associated with negative physical and mental health outcomes, including substance abuse, suicide, depression, and high risk behaviors. Ryan & Futterman, supra at 21; Gonsiorek & Rudolph, supra at 164; see also Ilan H. Meyer, Minority Stress and Mental Health in Gay Men 36 J. Health Soc. Behav. 38, 41, 46-48 (1995); Martin, supra at 58-60.

Many lesbian and gay students, whether or not they hide their sexual orientation, suffer from depression, anxiety, fear, low self-esteem and self-blame, together with a range of physiological symptoms due to stigmatization, harassment, and feelings of isolation. Common psychological reactions to the stigma of being lesbian or gay include adjustment problems, impaired psychosocial development, family alienation, inadequate interpersonal relationships, alcohol and drug abuse, depression, a desire to commit suicide, and sexual acting out. Eli Coleman & Gary Remafedi, Gay, Lesbian, and Bisexual Adolescents: A Critical Challenge To Counselors, 68 J. Counsel. Dev. 36, 37 (1989); Pilkington & D'Augelli, supra at 34. See also School Shouldn't Hurt, supra at Part 4 ("Eighty percent of lesbian, gay and bisexual youth report severe isolation problems. They experience social isolation (having no one to talk to), emotional isolation (feeling distanced from family and peers because of their sexual identity), and cognitive isolation (lack of access to good information about sexual orientation and homosexuality).") (internal citations omitted). Further, studies show victimization of lesbian and gay youths compromises their mental health. Hershberger & D'Augelli, supra at 65.

Both loneliness and social isolation are described as the principal causes of suicidal behaviors and suicidal potential. Ryan & Futterman, supra at 17; see also Martin & Hetrick, supra at 165-74. For over a decade, studies have indicated that lesbian and gay students are at increased risk of suicide as compared to other students.⁹ See, e.g., Paul Gibson, "Gay Male and Lesbian Youth Suicide", in Report of the Secretary's Task Force on Youth Suicide 3-110, 3-115 (U.S. Dep't of HHS Pub. No. (ADM)89-1623 1989) ("gay youth are 2 to 3 times more likely to attempt suicide than other young people"); Coleman & Remafedi, supra at 37; 83,000 Youth, supra at Tables 6-10. Recent studies confirm that this trend continues.¹⁰

Not every lesbian and gay youth directly faces these situations, but every adolescent is only too aware that being lesbian or gay, or even being perceived as lesbian

⁹ The reality of lesbian and gay adolescents committing suicide is underscored in the instant case. Jacob Orozco, a founder of the East High Alliance was to serve as its president for the 1999-2000 school year. Just after school started, 17-year-old Jacob killed himself. Gwen Florio, Suicide of Young Gay Activist in Utah Came Without Warning, Phila. Inquirer, Nov. 5, 1997, at A1.

¹⁰ Last year, a study revealed that students identifying themselves as lesbian, gay, bisexual or "not sure" were 3.4 times more likely to report a suicide attempt in the previous year than heterosexual students. Robert Garofalo et. al., Sexual Orientation and Risk of Suicide Attempts Among a Representative Sample of Youth, 153 Archives Pediatric Adolescent Medic. 487, 490 (May 1999). Another study published last year found lesbian, gay, and bisexual young people were 4 times as likely to report major depression than heterosexual youths, 3.8 times as likely to report conduct disorders, 5.4 times as likely to report suicidal ideation, and 6.2 times as likely to report suicide attempts. David M. Fergusson et al., Is Sexual Orientation Related to Mental Health Problems and Suicidality in Young People?, 56 Archives Gen. Psychiatry 876, 879 (Oct. 1999).

or gay, may lead to harassment and harm. Further, fear and feelings of despair cause many lesbian and gay students to perform poorly at school or otherwise become socially isolated. The lesbian and gay adolescent's sense of isolation is increased by ignorance and prejudice, as reflected in anti-gay statements and misinformation from school personnel and peers. Radkowsky & Siegel, supra at 200. Indeed, studies show that lesbian and gay youth are at high risk for truancy and dropping out of school, thereby undermining the educational process.¹¹ Id.; see, e.g., Monique Fields, Teacher Training Targets Homophobia, The Tennessean, Feb. 9, 2000, at 1A. This may have long-term implications for the adolescent's future.¹²

V. Support Groups Provide Lesbian And Gay Students A Vital Opportunity To Take A Positive Role in Their Own Social and Educational Development

Recent efforts to create gay-straight alliances are a direct response to the desire of students to address the issues and concerns of lesbian and gay students within high school communities. Gay-straight alliances provide "safe spaces" in which lesbian

¹¹ For example, Wisconsin students reporting experiences of anti-gay harassment were eight times more likely to have skipped school in the past month out of fear. 83,000 Youth, supra at Table 5 (summarizing results of Wisconsin survey); see also School Shouldn't Hurt, supra at Part 2 (noting "poor school performance, low self-esteem and a high suicide rate among gay and lesbian students is closely related to the threats and physical abuse to which they are commonly subjected.")

¹² For example, career development, which is intimately linked both to self-concept and identity and often directly linked with educational qualifications, may be limited by poor performance or conscious choice. Lesbian and gay youth, believing they will never be accepted in mainstream society, often either abandon career or educational goals or opt for stereotypical jobs.

and gay students, many of whom otherwise might feel isolated from the educational process, can learn how to overcome obstacles, both perceived and real, to participation in their classes and individual development. Peer groups also provide lesbian and gay youths the opportunity to engage in interactions that can validate their values, interests, and needs, as well as develop social skills and build self-esteem. See Radkowsky & Siegel, supra at 199, 202. In the face of overwhelming statistics on anti-gay violence and teen suicide, gay-straight alliances even "may involve the protection of life itself." Colin, 2000 U.S. Dist. LEXIS at *47. By providing a forum in which students who are targeted for anti-gay harassment can feel safe at school, gay-straight alliances enable lesbian and gay students to participate more fully in the educational process.¹³ Id. at *43.

Moreover, educators have noted gay-straight alliances and similar student groups benefit homosexual and heterosexual students by allowing them to discuss openly

¹³ The difference made by gay-straight alliances and other gay-related student support groups is documented. Safe Schools Coalition of Washington State, Safe Schools Anti-Violence Documentation Project, at Part 5, § 4 (1996). Indeed, every state to study the issue has recommended the formation of school support groups and school-wide awareness training. Massachusetts YRBS, supra at Implications; School Shouldn't Hurt, supra at Recommendations; 83,000 Youth, supra at Conclusion. The East High Alliance experience shows that participation in a gay-straight peer group, and in efforts to address challenges by opponents to the organization, can increase students' self-esteem, encourage active school and community involvement, and foster higher academic involvement and achievement. Maralee Mayberry, Lesson in Challenging Homophobia in Schools (1998) (unpublished). Experiences at other schools demonstrate similar results. See Tracy Dell'Angela, Gay Students Find A Respite, Chic. Trib., Feb. 9, 2000, at D1; Lisa Bennett, Breaking the Silence, Teaching Tolerance 24 (Fall 1997); Warren J. Blumenfeld, "Gay/Straight" Alliances, 77 High Sch. J. 113 (Oct.1993-Jan. 1994).

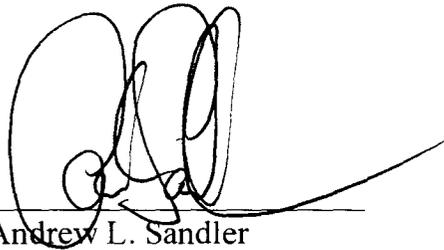
issues related to homophobia. Although of obvious importance to lesbian and gay youth, the opportunity to openly discuss these issues is also valuable for heterosexual students because anti-gay discrimination, like all forms of discrimination, can harm all youth, whether or not they are homosexual. Indeed, the Safe Schools Coalition of Washington State concludes that "[s]upport groups and special counseling services for gay, lesbian and bisexual students are a profound and visible message to sexual minority students as well as would-be harassers." They Don't Even Know Me, *supra* at App. B (emphasis added). By teaching tolerance and by serving as a support group for all of their members, gay-straight alliances benefit all members of the school community.

CONCLUSION

The extent to which lesbian and gay adolescents find supportive relationships with peers and adults and develop positive coping skills often will determine their quality of life. Lesbians and gays who have integrated a positive identity exhibit stronger psychological adjustment, greater satisfaction, and higher self-concept, with lower rates of depression and stress. Amici believe that, without such positive identity development, students will be limited in their ability to participate fully in the educational process. For these reasons, and for the reasons outlined in this brief, gay-straight alliances, and other peer support groups, are vital to the education of lesbian and gay youth throughout this country. The School District should not be permitted to deprive these youth -- who form an entire generation at risk -- of access to needed support groups on school premises.

Dated: Washington, D.C.
March 11, 2000

By:

A handwritten signature in black ink, appearing to be 'AS', written over a horizontal line.

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National Association of Social Workers
School Social Work Association of America

STATEMENTS OF INTEREST PURSUANT TO RULE 29(c)

American Counseling Association (ACA)

Founded in 1952, the American Counseling Association (ACA) is the world's largest private, non-profit organization representing professional counselors. Dedicated to promoting public confidence and trust in the counseling profession, ACA serves over 50,000 members in the United States. ACA has formally opposed discrimination based on sexual orientation since 1971. This policy has been subsequently reaffirmed and further elucidated through a series of resolutions adopted since that time.

Council for Exceptional Children (CEC)

The Council for Exceptional Children (CEC), founded in 1922, is a non-profit association of approximately 51,000 individuals. CEC has Units in every state in the United States, every province in Canada, and has international members in 42 countries. The worldwide mission of CEC, which is carried out in support of special education professionals and others working on behalf of individuals with exceptionalities, is to improve educational outcomes for individuals with exceptionalities. CEC is committed to providing services to all students with exceptionalities without discrimination with respect to sexual orientation. In 1997, CEC adopted a resolution specifically supporting gay-straight alliances, and similar groups in schools, in recognition of the benefits they provide in building and maintaining safe learning environments that affirm the human rights of all students, regardless of sexual orientation.

National Association of School Psychologists (NASP)

The National Association of School Psychologists (NASP) was established in 1969 and currently has 21,500 members across the United States, Canada, and abroad. NASP is the largest association for school psychologists in the world; it works to promote educationally and psychologically healthy environments for all children and youth. Position statements devoted to promoting safe school environments, ensuring the mental health needs of all students, and a Resolution on Lesbian, Gay and Bisexual Youth in Schools have been passed by the NASP leadership.

National Association of Social Workers (NASW)

The National Association of Social Workers (NASW) was established in 1955 as a nonprofit professional association. It is the largest social work association in the world, with more than 160,000 members. NASW has formally opposed discrimination against gay men and lesbians. Current NASW policy affirms the association's commitment "to work toward full social and legal acceptance and recognition of lesbian and gay people."

School Social Work Association of America (SSWAA)

The School Social Work Association of America (SSWAA) is a national organization created in 1994 to serve as a voice for school social work at the national level. Its membership of over 1,000 school social workers from all 50 states serves as a link between schools, families, and communities. SSWAA supports quality services to all school children to address their educational, social, and emotional needs. SSWAA

believes that heightened awareness of students' rights and needs regarding sexual orientation issues is a positive development which will build healthy students who will emerge as healthy productive adults.

CERTIFICATE PURSUANT TO RULE 26.1

This document is submitted pursuant to Rule 26.1 and Fed. R. App. P. 26.1, and to enable judges of the Court to evaluate possible disqualification or recusal.

The undersigned counsel of record for the American Counseling Association (ACA) hereby certifies that the ACA, a private, non-profit (nongovernmental) entity, is a membership corporation, has no parent company, no subsidiaries, and no affiliates that have issued shares in the public.

The undersigned counsel of record for the Council for Exceptional Children (CEC) hereby certifies that the CEC, a private, non-profit (nongovernmental) entity, is a membership corporation, has no parent company, no subsidiaries, and no affiliates that have issued shares in the public.

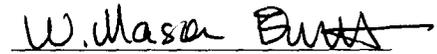
The undersigned counsel of record for the National Association of School Psychologists (NASP) hereby certifies that the NASP, a private, non-profit (nongovernmental) entity, is a membership corporation, has no parent company, no subsidiaries, and no affiliates that have issued shares in the public.

The undersigned counsel of record for the National Association of Social Workers (NASW) hereby certifies that the NASW, a private, non-profit (nongovernmental) entity, is a membership association, has no parent company, no subsidiaries, and no affiliates that have issued shares in the public.

The undersigned counsel of record for the School Social Work Association of America (SSWAA) hereby certifies that the SSWAA, a private, non-profit

(nongovernmental) entity, is a membership corporation, has no parent company, no subsidiaries, and no affiliates that have issued shares in the public.

Dated: Washington, D.C.
March 11, 2000

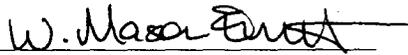


W. Mason Emmett
One of the Attorneys
for *Amici Curiae*

CERTIFICATE OF COMPLIANCE PURSUANT TO RULE 32(a)(7)

As required by Fed. R. App. P. 32(a)(7)(C), I hereby certify that the foregoing **Brief of American Counseling Association, Council for Exceptional Children, National Association of School Psychologists, National Association of Social Workers, and School Social Work Association of America as *Amici Curiae* Supporting Plaintiffs-Appellants and Encouraging Reversal** dated March 11, 2000 complies with Rule 32.1 and the type-volume limitation required by Fed. R. App. P. 32(a)(7)(B) in that the text of the brief is in 13-point proportional type font (Times New Roman) with a count of 4,402 words according to Corel WordPerfect 9's word count feature.

Dated: Washington, D.C.
March 11, 2000


W. Mason Emmett
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