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NATIONAL CENTER FOR LESBIAN RIGHTS

May 24, 2011

Mr. Dennis L. Carlson
Superintendent
Anoka-Hennepin School District
11299 Hanson Boulevard NW
Coon Rapids, MN 55433

Re: Proposed meeting to resolve claims

Dear Mr. Carlson:

The Southern Poverty Law Center and National Center for Lesbian Rights have been retained by current and former students within the Anoka-Hennepin School District (“the District”), each of whom has asked us to investigate the pervasive harassment they have experienced based on their actual or perceived sexual orientation or gender expression at District schools. While we appreciate that the District has recently taken some superficial steps to address bullying, our investigation confirms that lesbian, gay, bisexual, and transgender (“LGBT”) students and those perceived as LGBT within the District remain in jeopardy in a hostile and alienating environment. School authorities’ failure to adequately respond to ongoing harassment violates established law and our clients’ constitutional rights.

Each of our clients has suffered personally under the severe anti-LGBT climate that persists in the District. Here are several examples out of many that we have learned about:

- One of our clients was verbally and physically harassed at school daily because of the perception that she is a lesbian. She reported the harassment to teachers and administrators numerous times, including the vice principal and the principal, but the only response was an occasional verbal reprimand with no consequences for the harassers. The District took no action, nothing improved, and she eventually dropped out of school and attempted suicide after the constant harassment became too much to bear.
- Another client reported chronic anti-LGBT harassment to authorities for more than two years. But rather than attempt to improve the school environment, administrators advised him to leave the school because they could not protect him.
- A third client endured years of verbal and physical harassment based on his sexual orientation and perceived gender nonconformity before finally dropping out of school. In one incident, he was violently assaulted and called “faggot” in an open hallway while a teacher and other students stood idly by. When he sought aid from a vice principal afterwards, the administrator showed no concern for the student and instead blamed him for allegedly “provoking” the attack.

In every one of these incidents, and many others, District authorities failed to properly respond to repeated reports of verbal and physical harassment, in violation of their legal obligations. These in-

cidents and others like them appear to be part of a pervasive pattern of hostility against LGBT students within District schools, which has had dire consequences. Many LGBT students have been pushed out of the District altogether; many have experienced emotional and psychological scars as a result of constant bullying; and, as you know, since November 2009, at least four LGBT students in the District have died by suicide. *See, e.g.,* Steven T. Russell et al., *Lesbian, Gay, Bisexual, and Transgender Adolescent School Victimization: Implications for Young Adult Health and Adjustment*, *Journal of School Health*, May 2011, at 223 (LGBT young adults who reported high levels of bullying during middle and high school 5.6 times more likely to attempt suicide and 2.6 times more likely to have clinical levels of depression).

Our investigation is ongoing. With the assistance of lawyers at the Minneapolis law firm of Faegre & Benson, LLP, we continue to assess the specific harms suffered by each of our clients, as well as the remedies available to them, including under Title IX, Section 1983, and the Minnesota Human Rights Act.

It has become increasingly apparent in the course of the investigation that the District's so-called "sexual orientation curriculum policy," or "gag policy," contributes significantly to the hostile environment for LGBT students within the District. The gag policy serves no legitimate education-related purpose. Rather, as made abundantly clear in the District's own guidance about the policy, the gag policy singles out a vulnerable and disfavored minority – LGBT students – and prevents teachers and other district employees from supporting, or even protecting, those students within the classroom. The mandatory silence imposed by the policy leaves teachers without tools to handle LGBT bullying and creates an atmosphere in which LGBT students are isolated and feel unprotected.

Further, the gag policy violates the Fourteenth Amendment of the United States Constitution, which provides in relevant part that "[n]o state shall ... deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1. This fundamental constitutional guarantee prohibits school district officials from singling out any group of students for disfavored treatment based solely on their membership in an unpopular minority. The gag policy singles out LGBT students by denying them and them alone any affirmation of their identity and by categorically precluding any meaningful classroom discussion about history, literature, current events, or any other relevant lessons involving LGBT people. The policy imposes a stigma on LGBT students as pariahs, not fit to be mentioned within the school community, a message that comes across loud and clear both to LGBT students and their peers, and which has grave repercussions for the psychological and emotional development of LGBT students.

The gag policy bears no rational relationship to any legitimate governmental purpose. On the contrary, the history surrounding the policy's enactment clearly shows that the policy was adopted solely in deference to some community members' disapproval of, and animus toward, a particular class of citizens – LGBT people. The law is clear that mere animus toward an unpopular group cannot constitute a legitimate governmental purpose.

The purpose of this letter is twofold:

First, we advise you that without prompt and meaningful action to remedy the current hostile environment and to compensate our clients for the harm caused by the District, we intend to file a federal lawsuit seeking full redress as well as injunctive relief going forward. Given that the gag policy is a significant contributing factor to the District's ongoing hostile environment for LGBT and gender non-conforming students, and plainly violates the constitutional rights of those students, any such relief must include prompt repeal of that policy. Necessary relief would also include much-needed training for students and staff to prevent bullying based on sexual orientation and gender identity, more effective and more thoughtful enforcement of anti-bullying policies, and reconsideration of the total exclusion of issues related to LGBT people from the curriculum.

Second, and relatedly, we invite you to meet with us to explore settlement of this matter without the need for litigation. While our calendars are flexible, we would be available during the week of June 6 and suggest a meeting in that timeframe. Please let us know whether District representatives would be willing to engage in discussions as we propose, in which case we are prepared to coordinate details.

Thank you for your careful attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Samuel Wolfe". The signature is written in a cursive, flowing style.

Samuel Wolfe
Staff Attorney, LGBTQ Rights Project
Southern Poverty Law Center

A handwritten signature in blue ink that reads "Shannon Minter". The signature is written in a cursive, flowing style.

Shannon Minter
Legal Director
National Center for Lesbian Rights

cc: Michael A. Ponto, Esq., Faegre & Benson LLP
Paul Cady, School District Attorney, Anoka-Hennepin School District