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March 21, 2022

Jeremy Schmidt
Superintendent of Schools
Becker Public Schools (ISD #726)
12000 Hancock Street
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Superintendent Schmidt,

Gender Justice is beyond troubled to hear that the Becker Public Schools school board invited an anti-transgender and anti-gay hate group to speak at their school board meeting. When it comes to protecting the health, safety, and well-being of marginalized youth in your school district, there are no “two-sides” to the question. There is certainly no valid “side” that would involve a group of adults taking the stage in a room full of children and parents and likening gay and transgender youth to “social contagions.” Your students are human beings, not “political issues.”

Unfortunately, we already know how this story ends for the Becker School District if your school board continues down in this path. In 2011, the Anoka-Hennepin School District became infamous around the country after inviting anti-LGBTQ+ groups to overtake school board meetings, provide bogus legal advice, and push policies that are harmful to LGBTQ+ youth. The school district put the wishes of a small but vocal group of adults over the well-being of the district’s own students. The district was completely unequipped to keep their students safe. According to news reports and a legal complaint filed against the school, the abuse, harassment,

and bullying was so rampant, **eight children in the school district ended up committing suicide, and additional students considered or attempted to commit suicide.** ¹

As a result of their in reckless behavior, the Anoka-Hennepin school district was sued for discrimination and for violating the constitutional rights of students.² In addition to paying the students \$270,000, the school district also had to make specific and costly policy changes³ and they spent the next five years being monitored by the Department of Justice.⁴ While still under federal monitoring, the Anoka Hennepin school board once again gave a small but vocal group of homophobic and transphobic adults a platform at their meetings. In 2017 the school board also received a legal opinion letter from Doug Wardlow and the Alliance Defending Freedom (ADF) encouraging the school to mistreat transgender students.⁵ Pursuing policies like those suggested by organizations like Alliance Defending Freedom and Child Protection League⁶ landed Anoka-Hennepin yet another lawsuit costing the school another \$300,000, along with costly policy changes, and the cost of the school district's own litigation expenses.⁷

Part of what led to the repeated and severe problems at Anoka-Hennepin was the School's "Sexual Orientation Curriculum Policy" which prohibited any teaching about sexual orientation and forced all staff "in the course of their professional duties" to "remain neutral on matters regarding sexual orientation including but not limited to student led discussions." I understand that Becker is considering going down the same path as Anoka-Hennepin, taking

¹ <https://www.twincities.com/2012/03/11/southern-poverty-law-center-names-anoka-hennepin-parents-group-to-hate-list-group-decries-name-calling/>; <https://www.nytimes.com/2011/09/13/us/13bullysidebar.html>; <https://www.rollingstone.com/culture/culture-news/one-towns-war-on-gay-teens-232572/>; <https://www.twincities.com/2011/07/20/feds-probe-anoka-schools-over-bullying-harassment-investigation-follows-suicides-furor-over-handling-of-gay-issues/>;

² https://www.splcenter.org/sites/default/files/d6_legacy_files/downloads/case/Anoka_complaint072111.pdf;

³ <https://www.mprnews.org/story/2012/03/05/anoka-hennepin-settles-bullying-lawsuits>

⁴ <https://www.justice.gov/sites/default/files/usao-mn/legacy/2012/03/06/Anoka-Hennepin%20FINAL%20Consent%20Decree.pdf>

⁵ <https://cplaction.com/wp-content/uploads/ADF-Ltr-Anoka-Hennepin-School-Board.pdf>

⁶ <https://cplaction.com/curriculum-school-policies/gender-identity-politics-at-anoka-hennepin-school-district/>

⁷ <https://www.startribune.com/anoka-hennepin-school-district-settles-transgender-bias-case-over-student-locker-room-access/600037655/>

actions such as banning pride flags at school and forcing staff to take down safe space indicators in the name of “neutrality.” Your school has LGBTQ+ students and staff. There is nothing “neutral” about inviting a designated anti-LGBTQ hate group⁸ to speak at a school board meeting and then erasing evidence of support for LGBTQ+ youth from your schools. I would encourage you to look carefully at the consent decree in Footnote 4, which enumerates the specific changes Anoka-Hennepin was required to make – the federal government required the school to vocally and affirmatively support LGBTQ+ youth, and monitored them for years to ensure they did so.

To the extent that there is any question about Becker High School’s obligations towards its LGBTQ+ students, Gender Justice would be happy to provide clarification: **The Minnesota Human Rights Act protects LGBTQ+ students from discrimination in Minnesota schools.**⁹ This includes a requirement that school districts allow transgender students to use facilities that align with their gender identity.¹⁰ This right is also protected by the Minnesota Constitution.¹¹ To be clear, published decisions by the Minnesota Court of Appeals such as the *N.H. v. Anoka-Hennepin* opinion cited in a footnote below, are binding and precedential. In other words, if a school does not allow students to use the facilities that align with their gender identity, and is sued for violating this law, the District Court and the Court of Appeals must follow the *N.H.* ruling.

Additionally, schools have a duty under the Minnesota Human Rights Act to ensure that students are not subject to hostile environments in school on account of their sexual orientation, gender identity, gender expression, or transgender status. In the Anoka-Hennepin case, the Minnesota Department of Human Rights got directly involved in the lawsuit in support of the

⁸ <https://www.splcenter.org/hatewatch/2017/04/03/anti-lgbt-activities>

⁹ Minn. Stat. § 363A.13.

¹⁰ *N.H. v. Anoka-Hennepin School District No. 11*, 950 N.W.2d 553 (Minn. 2020).

¹¹ *Id.*

student, and argued that Anoka-Hennepin engaged in an unfair and illegal discriminatory practice by subjecting N.H. to a hostile educational environment that “denied or limited his ability to participate or benefit from an educational program” because he is transgender. Courts are deferential to the Minnesota Department of Human Rights’ own interpretations of the Minnesota Human Rights Act.¹²

Title IX is a federal civil rights law that prohibits discrimination on the basis of sex in schools that receive federal funding. In regards to the school district’s obligation under Title IX, courts around the country have *overwhelmingly* found that schools that discriminate against transgender students run afoul of Title IX’s prohibition on sex discrimination.¹³ In doing so, numerous courts have expressly rejected the argument that policies favoring transgender students violate the rights of cisgender students.¹⁴ The Title IX Caselaw is consistent with

¹² Minnesota courts “give deference to the administrative interpretation of the relevant statute by a state agency if the agency is charged with the responsibility of applying the statute on a statewide basis and its interpretation is reasonable.” *N.H.*, 950 N.W.2d at 576 (specifically referring to giving the Minnesota Department of Human Rights deference in its interpretations of the Minnesota Human Rights Act).

¹³ See, e.g., *Whitaker v. Kenosha Unified Sch. Dist.*, 858 F.3d 1034, 1046-50 (7th Cir. 2017) (holding transgender student likely to succeed on claim that high school’s policy barring bathroom use consistent with student’s gender identity constitutes sex discrimination under Title IX); *Dodds v. U.S. Dep’t. of Educ.*, 845 F.3d 217, 221-22 (6th Cir. 2016) (same); *Grimm v. Gloucester Cty. Sch. Bd.*, 400 F. Supp. 3d 444, 462-63 (E.D. Va. 2019) (same, holding transgender student’s claim succeeds), *aff’d* 972 F.3d 586 (4th Cir. Aug. 26, 2020) (noting its holding “join[s] a growing consensus of courts” by deciding that “equal protection and Title IX can protect transgender students from school bathroom policies that prohibit them from affirming their gender”); *J.A.W. v. Evansville Vanderburgh Sch. Corp.*, 396 F. Supp. 3d 833, 841 (S.D. Ind. 2019) (holding school’s refusal to allow transgender student to use school restroom conforming to his gender identity violates Title IX); *Adams by Kasper v. Sch. Bd. of St. Johns Cty.*, 3 F.4th 1299 (11th Cir. 2021) (holding “meaning of ‘sex’ in Title IX includes ‘gender identity’ for purposes of its application to transgender students”) (*vacated pending en banc review*); *M.A.B. v. Bd. of Ed. of Talbot Cty.*, 286 F. Supp. 3d 704, 723 (D. Md. 2018) (holding prohibiting transgender student from locker room consistent with student’s gender identity constitutes Title IX sex-discrimination claim and gender-stereotyping claim); *Parents for Privacy v. Dallas Sch. Dist. No. 2*, 326 F. Supp. 3d 1075, 1106 (D. Or. 2018) (“Forcing transgender students to use [restroom, locker room, and shower] facilities inconsistent with their gender identity [rather than their biological sex assigned at birth] would undoubtedly harm those students and prevent them from equally accessing educational opportunities and resources.”); *A.H. by Handling v. Minersville Area Sch. Dist.*, 290 F. Supp. 3d 321, 331 (M.D. Pa. 2017) (holding that excluding transgender student from restroom consistent with student’s gender identity states sex discrimination claim under Title IX); *Bd. of Ed. of Highland Local Sch. Dist. v. U.S. Dep’t of Educ.*, 208 F. Supp. 3d 850, 863-64 (S.D. Ohio 2016) (same as *Whitaker*).

¹⁴ E.g. *Whitaker v. Kenosha Unified Sch. Dist.*, 858 F.3d 1034, 1040, 1052 (7th Cir. 2017) (rejecting schools district’s defense of its anti-trans policies based on an interest in privacy for cisgender students); *Grimm v. Gloucester Cty. Sch. Bd.*, 400 F. Supp. 3d 444, 462-63 (E.D. Va. 2019) (same), *aff’d* 972 F.3d 586 (4th Cir. Aug. 26, 2020); *Parents for*

President Biden’s executive order guaranteeing an educational environment free from discrimination on the basis of sex, including sexual orientation or gender identity.¹⁵

The school district has an affirmative obligation to protect LGBTQ+ students from mistreatment. There are no “two-sides” to this question. There is absolutely no excuse for allowing a designated hate group to dictate school policy or for a school board to platform them at a meeting under the guise of “hearing both sides.” We will not allow any school district in Minnesota to walk in Anoka-Hennepin’s shameful footsteps. Gender Justice will be watching closely to see how Becker treats its LGBTQ+ students in the coming weeks, months, and years after the school district’s completely inexcusable exercise in poor judgment.

Sincerely,

A handwritten signature in black ink that reads "Megan Peterson". The signature is written in a cursive, flowing style.

Megan Peterson

Gender Justice, Executive Director

Privacy v. Dallas School District No. 2, 326 F.Supp.3d 1075 (D. Or. 2018)(same); *Doe by and through Doe v. Boyertown Area School District*, 897 F.3d 518 (3rd Cir. 2018) (same).

¹⁵ <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/08/executive-order-on-guaranteeing-an-educational-environment-free-from-discrimination-on-the-basis-of-sex-including-sexual-orientation-or-gender-identity/>