

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JANE DOE,

Plaintiff,

v.

PINE-RICHLAND SCHOOL DISTRICT,

Defendant.

Civil Action No. 2:24-cv-00051-WSS

Honorable William S. Stickman IV

**BRIEF OF LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.,
AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA, AND EDUCATION
LAW CENTER PENNSYLVANIA AS *AMICI CURIAE* IN OPPOSITION TO
PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION AND IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS**

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INTRODUCTION & INTEREST OF AMICI

Over the past several decades, significant research has confirmed what *amici*, educational policymakers, and many transgender and gender-diverse¹ (“TGD”) people have long known: as compared to the general population, TGD people and youth face vastly increased and, at times, deadly risks to their health, safety, and security. TGD people encounter deeply rooted social stigmas and hostility that often lead to disturbingly high rates of violence, harassment, and other forms of cruelty and discrimination, as well as significant mental health challenges.

Fortunately, research confirms that school environments that support the educational and social needs of TGD students can dramatically reduce these risks and mitigate the effects of such abuse. This is especially important because of the long-term effects those experiences can have during crucial developmental stages of a young TGD person’s life. TGD students can thrive when schools create nurturing spaces where trusted teachers and mentors can help them safely learn, play, forge bonds, explore, and grow. Thanks to policies like the one Plaintiff challenges, school personnel can be key allies for TGD students, working alongside them to build acceptance in their classrooms, their homes, and their communities. Such policies are especially important because the decision to disclose a gender-diverse identity—and to whom—is intensely personal. Ensuring that TGD young people retain agency and support in that decision is vital; a contrary rule threatens to delay or derail their acceptance by peers and family members and risks exposing them to rejection, abuse, trauma, and other adverse outcomes.

Pine-Richland School District’s Regulation AR 103(B) (the “Regulation”) is designed to achieve those important objectives. It promotes the healthy development and success of TGD

¹ *Amici* use the umbrella term “TGD” to describe a broad range of gender identities outside the male/female binary as assigned at birth. *Amici* also use “LGBTQ,” a more expansive term referring to lesbian, gay, bisexual, transgender, queer, and other non-heterosexual or gender-diverse people.

students by ensuring that school personnel respect their gender identities² and their determinations around whether and when to share their identities with their families; strengthening peer, adult, and family support networks; and taking other steps necessary to ensure that they stay safe and thrive both in school and at home. With these facts in mind, *amici* offer additional context regarding TGD young people's lives to assist the Court in its assessment of the pending motions.

Amicus curiae Lambda Legal Defense and Education Fund, Inc. ("Lambda Legal") is the nation's oldest and largest non-profit legal organization committed to achieving full recognition of the civil rights of LGBTQ people and people living with HIV through impact litigation, education, and public policy work. Lambda Legal has long worked to ensure that TGD young people have equal educational opportunity in Pennsylvania and across the country. This includes representing the plaintiffs in *Evancho v. Pine-Richland School District*, 237 F.Supp.3d 267 (W.D. Pa. 2017), which resulted in the adoption of the very regulation Plaintiff now challenges, as well as being *amicus* counsel in *Doe by & through Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518 (3d Cir. 2018). Lambda Legal has a keen interest in ensuring that Defendant's policies provide TGD students with the respect, support, and resources they need to learn and thrive in school.

Amicus curiae Education Law Center Pennsylvania ("ELC-PA") is a nonprofit legal advocacy organization dedicated to ensuring that all Pennsylvania's children have access to a quality public education. For nearly fifty years, ELC-PA has worked to eliminate systemic inequities that lead to disparate educational outcomes, including those based on sexual orientation, gender identity, and gender expression. ELC has handled thousands of individual matters and

² Gender identity is a person's "deep internal sense of being female, male, a combination of both, somewhere in between, or neither[.]" Jason Rafferty, Am. Acad. of Pediatrics, *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142(4) Pediatrics 2 tbl.1 (Oct. 2018). For TGD people, their gender identities are different from the sex they were assigned at birth. *Id.*

impact cases and has a history of vigorous advocacy on behalf of LGBTQ students. Through an Inclusive Schools and Honest Education initiative, ELC-PA has responded to requests for assistance and concerns raised in over 30 school districts across the Commonwealth that have created hostile school climates for LGBTQ students, including policies that discriminate against and exclude TGD students from full participation in their schools. ELC-PA is deeply invested in ensuring Pennsylvania schools provide TGD students with a safe environment where they are valued, their individual learning needs are met, and they have equitable opportunities to thrive.

Amicus curiae American Civil Liberties Union of Pennsylvania (“ACLU of Pennsylvania”) is a nonprofit, nonpartisan, membership organization that serves as an enduring guardian of justice, fairness, and freedom, working to protect civil liberties and advance equity for all. The ACLU of Pennsylvania’s work includes litigation and advocacy on behalf of LGBTQ people, including LGBTQ students in Pennsylvania public schools. The ACLU of Pennsylvania won the right to marriage equality in Pennsylvania, *Whitewood v. Wolf*, 992 F. Supp. 2d 410 (M.D. Pa. 2014), and represented transgender-student intervenors who successfully opposed a legal challenge to a school district’s policy allowing all students to use bathrooms and locker rooms that aligned with their gender identity. *Doe*, 897 F.3d 518.

Schools across the country, including those in the Pine-Richland School District, play a crucial role in TGD young people’s lives. *Amici* seek to provide this Court with a broad and empirically grounded view of the landscape of TGD youths’ lives, the unique challenges they face, and the critical importance of policies that protect TGD students’ ability to be themselves and live authentically at school and in all aspects of their lives. *Amici* respectfully urge this Court to deny Plaintiff’s motion for a preliminary injunction and grant Defendant’s motion to dismiss, ensuring that these important guidelines continue to provide vital support and safety for TGD students.

ARGUMENT

I. SUPPORTIVE ENVIRONMENTS ARE CRITICALLY IMPORTANT FOR THE DEVELOPMENT OF ALL YOUNG PEOPLE, ESPECIALLY TGD YOUNG PEOPLE, AND SCHOOL EMPLOYEES ARE CRITICAL IN FOSTERING THAT ENVIRONMENT.

School and home environments that affirm and support young people’s identities—regarding their gender and otherwise—improve their academic and health outcomes. School climates that foster a sense of belonging and respect, characterized by strong relationships among staff, students, and families, are associated with better test scores, graduation rates, student engagement, mental and physical health, and brain development. *See* U.S. Dep’t of Educ., *Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates*, 7–8 (Mar. 2023), <https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf> (hereinafter “*Guiding Principles*”); U.S. Dep’t of Educ., *Supporting LGBTQI+ Youth and Families in School*, 1 (Jun. 2023), <https://www2.ed.gov/about/offices/list/ocr/docs/ed-supporting-lgbtqi-youth-202306.pdf>; Linda Darling-Hammond & Jennifer DePaoli, *Why School Climate Matters and What Can Be Done to Improve It*, 20 *J. of the Nat’l Ass’n of State Boards of Educ.*, 7 (May 2020), <https://www.nasbe.org/why-school-climate-matters-and-what-can-be-done-to-improve-it/>. Family relationships characterized by appreciation, affection, and acceptance likewise correlate with greater self-esteem, health, and life satisfaction in young people. *See* Caitlin Ryan, Family Acceptance Project, San Francisco State University, *Supportive Families, Healthy Children: Helping Families with Lesbian, Gay, Bisexual & Transgender Children*, 8–12 (2009), https://familyproject.sfsu.edu/sites/default/files/documents/FAP_English%20Booklet_pst.pdf; Camille Brown et al., *Family Relationships and the Health and Well-Being of Transgender and Gender-Diverse Youth: A Critical Review*, 7 *LGBT Health* 407, 408 (Dec. 2020).

Supportive school environments are vital to all young people and especially TGD young people who are beginning to recognize and express their gender identity. Schools offer children

the opportunity to learn important social skills and to cultivate responsibility, accountability, and independence. See Joseph A. Durlak et al., *The Impact of Enhancing Students' Social and Emotional Learning: A Meta-Analysis of School-Based Universal Interventions*, 82 *Child Dev.* 405, 417–19 (2011). Students also discover, develop, and pursue their passions—intellectual, social, athletic, artistic, and otherwise—in school. Those benefits are amplified or diminished depending on the level of inclusiveness of the school environment, not only for TGD students but for all students. See, e.g., Didier Jourdan et al., *Supporting every school to become a foundation for healthy lives*, 5 *Lancet Child & Adolescent Health* 295, 295 (2021); Ctrs. for Disease Control & Prevention, *LGBTQ-Supportive School Policies and Practices*, 1 (June 2022), <https://www.cdc.gov/healthyyouth/safe-supportive-environments/pdf/LGBTQ-School-Policies-Practices.pdf> (LGBTQ-supportive school policies and practices are particularly critical for the mental health of LGBTQ students, but also benefit non-LGBTQ students, while those that negatively affect LGBTQ students' health also harm non-LGBTQ students). Given their compulsory nature, schools are “a fundamental location for intervention geared towards assisting sexual minority youth.” Rebekah J. Byrd and Danica Hays, *School Counselor Competency and Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) Youth*, 10 *J. of Sch. Counseling* 1, 3-4 (2012) (hereinafter “Byrd”).

Simply put, schools have a compelling interest in preventing discrimination against TGD students and ensuring that TGD young people have an environment in which they can learn and grow. See *Doe*, 897 F.3d at 527–28. But more broadly, schools have such an interest in learning environments that ensure every student's well-being and development, especially because students spend a substantial portion of their waking hours at school and in school-sponsored activities outside class hours. See, e.g., 24 P.S. §§ 1-133, 15-1501 (requiring at least 180 school days or 990

instructional hours for high schoolers); Ctrs. for Disease Control & Prevention, *School Connectedness: Strategies for Increasing Protective Factors Among Youth*, 7 (2009) (noting importance of a “school environment . . . characterized by caring and supportive interpersonal relationships; opportunities to participate in school activities and decision-making; and shared positive norms, goals, and values”). As the Third Circuit noted, policies that affirm and protect TGD students “foster[] an environment of inclusivity, acceptance, and tolerance,” values that

serve an important educational function for both transgender and cisgender students. When a school promotes diversity and inclusion, classroom discussion is livelier, more spirited, and simply more enlightening and interesting because the students have the greatest possible variety of backgrounds. Students in diverse learning environments have higher academic achievement leading to better outcomes for all students. Public education must prepare pupils for citizenship in the Republic, and inclusive classrooms reduce prejudices and promote diverse relationships which later benefit students in the workplace and in their communities.

Doe, 897 F.3d at 529 (cleaned up). Moreover, supportive learning environments are key to ensuring that TGD students can access their fundamental right to education and receive a quality public education. Pennsylvania’s Education Clause “requires that every student receive a meaningful opportunity to succeed academically, socially, and civically...” *William Penn Sch. Dist. v. Pennsylvania Dep’t of Educ.*, 294 A.3d 537, 964 (Pa. Commw. Ct. 2023).

II. SUPPORTIVE SCHOOL ENVIRONMENTS HELP MITIGATE INCREASED RISKS THAT TGD YOUNG PEOPLE FACE.

Many TGD people start recognizing that their gender identities differ from the sex they were assigned at birth at an early age, when school environments play a vital role in any child’s life and development. *See* Am. Psychiatric Ass’n, *Gender Dysphoria, Diagnostic & Statistical Manual*, ch. 17 (5th ed. 2013). For those youth, the experience of a negative school climate is far too common. A study of nearly 400 transgender minors revealed that they were “more likely to experience victimization, bullying, and to report a more negative school climate.” Roberto L.

Abreau, et al., *LGBTQ Student Experiences in Schools from 2009-2019: A Systematic Review of Study Characteristics and Recommendations for Prevention and Intervention in School Psychology Journals*, 59 Psychol. Schs. 115, 116 (2022) (citation omitted). Accordingly, schools—in tandem with parents, guidance counselors, family members, peers, healthcare providers, and community organizations—play a key role in supporting TGD students who face outsized risks of bullying, isolation, discrimination, and pernicious self-doubt. Statistics regarding the challenges facing LGBTQ students, and TGD students specifically, paint a clear picture for policymakers and administrators regarding the importance of gender-affirming school policies.

A. Gender-affirming school policies help TGD students secure physical and psychological safety.

Supportive school policies and practices dramatically improve TGD students’ quality of life, not just during childhood and adolescence but long into adulthood. TGD youth who are supported in their gender identity have developmentally normal depression levels and only minimal elevations in anxiety, suggesting that supportive environments play an indispensable role in promoting their mental health. See Kristina R. Olson, et al., *Mental Health of Transgender Children Who Are Supported in Their Identities*, 137(3) Pediatrics 1 (Mar. 2016).

This support can take many forms. By training faculty, providing students with information and support in expressing their gender identity at school, and developing curricula that promote inclusivity, schools can curb harassment and bullying and cultivate “[g]reater feelings of safety” among LGBTQ students. Molly O’Shaughnessy et al., *Safe Place to Learn: Consequences of Harassment Based on Actual or Perceived Sexual Orientation and Gender Non-Conformity and Steps for Making Schools Safer* 17 (Jan. 2004), <http://casafeschools.org/SafePlacetoLearnLow.pdf>. TGD youth who found mentors in teachers, staff members, and school administrators were “three times as likely to graduate from high school,

had increased intentions to seek help for suicidal thoughts, and had positive[] . . . engagement and connectedness to their school[s.]” Enoch Leung et al., *Social support in schools and related outcomes for LGBTQ youth: a scoping review*, 1 *Discover Educ.* 1, 11 (2022) (citations omitted).

School counselors play an important role in creating a positive school environment, as they “have an opportunity to facilitate growth, awareness, knowledge and understanding so that both sexual minority and heterosexual individuals can learn and develop.” Byrd at 4 (citation omitted). The American School Counselor Association has recognized this critical role, charging school counselors with “work[ing] to eliminate barriers impeding LGBTQ+ student development and achievement” in recognition that “the school experience can be significantly more difficult for students with marginalized identities,” with discrimination impeding “healthy student development and psychological well-being.” Am. Sch. Counselor Ass’n, *The School Counselor and LGBTQ+ Youth* (last revised 2022), <https://www.schoolcounselor.org/Standards-Positions/Position-Statements/ASCA-Position-Statements/The-School-Counselor-and-LGBTQ-Youth>. Indeed, studies show that “school counselors are crucial in modeling inclusivity of [TGD] students for other school staff.” Abreau at 118.

Anti-bullying and other inclusive policies are another form of critical support for TGD students, producing a more positive climate; decreased truancy; lower levels of victimization, bullying, and harassment; and increased safety. Tecelli Domínguez-Martínez & Rebeca Robles, *Preventing Transphobic Bullying and Promoting Inclusive Educational Environments: Literature Review and Implementing Recommendations*, 50 *Archives of Med. Res.* 543, 551–52 (2019); see also Russell B. Toomey et al., *Gender-Nonconforming Lesbian, Gay, Bisexual, and Transgender Youth: School Victimization and Young Adult Psychosocial Adjustment*, 46 *Developmental Psychology* 1580, 1586 (2010) (“school policies that specifically prohibit victimization due to

LGBT status, gender nonconformity, and other types of bias-related harassment can help reduce negative psychosocial outcomes in LGBT and gender-nonconforming young people.”). Even policies that simply ensure students are referred to by their correct name and pronouns correlate with far lower rates of discrimination, psychological distress, and suicide attempts. Joseph G. Kosciw et al., GLSEN, *The 2021 National School Climate Survey: The Experiences of LGBTQ+ Youth in Our Nation’s Schools* 74 (2022), <https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf> (hereinafter “*National School Climate Survey*”); The Trevor Project, *2023 U.S. National Survey on the Mental Health of LGBTQ Young People*, 4 (2023), https://www.thetrevorproject.org/survey-2023/assets/static/05_TREVOR05_2023survey.pdf (last accessed Jan. 8, 2024) (hereinafter “*2023 National Survey*”); Stephen T. Russell et al., *Chosen Name Use Is Linked to Reduced Depressive Symptoms, Suicidal Ideation, and Suicidal Behavior Among Transgender Youth*, 63 *J. Adolescent Health* 503, 503, 505 (2018). Such policies protect TGD students’ physical and psychological safety so that they can succeed in school and beyond.

Schools that foster strong allyship across gender and sexuality, such as through gay-straight alliances/gender and sexuality alliances (“GSAs”), also provide students with greater support from faculty and a broader network of friendships and peer support. Tina Fetner & Athena Elafros, *The GSA Difference: LGBTQ and Ally Experiences in High Schools with and without Gay-Straight Alliances*, 4 *Soc. Sci.* 563, 569–70 (Aug. 7, 2015); Carolyn Porta et al., *LGBTQ Youth’s Views on Gay-Straight Alliances: Building Community, Providing Gateways, and Representing Safety and Support*, 87 *J. Sch. Health* 489, 495 (July 2017). GSA activities “can promote tolerance, respect, and inclusion for LGBTQ youth,” provide a space for advocacy and education, and help teachers better advocate for their students. Leung at 13. Students in schools that do not have these structures

in place, by contrast, have felt greater isolation, withdrawal, and open hostility from classmates and school employees. Fetner & Elafros at 570–71.

B. Without protection, TGD young people face increased bullying, abuse, stigma, and violence that lead to negative mental health and educational outcomes.

The history of discrimination against TGD people is well recognized. *See Evancho*, 237 F. Supp. 3d at 288 (considering that “transgender people as a class have historically been subject to discrimination or differentiation” among the reasons that transgender status classifications warrant intermediate scrutiny). So, too, are the harms resulting from policies that subject TGD students to disparate treatment within the school community. *See id.* at 294 (noting that “disparate treatment itself stigmatizes” and crediting that the resulting marginalization caused irreparable “distress, anxiety, discomfort and humiliation” for the students). As the Third Circuit stated,

[T]ransgender students face extraordinary social, psychological, and medical risks.... There can be no denying that transgender individuals face discrimination, harassment, and violence because of their gender identity. ... Mistreatment of transgender students can exacerbate gender dysphoria, lead to negative educational outcomes, and precipitate self-injurious behavior. When transgender students face discrimination in schools, the risk to their wellbeing cannot be overstated—indeed, it can be life threatening.

Doe, 897 F.3d at 528–29 (quotation omitted).

Insufficient protections against discrimination create preventable mental health risks for TGD young people that are significantly higher than in the general population.³ A culture that punishes gender variance subjects TGD people to widespread physical abuse, harassment, and sexual violence throughout their lives. Sandy E. James et al., *The Report of the 2015 U.S. Transgender Survey*, 199 (2016) (hereinafter “2015 Transgender Survey”) (“Nearly half (48%) of respondents reported that they were denied equal treatment or service, verbally harassed, and/or

³ It is important to note that being TGD is not itself a “mental disorder.” Am. Psych. Ass’n, *Gender Dysphoria Diagnosis*, <https://www.psychiatry.org/psychiatrists/diversity/education/transgender-and-gender-nonconforming-patients/gender-dysphoria-diagnosis>.

physically attacked because of being transgender in the past year.”);⁴ *see also* Rebecca L. Stotzer, *Violence against transgender people: A review of United States data*, 14 *Aggression & Violent Behavior* 170 (2009). Tragically, nearly 27% of TGD youth report they have been physically threatened or harmed in the past year due to being TGD. *2023 National Survey* at 15.

Schools can be especially hostile environments for TGD students absent strong measures to affirm and protect them. TGD students are 1.66 times more likely to be bullied at school than their cisgender peers, 2.43 times more likely to be electronically bullied, and 4.15 times more likely to be threatened or injured with a weapon at school. Kasey B. Jackman et al., *Suicidality Among Gender Minority Youth: Analysis of 2017 Youth Risk Behavior Survey Data*, *Archives of Suicide Research* 208, 214 tbl.2 (2019); *see also* Gilbert Gonzales & Cameron Deal, *Health Risk Factors and Outcomes Among Gender Minority High School Students in 15 US States*, 327 *J. Am. Med. Ass’n* 1498, 1499 (2022) (41.3% of transgender high schoolers reported bullying at school and 32.6% reported electronic bullying). Many LGBTQ students report feeling unsafe at school because of their gender expression and often avoid school bathrooms, lockers rooms, and gym classes due to safety issues. *National School Climate Survey* at 10–11.

These national results are consistent with the experience of students in Pennsylvania public schools as evidenced by surveys and the concerned calls amici Education Law Center Pennsylvania and ACLU of Pennsylvania receive from parents and students. Statewide research shows that the vast majority of LGBTQ students in Pennsylvania regularly heard anti-LGBTQ remarks in schools, including 95% of students who heard negative remarks in school about gender expression and 77% of students who heard negative remarks about transgender people. *See* GLSEN, 2021 State Snapshot: School Climate for LGBTQ Students in Pennsylvania (Feb. 2023),

⁴ <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

https://maps.glsen.org/wp-content/uploads/2023/02/GLSEN_2021_NSCS_State_Snapshots_PA.pdf. Fifty-seven percent of LGBTQ+ students experienced verbal harassment based on their gender expression in Pennsylvania schools, 30% experienced online harassment during school, and 18% experienced physical harassment in school based on their gender expression. *Id.* Unfortunately, transgender and nonbinary students experienced significant gender-based discrimination in Pennsylvania schools, including being prevented from: using their chosen name or pronouns (39%), using the bathroom that aligns with their gender (34%), using the locker room that aligns with their gender (32%), wearing clothing deemed “inappropriate” based on gender (19%), and playing on the school sports team that was consistent with their gender (18%). *Id.*

In these environments, TGD students’ learning outcomes and engagement in learning suffer along with their mental health. TGD students are more than twice as likely than non-TGD students to miss school due to safety concerns. Jackman at 218 tbl.4; *National School Climate Survey* at xxiv (nearly a third of LGBTQ students reported missing at least one day of school in the past month because they felt uncomfortable or unsafe). Even as school closures during the COVID-19 pandemic worsened mental health and learning outcomes among students, many TGD students welcomed those shutdowns as “sanctuary from harmful school environments,” calling them “freedom from ‘transphobic and homophobic people in real life for a while.’” Erin K. Gill & Mollie T. McQuillan, *LGBTQ+ Students’ Peer Victimization and Mental Health before and during the COVID-19 Pandemic*, 19 Int’l J. Envtl. Res. & Pub. Health. 11537, 1, 9 (2022). Nevertheless, virtual learning took a harsher toll on TGD students, with in-person harassment often giving way to cyberbullying, with similarly detrimental effects. Drew P. Cingel et al., *U.S. Adolescents’ Attitudes Toward School, Social Connection, Media Use, and Mental Health During the COVID-19 Pandemic: Differences as a Function of Gender Identity and School Context*, 17 PLoS One 12

(2022) (TGD “youth reported less satisfaction with school, lower levels of social connections and inclusion with a peer group, a larger drop in overall grades, and more mental health problems.”).

Unfettered bullying, discrimination, and violence result in far higher rates of depression, anxiety, disordered eating, and self-harm in TGD young people relative to their cisgender peers. Michael J. Pellicane & Jeffrey A. Ciesla, *Associations Between Minority Stress, Depression, and Suicidal Ideation and Attempts in Transgender and Gender Diverse (TGD) Individuals: Systematic Review and Meta-Analysis*, 91 *Clinical Psych. Rev.* 102113, 6–7 (2022); Maureen D. Connolly et al., *The Mental Health of Transgender Youth: Advances in Understanding*, 59 *J. Adolescent Health* 489, 491–93 (2016). Over 60% of TGD youth surveyed in a major 2020 study reported engaging in self-harm, with a similar number saying they had experienced symptoms of major depressive disorder in the preceding *two weeks*. See The Trevor Project, *National Survey on LGBTQ Youth Mental Health 2020*, 3 (2020) (hereinafter “2020 National Survey”). Eighty percent of transgender and nonbinary youth in Pennsylvania reported experiencing symptoms of anxiety, and 64% reported experiencing symptoms of depression. The Trevor Project, *2022 National Survey on LGBTQ Youth Mental Health by State: Pennsylvania*, (Dec. 2022) <https://www.thetrevorproject.org/wp-content/uploads/2022/12/The-Trevor-Project-2022-National-Survey-on-LGBTQ-Youth-Mental-Health-by-State-Pennsylvania.pdf> (hereinafter “2022 PA Survey”). These serious issues often go untreated, as nearly 60% of TGD youth surveyed wanted professional mental health care but were unable to access it, mainly because they were reluctant to seek their parents’ or caregivers’ help in doing so. See *2023 National Survey* at 11–12.

As a result, TGD young people experience devastating suicide rates. Transgender youth are 2.71 times more likely to attempt suicide than other young people. Jackman at 214 tbl.2. One in five TGD youth respondents surveyed in 2020 said they had attempted suicide within the past

year, *2020 National Survey* at 3, a figure that did not decline when the survey was repeated in 2023. *See 2023 National Survey* at 5. Pennsylvania statistics are similar, with 54% of TGD youth having seriously considered suicide and 19% attempted suicide. 2022 PA Survey. These incidents are also more likely to be severe, with transgender youth experiencing “suicide attempt[s] requiring medical care” with almost triple the frequency of cisgender youth. Brian C. Thoma et al., *Suicidality Disparities Between Transgender and Cisgender Adolescents*, 144 *Pediatrics* 6 (2019). Unsurprisingly, TGD youth of color experience higher rates of suicidality and suicide attempts, likely due to the compounded effects of racism and transphobia. *See 2023 National Survey* at 7. Statistics like these put into sharp relief the urgent need for school policies that affirm and protect the gender identity and expression of all students.

III. SCHOOL POLICIES THAT RESPECT THE AUTONOMY AND DISCRETION OF TGD YOUNG PEOPLE IMPROVE THEIR HEALTH, SAFETY, AND EDUCATIONAL OUTCOMES.

How a TGD young person chooses to share their gender diverse identity is a uniquely personal decision that considers a wide range of factors about the people in their lives and their environment, including sources of support or resistance. Family responses to learning that a child is TGD are often “supportive, affirming, and celebratory.” National LGBTQIA+ Health Education Center & National Health Care for the Homeless Council, *Engaging the Families of Transgender and Gender Diverse Children*, 2 (Sep. 10, 2021), <https://nhchc.org/wp-content/uploads/2021/09/Engaging-the-Families-of-Transgender-and-Gender-Diverse-Children-9.10.21.pdf> (hereinafter, “*Engaging Families*”). Such home environments, like supportive school environments, significantly improve the health, safety, and happiness of TGD young people. When families support and nurture TGD youth alongside school officials, their acceptance stands as a bulwark against many of the negative outcomes that TGD people might otherwise face. *Id.* at 5. Parental support is “significantly associated with higher life satisfaction . . . and fewer depressive

symptoms” among TGD people. Lisa Simons et al., *Parental Support and Mental Health Among Transgender Adolescents*, 53 J. Adolescent Health 791, 792 (2013); *see also* Jackman at 217 (parental support of youth’s TGD identity is a protective factor against high risks of suicide). Family support also corresponds with improved mental health including lower levels of self-harm, distress, and anxiety, and higher levels of self-esteem and resilience. Elliot A. Tebbe & Stephanie L. Budge, *Factors That Drive Mental Health Disparities and Promote Well-Being in Transgender and Nonbinary People*, 1 Nat’l Rev. of Psychology 694, 700 (2022). Relatives can also improve a TGD young person’s life by helping them access gender-affirming healthcare, legal assistance, and other resources that support their ability to live in accordance with their gender identity. Jack Andrzejewski et al, *Perspectives of Transgender Youth on Parental Support: Qualitative Findings from the Resilience and Transgender Youth Study*, 48 Health Educ. & Behavior 74, 77–78 (2021).

For some families, learning that their child’s gender identity differs from their sex assigned at birth is a shock, particularly for those unfamiliar with what it means to be TGD or who do not know TGD people. But with time, communication, and resources, even family members who do not know how to react initially to a child’s gender identity frequently come to understand their TGD child and even become their advocates and champions. Caitlin Ryan et al., *Family-Based Psychosocial Care for Transgender and Gender-Diverse Children and Youth*, *Child and Adolescent Psych. Clinics of N. Am.* 1, 12 (2023), https://familyproject.sfsu.edu/sites/default/files/documents/Ryan-Barba-Cohen_Family-Based%20Psychosocial%20Care%20for%20Transgender%20Children%20and%20Youth-nu.pdf (“Parents and caregivers struggling with having a TGD child can benefit from building skills in key areas, including basic communication skills for talking with their child and specific communication skills like neutral, respectful, and non-harmful language for discussing their child’s gender identity and expression.”).

Schools can play a critical role in connecting parents to resources that help them navigate the array of emotions that may accompany news of a child’s gender-diverse identity—ultimately empowering these family members with the tools they need to best support their TGD children. PFLAG, *Our Trans Loved Ones: Questions and Answers for Parents, Family, and Friends of People Who Are Transgender and Gender Expansive* 1 (2019); see also U.S. Dep’t of Educ., *Supporting LGBTQI+ Youth* at 1, 3 (schools can support TGD students by “[a]dopting policies or model plans to guide school staff on how to support students and communicate with families”).

Some family members, however, respond to a child’s gender diversity with “anger, fear, doubt, and dismissiveness.” *Engaging Families* at 2. Forty percent of TGD survey respondents reported that their families were not supportive of their gender identity. *2015 Transgender Survey* at 65. And the results of familial hostility or rejection can be dire. TGD people are significantly more likely than non-TGD people to experience physical, psychological, and sexual abuse from an immediate family member. Andrea L. Roberts et al., *Childhood Gender Nonconformity: A Risk Indicator for Childhood Abuse and Posttraumatic Stress in Youth*, 129 *Pediatrics* 410, 413-14 (Mar. 2012); see also *2015 Transgender Survey* at 65 (reporting that one in ten TGD survey respondents had been the victim of violence at the hands of an immediate family member). Research confirms that rejection by family members corresponds directly to “negative psychosocial outcomes” including depression, anxiety, and suicidality. Emily M. Pariseau et al., *The relationship between family acceptance-rejection and transgender youth psychosocial functioning*, 7 *Clinical Practice in Pediatric Psych.* 267, 273–74 (2022).

Parents and relatives are also the most likely source of pressure for young LGBTQ people to undergo so-called “conversion therapy” aimed at altering their gender identity or sexual orientation, *2020 National Survey* at 5, which the American Medical Association describes as

“clinically and ethically inappropriate” and rejects as a legitimate medical treatment. Am. Med. Ass’n, *Issue Brief: LGBTQ change efforts (so-called “conversion therapy”)*, 2-3 (2019) (“AMA Issue Brief), <https://www.ama-assn.org/system/files/conversion-therapy-issue-brief.pdf>. Recognizing this fact, Pennsylvania Governor Tom Wolfe issued an executive order barring the use of state funds and resources for the practice of conversion therapy on minors. Executive Order 2022-02, *Protecting Pennsylvanians from Conversion Therapy and Supporting LGBTQIA+ Pennsylvanians* (Aug. 16, 2022), <https://www.oa.pa.gov/Policies/eo/Documents/2022-02.pdf> (finding that conversion therapy “has been overwhelmingly rejected by the scientific, medical, and educational communities,” that “numerous professional organizations have denounced conversion therapy due to its lack of scientific validation, as well as its negative and dangerous impact on the health and wellbeing of LGBTQIA+ persons and communities,” and noting “the specific harm it causes to the mental health of LGBTQIA+ children”). It is precisely because of conversion therapy’s close link with negative health outcomes both during adolescence and into adulthood, such as higher risks of suicide attempts, depression, and substance abuse, that it has been rejected by every leading medical and mental health organization. AMA Issue Brief at 1-2; Caitlin Ryan et al., *Parent-Initiated Sexual Orientation Change Efforts With LGBT Adolescents: Implications for Young Adult Mental Health and Adjustment*, 67 J. Homosexuality 159, 160–61 & tbl.3 (2020).

Family members who reject their child’s gender diversity may also deny TGD youth financial support, housing, and education, or deprive them of other key resources. Nearly 40% of TGD individuals reported that they were either forced to leave their family homes or treated in a manner that compelled them to leave after their family learned of their gender identity. *2020 National Survey* at 8; *see also 2015 Transgender Survey* at 68 (“Within an hour of coming out to my parents, I was kicked out into the cold with very few items and my car taken away. I was soon

informed by my college that my parents had withdrawn my tuition for the upcoming spring semester. I was devastated.”). Among TGD people rejected by their immediate family, 40% experienced homelessness, a figure twice as high as for those with supportive families. *2015 Transgender Survey* at 65. Even when family members do not remove financial support entirely, they can use that support to coerce TGD children into hiding their identities. As one TGD young person put it, she was “[s]till at present financially dependent on my parents, which allows for a lot of coercion and policing of where I can be out and in what capacity I can be out, and a lot of need for hiding different things.” Andrzejewski at 77–78.

Familial rejection or abuse of TGD youth increases the already high mental health risks TGD people face in adolescence and throughout their lives. TGD people rejected by their family members are over 300% more likely to attempt suicide, and about 250% more likely to suffer substance abuse problems. Augustus Klein & Sarit A. Golub, *Family Rejection as a Predictor of Suicide Attempts and Substance Misuse Among Transgender and Gender Nonconforming Adults*, 3 *LGBT Health* 193, 196 tbl.1 (2016); *see also* Kristy A. Clark et al., *How do sexual and gender minority people acquire the capability for suicide?*, 2 *Qualitative Res. in Health* 100044, 6 (2022) (“[C]hronic identity rejection and invalidation, especially during childhood and adolescence, can severely harm healthy identity development, causing [LGBTQ] young people to feel erased, invisible, or even non-existent, thereby contributing to their capability for suicide.”). Likewise, 34% of LGBTQ youth who experienced housing instability—often prompted by hostile family members—reported attempting suicide. *2020 National Survey* at 8. Even a TGD youth’s perception of parents as unsupportive is “linked to psychological maladjustment,” including higher levels of depression and stress. Arnold H. Grossman et al., *Parental Responses to Transgender and Gender Nonconforming Youth: Associations with Parent Support, Parental Abuse, and*

Youths' Psychological Adjustment, J. Homosexuality, 1271-72 (Nov. 27, 2019).

Given the varied responses families may have to a child's gender diversity, it is important to respect the reasons TGD youth may not be ready to share their identity at home. *Engaging Families*, at 14. Regulation AR 103(B) allows for that respect. As noted above, family members often embrace and support their TGD children. But even youth who believe their parents will be supportive deserve the opportunity to share this part of themselves on their own terms and in their own way. And TGD youth from families that may struggle to understand their identity may need time to gather resources and determine the best way to engage their families for support. Moreover, as the evidence above shows, some families may not be supportive or willing to learn.

As those most familiar with their own families, TGD young people themselves are in the best position to decide when, how, and to whom they disclose their gender identity. Indeed, LGBTQ identity is “part of the physiological foundation necessary for self-actualization,” and “sets the stage” for any important relationship in one's life. Jack Simons and Mary Cuadrado, *Narratives of School Counselors Regarding Advocacy for LGBTQ Students*, 22 Prof. Sch. Counseling 1, 5 (2019) (citation omitted). That is why having a confidential relationship with a trusted school staff member—like a counselor—is of utmost importance for LGBTQ students and directly impacts whether they seek potentially vital assistance and support from their schools. Kristopher M. Goodrich & Melissa Luke, *LGBTQ Responsive School Counseling*, 3 J. of LGBT Issues in Counseling, 113, 116 (2009). Many TGD students are reluctant to seek support at school for fear that school employees will “out” them to family members. *National School Climate Survey* at 26–27. Requiring schools to notify parents of a TGD student's identity, regardless of the student's wishes or concerns about familial reactions, would place some students in a catch-22 whereby, in seeking essential support at school, they would risk exposing themselves to rejection

or abuse at home. That outcome could deny these young people important and at times lifesaving support that school policies are specifically designed—and proven—to provide. Policies like Defendant’s Regulation that respect the autonomy and discretion of TGD young people can help them build acceptance and create the best chances for safety, positive mental health outcomes, and academic success.

CONCLUSION

For the foregoing reasons, *amici* respectfully urge this Court to recognize the importance of school support systems like those reflected in AR 103(B), to deny Plaintiff’s Motion for a Preliminary Injunction, and to dismiss this case outright for the reasons stated by Defendant.

Dated this 3rd day of April 2024.

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