

DISCRIMINATION COMPLAINT

This complaint is being submitted simultaneously to the United States Department of Justice, Civil Rights Division, and the United States Department of Education, Office for Civil Rights (OCR).

Information Required by OCR Discrimination Complaint Form

1. This complaint is being filed by:

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2. Names of persons discriminated against:

- a. [REDACTED]
- b. [REDACTED]
- c. [REDACTED]
- d. [REDACTED]
- e. [REDACTED]
- f. [REDACTED]
- g. [REDACTED]

3. Agency that engaged in the alleged discrimination:

Central Bucks School District
20 Welden Drive
Doylestown, PA 18901

4. The basis of this complaint is discrimination based on sex that violates Title IX of the Educational Amendments Act of 1972, 20 U.S.C. §1681-§1688, and the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. The illegal discrimination includes Central Bucks School District's chronic failure to take reasonable and necessary measures to address persistent and severe bullying and harassment of LGBTQ+ students, which has resulted in a hostile environment for LGBTQ+ students generally, and gender non-conforming students in particular. More recently, a school board majority elected in November 2021, joined by complicit upper-level administrators, have exacerbated the hostile environment by making homophobic and transphobic statements, enacting blatantly discriminatory practices and policies targeting LGBTQ+ students, and retaliating against teachers and staff who support LGBTQ+ students.

5. A description of the discriminatory acts is below.

6. Description of documents or written information: various documents, including written correspondence, are described in the below narrative and attached as exhibits.

7. The most recent date of discrimination: Discrimination is ongoing in the form of a hostile environment for LGBTQ+ students, and gender non-conforming students in particular. Moreover, discriminatory actions by the school board and upper-level administration targeting LGBTQ+ students and their allies have occurred since April 2022 and are ongoing to the present day, exacerbating the hostile environment. Indeed, the school board is scheduled to consider a new policy on Tuesday, October 11, designed to prevent staff from displaying, *inter alia*, Pride flags and symbols of support for LGBTQ+ students.

8. Complainants are not requesting a waiver of the 180-day time frame for filing this complaint.

9. Many of the specific instances of harassment and bullying identified in this complaint were raised by students, parents, and staff with Central Bucks School District administration. While many parents and students have attempted to address their difficulties with appropriate school officials, the allegation that Central Bucks School District has maintained, and more recently exacerbated, a hostile environment for LGBTQ+, and especially gender non-conforming, students has not been raised with the school district or any other agency.

10. This complaint is simultaneously being submitted to USDOJ and OCR. Two related, pending OCR complaints were previously filed by [REDACTED]

[REDACTED] – and are noted in the below description.

11. The ACLU-PA represents each of the complainants identified in item 2 above.

12. Alternate contact person: N/A.

13. Option to Participate in OCR's Early Mediation Process: N/A

14. Remedy sought: The students and families who are submitting this complaint would like USDOJ and/or U.S. Department of Education OCR to investigate the hostile environment at CBSD and the recent overtly discriminatory actions by the school board and upper administration, assert jurisdiction, order CBSD to take the measures recommended by the U.S. Department of Education for supporting transgender and other gender-nonconforming youth in school, <https://www2.ed.gov/about/offices/list/ocr/docs/ed-factsheet-transgender-202106.pdf>, order CBSD to implement mandatory training for staff, administration, and the school board on supporting LGBTQ+ youth, order CBSD to take any other actions necessary to eliminate the hostile environment for LGBTQ+ students, and order CBSD to rescind its discriminatory policies and directives.

TABLE OF CONTENTS

I. INTRODUCTION.....6

II. INDIVIDUAL CLIENT STORIES..... 11

A. [REDACTED] 11

B. [REDACTED] 13

C. [REDACTED] 19

D. [REDACTED] 21

E. [REDACTED] 23

F. [REDACTED] 29

G. [REDACTED] 37

III. THE CBSD ADMINISTRATION AND SCHOOL BOARD IMPLEMENTED DISCRIMINATORY POLICIES AND MADE PUBLIC STATEMENTS EXACERBATING A HOSTILE ENVIRONMENT.....38

A. CBSD Announces New Policy Requiring Sex-Segregated Attendance at Human Growth and Development Classes Based on Sex Assigned at Birth, Then Cancels All In-Person Instruction 39

B. Removal of Pride Flags 40

C. Classroom Libraries 40

D. Preferred Names and Pronouns 42

E. Suspension of Teacher [REDACTED] 43

F. Students Protest [REDACTED] Suspension and Speak Out Against CBSD’s Policies That Exacerbated the Existing Hostile Environment for LGBTQ+ Students..... 48

G. The CBSD Superintendent and School Board Reaffirm Their Positions 53

H. Students Continue Speaking Out About the Harmful Impact of CBSD Policies 56

IV. CBSD CONTRIBUTES TO THE HOSTILE ENVIRONMENT FOR LGBTQ+ STUDENTS BY FAILING TO SUPPORT STAFF EFFORTS TO SUPPORT LGBTQ+ STUDENTS AND INTIMIDATING STAFF WHO OPPOSE CBSD’S ACTIONS58

A. The administration abruptly ended the district’s relationship with the Gender and Sexuality Clinic at the Children’s Hospital of Philadelphia 59

B. The administration dramatically severed ties with CB Cares, a local education foundation that allowed many teachers to provide LGBTQ+ resources through its grantmaking 60

C. The school board’s mockery of a trans inclusivity workshop for teachers..... 62

D. Rejection of efforts to expand staff training regarding support of gender non-conforming students 63

E. CBSD Disciplined Guidance Counselors Who Spoke Out Against the Human Growth and Development Policy..... 64

V. CBSD CONTINUES TO EXPAND POLICIES HOSTILE TOWARDS LGBTQ+ STUDENTS67

VI. CONCLUSION..... 70

I. INTRODUCTION

Central Bucks School District (“CBSD” or “the District”) has approximately 18,000 students and is the fourth largest school district in Pennsylvania. CBSD has 15 elementary schools (grades K-6), 5 middle schools (grades 7-9), and 3 high schools (grades 10-12).

The CBSD administration and school board for several years have been aware of a hostile environment for LGBTQ+ students in general, and transgender students in particular. Early in the 2021-2022 school year, Superintendent Abe Lucabaugh met with student members of each middle school and high school’s student organization for LGBTQ+ students and their allies.¹ Students at these meetings identified bullying of LGBTQ+ students, and transgender students in particular, as a major problem at Central Bucks schools.

At a May 10, 2022, school board meeting, Superintendent Lucabaugh acknowledged this pervasive bullying when he stated, based on his discussions with LGBTQ+ students, as follows:

For [LGBTQ+ students], a successful day is getting through the day and not being harassed, not being outed by someone. A successful day is getting through the hallway without somebody sending a slur their way, or trying to marginalize them. A really successful day, ironically, would be if a student hurled an insult or a slur their way and an adult stepped up and said, “no, we’re not doing that.”

¹ The student clubs have different names at different schools.

May 10, 2022 School Board Meeting at 32:57, recording available at

<https://live.myvrspot.com/iframe?v=NjEzMzQzYjMxNDcwNjRjMTQ5ZWU3Y2EyZjBjYzJhMTk>.

Despite this awareness of serious problems at Central Bucks schools for LGBTQ+ students, the District has not only failed to take reasonable and necessary steps to ensure student safety and wellbeing, it has instituted or proposed discriminatory policies and actions targeting LGBTQ+ students. Many of these policies and actions are contrary to the U.S. Department of Education's recommendations for supporting transgender youth in schools.

<https://www2.ed.gov/about/offices/list/ocr/docs/ed-factsheet-transgender-202106.pdf>.

ACLU-PA lawyers over the past four months have interviewed dozens of LGBTQ+ students and their parents, current and former Central Bucks teachers, counselors, librarians and other staff, and a variety of community stakeholders to document a pattern of pervasive and often serious harassment and bullying of LGBTQ+ students in many of the District's 23 schools. The problems vary by school, often depending on whether the building principal is supportive of the LGBTQ+ community. As discussed below, in some instances principals told staff that they would refuse to honor homophobic directives or policies issued by central administration, or they took steps to minimize the action. But at other schools, the principals regularly compound the problems for LGBTQ+ students.

Underlying these serious safety problems is a years-long refusal by the Board and central administration to adopt reasonable and necessary policies to support

LGBTQ+ students, to provide training and other supports to District teachers and staff, or to respond adequately to pervasive and severe harassment and bullying. We present here the disquieting experiences of seven CBSD students and their families. Their stories vary in how they have experienced overt gender-based discrimination, but they are united by the fact that CBSD leadership has been at best deliberately indifferent to severe and pervasive harassment and at worst outright hostile to this protected class of students. Several more LGBTQ+ students and their parents shared similar stories, but elected not to join this action for fear of retaliation by CBSD officials. And the situation has grown worse in the past several months.

Since the election of new school board members in November 2021, the new board and central administration have adopted policies and taken actions that target LGBTQ+ students, like directing removal of pride flags as inappropriate “political symbols,” intimidating teachers into removing LGBTQ+ themed resource materials from their classrooms, directing teachers not to use preferred names and pronouns unless the student has parental consent, relegating a Human Growth and Development (health) class to at-home-video instruction after a non-binary child insisted on participating in the girls’ class, suspending in a highly public way (“perp walk” escorting off premises during school hours) a teacher for helping a trans student file an OCR complaint, and passing new library and textbook policies focused on “sexualized content,” a thinly disguised effort to censor LGBTQ+-themed materials. Despite public comments by students at the May and June 2022 board

meetings describing the harm of these policies and actions, the Board and central administration maintained these policies and reaffirmed many of them in a lengthy written statement to the community.

The Board has continued to press discriminatory policies to the present day. As recently as September 14, the Board Policy Committee proposed a revised policy (Policy No. 321) that characterizes discussion of “sexual orientation” or “gender identity” as “political” and “taking sides.” The policy would ban displays “intended to show support for inclusion of particular students,” i.e., based on sexual orientation or gender identity, because “[i]t may communicate that students who do not agree with certain positions are unwelcome.” Under such reasoning, we could never have anti-discrimination laws to protect vulnerable and persecuted minority groups because they could upset supporters of the discrimination. The policy plainly is intended to further chill teacher and staff support for LGBTQ+ students and is itself discriminatory. The Board is expected to consider this policy at the October 11 board meeting.

Additionally, central administration has announced a forthcoming directive prohibiting teachers from using students’ preferred names and pronouns without parental consent. *See* Chris Ullery, *CB teachers concerned about risk to students vow to defy transgender policy. ‘we’re not doing it’*, Bucks County Courier Times (Sept. 29, 2022),

<https://www.buckscountycouriertimes.com/story/news/local/2022/09/29/central->

[bucks-teachers-refuse-to-follow-lgtbq-name-policy/69522244007/](https://www.usdoj.gov/oea/record/69522244007/). Principals in two schools have already instructed teachers to follow that as-yet unwritten directive.

The consequences of these overtly hostile acts, as reported by many LGBTQ+ students, has been a noticeable increase in student-on-student bullying and harassment. Near the end of the 2021-2022 school year, several trans students told us they were afraid to eat lunch in the cafeteria – a place where the taunts and problems regularly occur – electing to eat in classrooms of supportive teachers or in the main office. These students also expressed fear and trepidation about returning to their schools this fall. One student for the 2022-2023 school year had been eating lunch in the bathroom to avoid bullying, until staff caught them and ordered them to a remote hallway location.

The District's treatment of LGBTQ+ students, which historically has been at best indifferent and more recently has become overtly discriminatory and hostile, can and already has had tragic consequences. The District has experienced multiple serious incidents of student self-harm, including one trans student attempting to take his life in school in 2019.

The students and families who are submitting this complaint would like USDOJ and/or U.S. Department of Education OCR to investigate the hostile environment at CBSD and the recent overtly discriminatory actions by the school board and upper administration, assert jurisdiction, order CBSD to take the measures recommended by the U.S. Department of Education for supporting transgender and other gender-nonconforming youth in school,

[REDACTED]

B. [REDACTED]

2

[REDACTED]

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C. [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. [REDACTED]

E. [REDACTED]

3

[REDACTED]

Currently at Holicong Middle School there has been

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I [REDACTED]

F. [REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

A. CBSD ANNOUNCES NEW POLICY REQUIRING SEX-SEGREGATED ATTENDANCE AT HUMAN GROWTH AND DEVELOPMENT CLASSES BASED ON SEX ASSIGNED AT BIRTH, THEN CANCELS ALL IN-PERSON INSTRUCTION

In April 2022, CBSD announced a policy requiring students to attend classes on puberty (called “Human Growth and Development” classes) in sex-segregated classrooms based on sex assigned at birth. *See* Emily Rizzo, *Nonbinary student denied choice of health class at Central Bucks school*, WHYY (May 9, 2022), <https://whyy.org/articles/central-bucks-denies-health-class-choice-for-nonbinary-student/>. As an alternative to attending the classes, students had the option of watching a video in the nurse’s office, watching a video at home, or opting out of the class. *Id.*

At this time, Human Growth and Development classes had already been completed at some elementary schools, including Linden Elementary School, with students permitted to attend gender-segregated classes based on their gender identities. Students attending these gender-segregated classes based on gender identity did not result in any disruption at school.

The new policy requiring attendance based on sex assigned at birth, nonetheless, was announced after [REDACTED]

[REDACTED]. [REDACTED] CBSD “paused” Human Growth and Development classes at all elementary schools. *See id.* CBSD then canceled all in-person Human Growth and Development classes at elementary schools, instead offering optional, virtual lessons for students to watch at home. *See* Emily Rizzo, *Central Bucks*

School District backpedals, classes about puberty are now optional and virtual, WHYY (May 18, 2022), <https://whyy.org/articles/central-bucks-school-district-moves-classes-about-puberty-to-optional-virtual/>.

B. REMOVAL OF PRIDE FLAGS

In early May 2022, CBSD administration also ordered some teachers to remove pride flags from classrooms. In particular, three teachers at Unami Middle School were specifically ordered to remove pride flags from their classrooms. *See Emily Rizzo, String of Central Bucks School District decisions lead LGBTQ students and faculty to fear for civil rights*, WHYY (May 11, 2022), <https://whyy.org/articles/central-bucks-school-district-lgbtq-students-pronoun-policy/>.

This directive was publicly confirmed by Superintendent Lucabaugh at the May 10, 2022, school board meeting. As part of the same statement in which he acknowledged the pervasive harassment of LGBTQ+ students in CB schools, Superintendent Lucabaugh stated that, “hanging a flag doesn’t do anything to keep a kid safe,” and “classrooms absolutely need to be apolitical.” School Board Meeting at 39:25 (May 10, 2022). Superintendent Lucabaugh compared pride flags to “Make America Great Again” flags and Biden flags. Superintendent Lucabaugh also called pride flags “polarizing,” and blamed the controversy on unnamed actors who purportedly criticized teachers who do *not* display pride flags.

C. CLASSROOM LIBRARIES

Throughout the 2021-2022 school year, some CBSD community members advocated for censorship of books with LGBTQ-related content. In the fall of 2021,

[REDACTED] classroom library at [REDACTED] was publicly attacked in an anonymous video. CBSD administration then subjected [REDACTED] classroom library to an audit to determine if it contained any books inappropriate for middle school. *See infra* Part IV.B. In early 2022, after newly elected board members were seated, the CBSD Board started proposing changes to CBSD policies regarding community member challenges to books in CBSD libraries. *See* Siobhan Donaldson, *Central Bucks school board reviews library policy*, Bucks County Herald (Feb. 24, 2022), <https://buckscountyherald.com/stories/central-bucks-school-board-reviews-library-policy.15417>. The Board eventually passed new policies on book challenges, library books, and textbooks and resource materials. *See infra* Part V.

Against this backdrop of fear, around April 2022, Lenape Middle School administration emailed staff stating that anyone with a classroom library should stop at the office for a discussion. Teacher [REDACTED] [REDACTED] requested a group meeting with administration to ensure all teachers got the same message. That request was denied by Principal Geanine Saullo. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Many CBSD teachers, like [REDACTED] have classroom libraries with books that are not part of regular coursework. With prior community attacks on LGBTQ-related content now supported by many Board members advocating to censor such

content, many teachers felt pressure to self-censor. *See* Emily Rizzo, *String of Central Bucks School District decisions lead LGBTQ students and faculty to fear for civil rights*, WHYY (May 11, 2022) (quoting an anonymous Lenape Middle School teacher stating, “I think all administration is suggesting that if we don’t self-censor, we will be censored.”), <https://whyy.org/articles/central-bucks-school-district-lgbtq-students-pronoun-policy/>. Many removed their classroom libraries out of fear of discipline if someone deemed material “inappropriate.” Some teachers took their books home. Others took books off shelves and packed them in boxes. One teacher donated all their books to the Rainbow Room, a local LGBTQ+ and allies youth center.

D. PREFERRED NAMES AND PRONOUNS

On May 3, 2022, Lenape Middle School Principal Geanine Saullo directed teachers via email that they must use student names that appear in the CBSD database (Infinite Campus, or “IC”) on end-of-year awards and certificates. *See* Emily Rizzo, *String of Central Bucks School District decisions lead LGBTQ students and faculty to fear for civil rights*, WHYY (May 11, 2022), <https://whyy.org/articles/central-bucks-school-district-lgbtq-students-pronoun-policy/>. Any changes must be made by parents. *Id.* Additionally, any student request to use a name or pronoun different from what is in the IC database requires referral to a guidance counselor. *Id.*

At the start of the 2022-2023 school year, this policy was expanded from names on awards and certificates to a complete prohibition on using affirming names and pronouns. On September 19, 2022, teachers at Lenape Middle School

were told they must use names in the IC database, which can only be changed by a student’s parent or guardian. Additionally, any student requests for changes must be reported to the guidance counselor, who will contact parents. *See* Chris Ullery, *Central Bucks teachers to use birthname, gender or trans students unless parents OK change*, Bucks County Courier Times (Sept. 20, 2022),

[https://www.buckscountycouriertimes.com/story/news/education/2022/09/20/central-bucks-teachers-to-ignore-gender-affirming-names-for-transgender-students-](https://www.buckscountycouriertimes.com/story/news/education/2022/09/20/central-bucks-teachers-to-ignore-gender-affirming-names-for-transgender-students-without-parent-ok/69506672007/)

[without-parent-ok/69506672007/](https://www.buckscountycouriertimes.com/story/news/education/2022/09/20/central-bucks-teachers-to-ignore-gender-affirming-names-for-transgender-students-without-parent-ok/69506672007/). A similar policy was announced at Central Bucks West High School a few weeks earlier. *See* Emily Rizzo, *Central Bucks West tells teachers not to use students’ preferred names and pronouns without parent approval*, WHYY (Sept. 15, 2022), <https://whyy.org/articles/central-bucks-west-students-pronouns-gender-policy/>.

E. SUSPENSION OF TEACHER [REDACTED]

After [REDACTED] reached out to [REDACTED] in March 2022 about bullying going back to the start of the school year, [REDACTED] met with [REDACTED]. [REDACTED] informed them that he could submit a formal report to CBSD administration using their Behavior Data Report (“BDR”) system. Because the BDR system for reporting bullying does not permit anonymous reports and results in notification to the bullies’ parents, [REDACTED] and his family did not want [REDACTED] to submit a BDR. Based on past experiences reporting bullying to CBSD, [REDACTED] feared submission of a BDR to CBSD would result in retaliation by his bullies. [REDACTED] determined that [REDACTED] was not in imminent

danger and respected [REDACTED] and his family's request to not submit a BDR. CBSD does not have any policy requiring teachers to submit BDRs.

[REDACTED] also informed [REDACTED] that another option was to file a complaint with OCR. [REDACTED] and his family subsequently decided they wanted [REDACTED] to file an OCR complaint, but not report the harassment to CBSD administration for the reasons explained above. [REDACTED] then filed an OCR complaint in late March 2022, regarding the anti-transgender bullying experienced by [REDACTED] at Lenape Middle School.

When [REDACTED] reached out to [REDACTED] in March 2022, Lenape Middle School administration already was aware of a hostile environment for LGBTQ+ students. As part of CBSD's "No Place for Hate" program in 2019-2020, for example, a peer leader (a student) at Lenape Middle School identified mistreatment of transgender students as the biggest issue facing the school. In response, [REDACTED] and other staff asked for programming from CBSD on deadnaming of trans students and how other students could be supportive peers, but their requests were rejected by Assistant Principal Frank Pustay (now principal at CB West High School) and Principal Geanine Saullo (who remains principal at Lenape Middle School).

Further, a former student in 2019 attempted suicide in school following relentless anti-transgender bullying. *See supra* Part II.A. [REDACTED] also reported bullying to a guidance counselor four or five times during the 2021-2022 school year, prior to reaching out to [REDACTED] in March 2022. *See supra* Part II.B. [REDACTED]

family and [REDACTED] family both reached out to Lenape Middle School administration in the fall of 2021 regarding bullying. *See supra* Parts II.B, II.C.

Around March 2022, members of Lenape Middle School’s Sexuality and Gender Alliance (“SAGA”) student club reported rampant anti-LGBTQ+ bullying, particularly during lunchtime. SAGA members identified three primary bullies. This information was shared with Lenape Middle School administration, including Principal Saullo. Administration informed teachers that administration could not do anything to address anonymous reports of bullying, so nothing could be done if students were unwilling to submit formal reports of the bullying.

Lenape Middle School administration also was aware of a general environment of bullying and harassment, as [REDACTED] had previously submitted BDRs or emailed Lenape Middle School administration about instances of harassment and bullying, though not necessarily related to targeting of LGBTQ+ students. Additionally, the same day [REDACTED] met with [REDACTED] and his family, Saullo emailed [REDACTED] to check-in on how [REDACTED] was doing with respect to harassment and bullying by other students. [REDACTED] responded that the situation had not improved.

On April 19, 2022, [REDACTED] was summoned to the CBSD central administration office for a meeting with Superintendent Lucabaugh, Director of Human Resources Andrea DiDio Hauber, and Saullo to address “concerns.” Teacher and [REDACTED] [REDACTED] also attended this meeting as [REDACTED] [REDACTED]. CBSD administration wanted to

discuss classroom libraries, [REDACTED], and a union petition regarding lunch breaks on professional development days. Regarding [REDACTED] administration indicated they were aware of the OCR complaint [REDACTED] filed. [REDACTED] told administration that he informed [REDACTED] and his mother about the possibility of filing an OCR complaint.

On May 3 or 4, 2022, [REDACTED] informed [REDACTED] about the new preferred name and pronouns policy announced by Saullo. [REDACTED] [REDACTED] on May 4 and 5 exchanged several emails with guidance counselor [REDACTED] and Vice Principal Lauren Dowd objecting to the policy and requesting a meeting to discuss the policy and relentless bullying of [REDACTED] at school. *See supra* Part II.B. In those emails, [REDACTED] confirmed that [REDACTED] told [REDACTED] about the name and pronouns policy. *See id.* [REDACTED] also explained that [REDACTED] was the only person at CBSD providing any assistance with respect to bullying. *See id.*

The next day, Friday, May 6, 2022, CBSD suspended [REDACTED] and banned him from CBSD property. At 11:30 AM that day, the exact time [REDACTED] was scheduled to speak with OCR regarding the complaint he filed on behalf of [REDACTED] [REDACTED] was summoned to a meeting at Lenape Middle School with Superintendent Lucabaugh and Director of Human Resources DiDio Hauber. [REDACTED] was told he was immediately suspended with pay. He was instructed to surrender his school ID and not speak with any of his colleagues. Vice Principal Dowd confiscated [REDACTED] laptop, escorted him back to his classroom to get his personal belongings, and escorted him out of the building. Since this occurred in the middle of a school day,

[REDACTED] sudden departure with central administration in the building was apparent to students and staff.⁶

[REDACTED] was given a letter, signed by DiDio Hauber, confirming [REDACTED] suspension. [REDACTED]

To date, CBSD has not identified any policy or protocol that [REDACTED] failed to follow. Despite the primary stated reason for the suspension being failure to report bullying, nobody from CBSD administration has reached out to [REDACTED] or his family regarding a plan to rectify bullying conditions.

[REDACTED] has been a teacher for [REDACTED], all with CBSD, and mostly at [REDACTED]. [REDACTED]

[REDACTED]

[REDACTED]

6

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

F. STUDENTS PROTEST [REDACTED] SUSPENSION AND SPEAK OUT AGAINST CBSD’S POLICIES THAT EXACERBATED THE EXISTING HOSTILE ENVIRONMENT FOR LGBTQ+ STUDENTS

On Tuesday, May 10, 2022, several Lenape Middle School students protested [REDACTED] suspension by exiting the school building and demonstrating outside on school property. [REDACTED] and [REDACTED] participated in this protest.

That evening, at the school board meeting where Superintendent Lucabaugh made his public statement about bullying of LGBTQ+ students and removal of pride flags, many students and former students spoke in support of [REDACTED] [REDACTED] spoke in support of [REDACTED] stating:

At the beginning of the year, I came out as trans. I told all my teachers. I told them my name and my pronouns, and that they were only to refer to me as those. All of them were accepting of it. They didn’t really care. However, the 8th grade student body seemed to have a different opinion on that. I’ve been constantly harassed. I’ve been bullied. I’ve had people yell in my face. I’ve had people call me a myriad of slurs. I’ve had things thrown at me, etcetera. One time, I had someone call me names that I would prefer not to repeat, and told me that they were going to assault me.

Every time after this, I would go to guidance. I was always told that they were my safe space, that they were supposed to help me. That they wanted to help me. That they were the people that were supposed to make me feel safe. Every time I would go to guidance, I was always told things that were along the lines of ‘they’re just immature,’ ‘they’ll grow out of it,’ ‘it’s just MUD.’ Every time I walked out of that counselor, I never felt safe. I never felt validated. I just felt . . . the exact same thing I

felt when I was getting called slurs. I felt bullied. I didn't feel like I was cared for.

One time, I decided to go a different route. I told Mr. [REDACTED] that a kid had deadnamed me, that he was misgendering me. And he was on top of it. He knew exactly what to do. He knew how to help me, and he knew how to support me. He asked me how I wanted to be supported, instead of throwing these things, saying that they're just immature, that they don't know what they're doing. He wanted me to feel safe.

After months and months of feeling invalidated, of feeling weird in my own skin, after feeling like I'm the problem, and that everyone else is the real person and that I'm just wrong, I finally felt ok. So I stopped going to guidance and I went to Mr. [REDACTED]. Time and time again after getting called so many names, after getting so many threats, things thrown at me, being touched, I went to Mr. [REDACTED] and he knew what to do. He knew how to help me. He asked me how I wanted to be helped. And I finally after the entire year of feeling like no one cared about me, had a safe space.

And then, on May 6, at 11:30-ish, Mr. [REDACTED] got a letter saying that he was suspended. And at that exact same time, I lost one of the only people that has ever really cared for me. That really wanted to stay by my side and help me. That actually wanted to get things done instead of letting things slide. I lost the only person that really cared about me as a person

May 10, 2022 School Board Meeting at 56:40. Lenape Middle School student [REDACTED]

[REDACTED] said:

Mr. [REDACTED] is one of the biggest allies I know. He is always there for anyone and everyone who needs. There's a large group of LGBTQ+ students in my school and most times feel unsafe or out of place. They get mentally hurt by other students, and the teen suicide rate has been much higher than it should be. He always does his best to be there for everyone and does everything he can to keep that person safe and in a comfortable environment. . . . The school always tells us to go to someone we feel safe

talking to and tells us to come to a trusted adult, but when a student simply does that and a teacher does something simple, he gets suspended. . . .

There's been many instances of students barking at me and calling me the "f" slur. Most times, I tell other staff members and they brush it past, and they say they will do something, but they don't. . . . Then, Mr. [REDACTED] is someone I felt safe and comfortable going to with this information, knowing that he would do something about it. Knowing that he has been suspended leaves me in fear of another and the only main ally and supporter in the school I have left and that he will get suspended for something simple.

One more thing that I would like to add is I felt safe with him. He lets us express how much we felt, and what we felt at that time, and what we needed. And when I was gone in the hospital for about a month and I was feeling unnoticed, I didn't go to school and I missed a lot of school in second marking period. But Mr. [REDACTED] helped me get back on track and was one of the people that kept me going. To this day, I mainly go to my case manager's room for about every single class, but I do my best to go to his class every day. Because Mr. [REDACTED] provided such a safe space for me.

May 10, 2022 School Board Meeting at 1:09:35.

At the school board meeting, many students also spoke about how other recent actions by CBSD were exacerbating an already-hostile environment for

LGBTQ+ students. With respect to removal of pride flags, fourth-grader [REDACTED]

[REDACTED] explained:

Imagine that you see symbols that say you are free to be you. But if you take that away, you can't feel appreciated or accepted, or safe to be your own true self. Imagine that happened to you. Would you feel safe, and happy and accepted? You want to tell a teacher, but they won't let you, so you don't feel free and supported. That's why I think we should keep teachers having flags, symbols, and books, so that all students feel accepted.

May 10, 2022 School Board Meeting at 1:47:35.

Lenape Middle School student [REDACTED] spoke out against the pride flag removal and other CBSD actions, stating: “[LGBTQ+] kids are bullied quite a lot. Imagine how much worse it’s going to be when the school seems like they’re supporting all this hate.” *Id.* at 1:57:20. Lenape Middle School student [REDACTED] in reference to the pride flag directive stated: “How does this help the learning community? Or does it hinder it because we are making students feel unaccepted, unsupported, and unvalued.” *Id.* at 2:25:30.

In response to Superintendent Lucabaugh’s statement that pride flags do not make kids safe, CB West High School student [REDACTED] explained: “It doesn’t make them safe, but it does make them feel more seen. And they don’t feel seen at all right now.” *Id.* at 1:51:07. CB West High School student [REDACTED] stated: “Why is society telling us that being a part of the LGBTQ+ community is something to hide? . . . I urge you to think carefully about the rejecting messages you are sending to the students.” *Id.* at 1:52:30. Lenape Middle School student [REDACTED] identified themselves as a member of the LGBTQ community and stated: “If pride flags matter so little to your academics, then why can’t we have them up? I know for sure it would make me feel more welcomed in this school. This unfair atrocity makes me concerned that my once safe and secure future is now just one giant question mark hanging over my head.” *Id.* at 2:23:05.

██████ was definitely helping with that and he needs to be reinstated.

The bullying is bad and constant, and this new policy is not helping us feel any more supported. I'm supported at home, but I know a lot of people who aren't, and they'll just have to go by their dead names and be misgendered all day at school – all day, all year. This policy is dangerous and unreasonable, and we don't need it. What we need to do is support trans kids.

Id. at 2:09:12.

G. THE CBSD SUPERINTENDENT AND SCHOOL BOARD REAFFIRM THEIR POSITIONS

Despite Superintendent Lucabaugh's acknowledgement of pervasive harassment of LGBTQ+ students, and students publicly telling the school board that new CBSD policies were exacerbating an already-hostile environment, CBSD reiterated its position in a May 17, 2022, written statement to the community from Superintendent Lucabaugh and School Board President Dana Hunter. Message from the Superintendent and Board President, at 4 (May 17, 2022) (Exhibit 5; the date on the attachment is May 19, 2022, but the message was issued to the community on May 17, 2022, via email and publication on CBSD's website).

The statement did not acknowledge or address the concerns raised by students at the May 10 board meeting. Instead, Lucabaugh and Hunter declared pride flags “a flashpoint for controversy and divisiveness,” and “a symbol of ‘taking sides.’” *Id.* Lucabaugh and Hunter explained that “not every member of our school community feels it is appropriate, let alone necessary, to hang a pride flag in their classrooms.” *Id.* Lucabaugh and Hunter then blamed the “controversy and divisiveness” on unnamed actors who purportedly “questioned” and “labeled as

homophobic or intolerant” those teachers who chose not to display pride flags. *Id.* Undersigned counsel have found no evidence of staff without pride flags being shamed or criticized.

Regarding Human Growth and Development classes, Lucabaugh and Hunter referred to “requests for students to engage with this curriculum according to the sex that they identify with, rather than the sex they were physiologically born.” *Id.* Lucabaugh and Hunter explained that the decision to cancel all in-person Human Growth and Development courses and make them virtual was “[i]n an effort to be as inclusive and respectful of every student and family.” *Id.* Lucabaugh and Hunter apologized for allowing some elementary schools to have started Human Growth and Development classes, in-person with students permitted to choose classes based on their gender identity, prior to making this policy change. *See id.*

Lucabaugh and Hunter’s message to the community was intended to intimidate and silence opposition. Lucabaugh and Hunter said the suggestion that CBSD suspended [REDACTED] because he supported LGBTQIA+ students “is defamatory.” *Id.* Lucabaugh and Hunter stated that plans for Lenape Middle School students to hold a day of silence and paint their faces with a message protesting the principal “clearly seeks to disrupt the learning environment, and severely (and completely unfairly) impact the principal’s ability to maintain order in her capacity as principal.” *Id.* Lucabaugh and Hunter called such plans “an abomination.” *Id.* Lucabaugh and Hunter declared that questioning teachers who do not display pride flags “is unacceptable on every level imaginable.” *Id.*

The message to students and staff was clear. Student concerns expressed at the May 10 board meeting were ignored. Speaking up against homophobia and intolerance “is unacceptable on every level imaginable.” Longstanding symbols of LGBTQ+ identity are “political” messages and symbols of “taking sides,” and CBSD has taken the side of prohibiting pride flags. Pride flags are a “flashpoint for controversy and divisiveness,” not because of people hostile towards the LGBTQ+ community, but because of unnamed actors who purportedly questioned whether certain teachers were “homophobic or intolerant.” Further, questioning whether a teacher is homophobic or intolerant will result in removal of symbols and messages of support and tolerance from *other* teachers’ classrooms. CBSD will protect teachers accused of intolerance, but will punish teachers who display messages of support and tolerance, as they did with [REDACTED], for helping a transgender students address bullying in a meaningful way.

One week later, on May 24, 2022, CBSD central administration verbally ordered Central Bucks South High School administration to remove a pride flag from a Pride Month display in the Central Bucks South High School library. The directive to remove pride flags has not been uniformly enforced, but CBSD administration appears to target “large” flags. The public message to the community remains unchanged that pride flags are inappropriate in the classroom. Indeed, the CBSD Board recently proposed formalizing the rejection of pride flags in official board policy. *See infra* Part. V.

H. STUDENTS CONTINUE SPEAKING OUT ABOUT THE HARMFUL IMPACT OF CBSD POLICIES

At the June 14, 2022, school board meeting, students again spoke out against the pride flag ban. For example, Lenape Middle School student [REDACTED] stated:

At the most recent school board meeting, Dr. Lucabaugh stated that he didn't think pride flags were important in schools. He says that he wants schools to be completely apolitical. And honestly, that may have been one of the worst excuses I've ever heard in my entire life. I want to know exactly, Mr. Lucabaugh, when I became a 'side' for the left or right. When I lost my right as a human and a child and a student at your schools, and when I became a sign for you to hide away in a closet. . . . I want to know how you think that going around to schools and going around to students who are like me, how you can say that you are a true ally and that you are a true person that people like me can go to. And yet you do something that is completely transphobic and homophobic and anti-LGBT.

It is disgusting. It is a disgusting mockery of what you say that you are. You say that you're an ally, and yet you go and take away the one thing that makes children like me, students like me, in your huge school district, feel safe. You are the reason I don't feel safe in your own schools. You take away the things that make me feel safe, and my friends feel safe. And children that I met when I was in first grade, when they were in first grade and I was one of their buddies, who went to me and they knew who I was because I was the only gay kid in my school. I was the only one that was out when I was in sixth grade. I wasn't out to my family, and they went to me because they knew they could trust me, and they couldn't trust other students. You want to put these kids back in the closet. You want to hide us away, and you want to ignore all of our complaints, over and over again. We go to you continuously, and you do nothing.

You constantly say that you're an ally, that you are fighting for us, and yet you do absolutely nothing to show it. You are all talk and no actions. Anything you do, everything you do relating to people like me does not help

us. Banning books about me do not help us. Taking away signs of me and my friends and my family does not help me. Nothing that you do helps me. It makes me feel sick to my stomach that I have to call you my superintendent, because you have done nothing but cause me harm. You actively help these bullies that constantly harass me, over and over, to the point that I don't want to come back to my school next year. But I'm going to, because I'm not going to let you silence me. Over and over, you constantly make decisions and talk over people like me, and I'm not going to let you force me back into that closet that I was in. I'm not going to let you force these kids that I know, who are children, who are six- and seven-years-old, I am not going to let you force them back into their closet.

June 14, 2022 School Board Meeting at 1:54:23, recording available at

<https://live.myvrspot.com/iframe?v=NDI0MTYwYTJlYjZjMjY1NjUzMGNiOTZiMW RjOTgyMmQ>.

CBSD student [REDACTED] stated:

Why should we be punished for your fear? That's why you're trying to ban them, right? Fear? You ban things from school that you fear. Dangerous things like weapons and drugs. But this? It's only a rainbow. My preschool classroom was covered in them, and there wasn't a problem then, but maybe it's the meaning behind that rainbow that you're afraid of. I honestly don't get why, though. Maybe it's because you don't understand it. Because you don't understand us. But the people who fly them do. And that's why when I see them in a classroom, I feel safe. Because I know that teacher understands me and won't judge me the way many others do, just because of who I fall in love with or how I identify. Pride flags make me feel safe. Schools are supposed to be safe. They're supposed to feel safe. Isn't that the whole goal? That's why we have fire drills and ALICE drills. Those are to prepare us and make us feel safe in an unsafe world. In this world, I feel unsafe because of the amount of verbal and physical attacks people like me get, including in these schools. That pride flag shows that somebody cannot hurt me or anyone like me there, because I know that teacher will stop it because they

support me. That pride flag shows that bully in that class that, in that classroom, I am safe. That pride flag makes me feel safe. Don't take my safety

Id. at 1:15:08. Many other students, former students, and parents also spoke in opposition to CBSD's pride flag ban.

IV. CBSD CONTRIBUTES TO THE HOSTILE ENVIRONMENT FOR LGBTQ+ STUDENTS BY FAILING TO SUPPORT STAFF EFFORTS TO SUPPORT LGBTQ+ STUDENTS AND INTIMIDATING STAFF WHO OPPOSE CBSD'S ACTIONS

Contributing to the hostile environment for students, the CBSD Board and central administration have created an atmosphere of fear and intimidation that deters staff from supporting LGBTQ+ students. As a result of [REDACTED] suspension and transfer, and the other anti-LGBTQ+ actions taken by CBSD, many teachers and other staff are afraid to vocalize support for LGBTQ+ students or opposition to any CBSD actions. Some staff members declined to speak with ACLU-PA attorneys, or agreed to speak with us only if we promised no information gathered would or could be attributed to them. They fear retaliation by the Board or central administration.

Many teachers also reported self-censorship with respect to materials having LGBTQ+ themes. In particular, many teachers removed or packed up their classroom libraries that included such materials, fearing discipline if a parent objected to the materials. *See supra* Part III.C. While some teachers are defying the directive to remove pride flags, most teachers have deliberately chosen to display only "small" pride flags. Other teachers have chosen to display rainbow-themed items that are not "flags."

Finally, contrary to the U.S. Department of Education’s recommendations that schools should provide professional development opportunities for educators on equitable and supportive treatment of historically underserved students, CBSD has actively impeded professional development opportunities.

A. THE ADMINISTRATION ABRUPTLY ENDED THE DISTRICT’S RELATIONSHIP WITH THE GENDER AND SEXUALITY CLINIC AT THE CHILDREN’S HOSPITAL OF PHILADELPHIA

Prior to 2020, CBSD allowed [REDACTED], a family support and education specialist from the Gender and Sexuality Development Clinic at the Children’s Hospital of Philadelphia (“CHOP”), to give occasional trainings to school counselors on how to support transgender youth. For example, [REDACTED] during the 2018-2019 school year conducted a training for all CBSD counselors.

During either the 2018-2019 or 2019-2020 school year, a counselor at [REDACTED],⁸ invited [REDACTED] to give a presentation to parents about the needs of transgender youth. [REDACTED] requested that the presentation be open to all CBSD families, but Nadine Garvin (now the District’s Assistant Superintendent for Elementary Education), insisted that [REDACTED] keep the presentation quiet. The presentation, therefore, was limited to [REDACTED] Elementary School.

Another CBSD training with CHOP was supposed to occur in May 2022, but CBSD administration abruptly canceled the presentation at the last minute, and

8

[REDACTED]

indicated that the training would likely not occur again. CBSD administration blamed the cancelation on a professional employees' union request regarding equal lunch breaks for all staff on professional development workdays.

B. THE ADMINISTRATION DRAMATICALLY SEVERED TIES WITH CB CARES, A LOCAL EDUCATION FOUNDATION THAT ALLOWED MANY TEACHERS TO PROVIDE LGBTQ+ RESOURCES THROUGH ITS GRANTMAKING

CBSD administration also cut off a lifeline for teachers providing resources for LGBTQ+ students when it severed ties with CB Cares, a local education foundation, in early 2022. CB Cares is a community organization that was formed nearly three decades ago as a partnership between local hospitals and the school district. Since then, it expanded its relationship with several area businesses, and expanded its grantmaking role for the district, providing grants for campaigns around drug and alcohol use, books for classrooms, and curricular programs, among other education-related activities. These grants included efforts to support and improve resources for LGBTQ+ students. In 2019, for example, [REDACTED] [REDACTED] applied for and received a grant from CB Cares for an LGBTQ-focused library in his classroom, which also functioned as the meeting space for the school's GSA.

Over the summer of 2021, however, this grant for an LGBTQ+ library came under attack from a small group of community members affiliated with right-wing parent groups. In August 2021, someone entered [REDACTED] classroom, took photos of all the books in his LGBTQ+ library, and then posted a slideshow of the photos

online set to a voiceover of selected language from *Lawn Boy*, a book that was not present in the library. That person has yet to be identified as of September 2022.

CBSD administration then subjected [REDACTED] to an audit of his classroom library. Rather than supporting [REDACTED] CBSD central administration made [REDACTED] feel like he had done something wrong. CBSD did not identify any inappropriate material in [REDACTED] classroom library and did not find that [REDACTED] did anything wrong. CBSD central administration's response to the unfounded attack on [REDACTED] classroom library, nonetheless, has had an intimidating effect on other teachers with classroom libraries.

The video spurred additional homophobic attacks on CB Cares and other members of the community that were seen as supporting LGBTQ+ youth. An anonymous letter was sent to the major community partners of CB Cares, the employers of CB Cares board members, and members of the CBSD administration, accusing CB Cares of “grooming” and providing child pornography to children. These accusations were primarily due to the grant to [REDACTED] for his classroom library, but also were rooted in others grants – such as a grant for inclusive education initiatives that was received by [REDACTED].

Rather than fighting these accusations, however, or standing up for its long-standing community partner, the CBSD administration unilaterally severed its ties with CB Cares in a March 29, 2022, meeting with the board of CB Cares. Publicly, CBSD did not explicitly admit that it was severing ties from CB Cares. Instead, it sent out a letter from Superintendent Lucabaugh announcing a new education

foundation for the district. *See* CBSD to Launch Education Foundation, <https://www.cbsd.org/site/default.aspx?PageType=3&ModuleInstanceID=82652&ViewID=7b97f7ed-8e5e-4120-848f-a8b4987d588f&RenderLoc=0&FlexDataID=210954&PageID=44000>. Privately, however, CBSD’s actions are impacting teachers who want to expand their resources for LGBTQ students. At the end of 2021-22 school year, ██████ asked administrators at his school for their support in a \$2,000 grant application to CB Cares, and was told that teachers are prohibited from receiving *any* money from the foundation. At least one other teacher also was told they could not accept any money from CB Cares.

C. THE SCHOOL BOARD’S MOCKERY OF A TRANS INCLUSIVITY WORKSHOP FOR TEACHERS.

Antipathy for the needs of those providing support and help to trans students is not limited to the district administration; it is also present among school board members. In early 2021, ██████ submitted a request to the school board for funding for her and several teachers to attend a Widener University workshop on inclusive practices for trans students. After she submitted the request, she listened to the Board meeting where her request would be considered. While these requests from teachers are typically passed with minimal comment, ██████ heard the Board laughing at her request and speaking of “the transgenders” before denying her grant request.

The Board ultimately approved the funding request at a later meeting. *See* Shawnette Wilson, *Some Central Bucks School District staff attending transgender inclusion training to better serve students*, Fox 29 Philadelphia (June 16, 2021),

<https://www.fox29.com/news/some-central-bucks-school-district-staff-attending-transgender-inclusion-training-to-better-serve-students>. [REDACTED] believes that the Board did so only after receiving extensive pressure from supportive parents – who created a GoFundMe for her to attend the conference that got attention in the Philadelphia Inquirer – and [REDACTED] had to entertain invasive questions about the psychology and anatomy of trans youth from board members, which she never dealt with for any previous grant request. *See* Maddie Hanna, *The Central Bucks school board denied a counselor’s request to attend training on transgender inclusivity. So parents raised the money themselves.*, The Philadelphia Inquirer (May 24, 2021), <https://www.inquirer.com/education/central-bucks-school-district-transgender-students-pennsylvania-20210524.html>.

D. REJECTION OF EFFORTS TO EXPAND STAFF TRAINING REGARDING SUPPORT OF GENDER NON-CONFORMING STUDENTS

The Board and administration’s efforts to quash support for LGBTQ+ students has led the principals and other school leaders of individual schools to act similarly, as is apparent in recent actions taken by the leadership of Lenape Middle School. As part of CBSD’s “No Place for Hate” program in 2019-2020, for example, a peer leader (a student) identified mistreatment of transgender students as the biggest issue facing the school. In response, [REDACTED] and other staff asked for programming from the district on deadnaming of trans students and how other students could be supportive peers, but their requests were rejected by Assistant Principal Frank Pustay (now principal at Unami Middle School) and Principal Geanine Saullo (who remains principal at Lenape Middle School).

These directives regarding inclusion-driven lessons and programming appear to come from the top of the administration. According to [REDACTED] the rejection of other lessons and programming - such as a lesson based on the film “The Hate U Give” - came directly from then-Assistant Superintendent (now Superintendent) Lucabaugh.

Similarly, during the 2018-2019 school year, guidance counselor [REDACTED] [REDACTED] at the request of Nadine Garvin (now Assistant Superintendent for Elementary Education) prepared a presentation on caring for gender non-conforming students. [REDACTED] made this presentation to all CBSD principals, for the principals to share the information with their building staff. Some principals shared the information with their staff, but others did not. [REDACTED] asked Garvin about making the presentation for *all* CBSD staff. Though Garvin was the person who initially asked [REDACTED] to prepare the presentation, Garvin brushed off [REDACTED] request and indicated the presentation could not be made a district-wide requirement.

E. CBSD DISCIPLINED GUIDANCE COUNSELORS WHO SPOKE OUT AGAINST THE HUMAN GROWTH AND DEVELOPMENT POLICY

CBSD further intimidated staff in Spring 2022 by disciplining guidance counselors who openly opposed the new policy prohibiting trans students from attending the Human Growth and Development classes reflecting their identity. CBSD’s policy requiring students to attend Human Growth and Development classes segregated based on sex assigned at birth, *see supra* Part III.A, was announced to guidance counselors at an April 19, 2022, meeting led by Director of

Pupil Services Alyssa Marton. Marton stated that the policy was required by the Supreme Court’s decision in *Bostock*. [REDACTED], a guidance counselor at [REDACTED], questioned how *Bostock* could require the policy since *Bostock* was about *not* discriminating. [REDACTED], also a guidance counselor at [REDACTED] School, also requested clarification of the policy.

Following the meeting, [REDACTED] and [REDACTED] both emailed Marton for clarification. [REDACTED] on April 26, 2022 emailed Marton asking for clarification of CBSD’s interpretation of *Bostock* and raising concerns that CBSD’s interpretation would allow illegal discrimination. [REDACTED] stated:

It would be very helpful to understand the district’s interpretation [of *Bostock*], especially since it sounds like we are not using the US Department of Education Notice of Interpretation of *Bostock*. I am nervous that following guidance other than what the Department of Education has provided would allow for discriminating against students based on their LGBTQ status.

Ex. 6.⁹

Marton responded on April 27, 2022 stating: “It is my understanding that there may be competing interpretations of the *Bostock* case, and that the interpretations of some administrative agencies may arguably be inconsistent with the actual holding in *Bostock*.” Ex. 7.

On May 9, 2022, WHYY released a story about the Human Growth and Development controversy at CBSD. Emily Rizzo, *Nonbinary student denied choice*

⁹ Emails obtained from CBSD through a Right-to-Know Law request.

of health class at Central Bucks school, WHYY (May 9, 2022),

<https://whyy.org/articles/central-bucks-denies-health-class-choice-for-nonbinary-student/>. Citing “counselors who wished to remain anonymous,” WHYY reported

that CBSD put Human Growth and Development classes on hold at all elementary schools. *Id.* WHYY quoted one anonymous counselor saying with respect to students: “It’s our job to make [their lives] easier. It’s such a simple thing to do, to honor their gender identity. We’ve done it as a district and it has been fine and uneventful.” *Id.* That counselor said that CBSD had not previously divided classes based on sex assigned at birth, and that trans students at two CBSD elementary schools already had Human Growth and Development classes that year with no issues. *Id.*

On May 11, 2022, CBSD disciplined both [REDACTED] and [REDACTED] by [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Ex. 9.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

Both counselors were ordered to [REDACTED]:

[REDACTED]

[REDACTED]

Ex. 8; Ex. 9.

At their annual employee evaluations for the 2021-2022 school year, both [REDACTED] and [REDACTED] received a “needs improvement” rating for delivery of services.

V. CBSD CONTINUES TO EXPAND POLICIES HOSTILE TOWARDS LGBTQ+ STUDENTS

The CBSD administration and school board have done nothing to address the clearly stated harms their own actions have caused for LGBTQ+ students. The administration and school board have not rescinded their directive to remove pride flags from classrooms. They have not changed their policy regarding Human Growth and Development classes. They have not changed the Lenape Middle School policy regarding preferred names and pronouns. This policy at the beginning

of the 2022-2023 school year instead expanded to an outright prohibition on using affirming names and pronouns without parental permission, and has expanded to at least one other CBSD school. *See supra* Part III.D.

The CBSD Board also has adopted new policies regarding library and textbook policies targeted towards censorship of LGBTQ+ content. The Board in July 2022 adopted Policy 109.2 aimed at eliminating “sexualized content” from library materials. *See* Emily Rizzo, *Central Bucks School Board passes library book policy; community members say it’s a new kind of book ban*, WHY Y (July 27, 2022), <https://whyy.org/articles/central-bucks-schools-book-ban-policy/>. The Board in August 2022 adopted Policy 109.1 aimed at eliminating “sexualized content” from textbooks and supplementary course materials. *See* Emily Rizzo, *‘It’s just getting worse.’ Central Bucks passes policy censoring class materials with ‘sexualized content’*, WHY Y (Aug. 14, 2022), <https://whyy.org/articles/pa-central-bucks-school-district-censoring-class-materials-with-sexualized-content/>.

Superintendent Lucabaugh and Board President Hunter have not changed their position that pride flags are “political” and “a flashpoint for controversy and divisiveness.” Indeed, on September 14, 2022, the CBSD Board Policy Committee discussed proposed policy revisions that would formalize the ban on pride flags, as well as any other “decor” related to “sexual orientation” or “gender identity.”¹⁰ *see also* Chris Ullery, *Could Central Bucks restrict teachers’ speech? What we know*

¹⁰ The proposed revision was not included in the official meeting agenda, but was introduced by board member Leigh Vlasblom and discussed at the meeting.

about new policy proposal, Bucks County Courier Times (Oct. 2, 2022),

[https://www.buckscountycouriertimes.com/story/news/local/2022/10/03/central-](https://www.buckscountycouriertimes.com/story/news/local/2022/10/03/central-bucks-school-district-teacher-advocacy-policy-lgbtq-free-speech/69525773007/)

[bucks-school-district-teacher-advocacy-policy-lgbtq-free-speech/69525773007/](https://www.buckscountycouriertimes.com/story/news/local/2022/10/03/central-bucks-school-district-teacher-advocacy-policy-lgbtq-free-speech/69525773007/). The

proposed revisions to Policy 321, entitled “Political, Sociopolitical, and Other

Related Communications,” would prohibit teachers and staff from displaying “decor

related to political, sociopolitical, sexual orientation, gender identity, or religious

beliefs.” The stated justification for this restriction is that “[a] sticker, sign, or flag

hung by a teacher may be intended to show support for inclusion of particular

students, but it can simultaneously communicate that other teachers who do not

affix such symbols in their classroom do not support inclusion for all their

students. . . . [Teachers] should not be questioned or criticized for the decision to fly

or not to fly various flags, or otherwise include other decor in the classroom.” Such

arguments undermine the essence of anti-discrimination laws and tacitly encourage

discriminatory behavior. The policy plainly is intended to further chill support of

teachers and staff for LGBTQ+ students and is itself discriminatory.

CBSD Board President Dana Hunter has publicly confirmed that the Policy 321 revision would ban pride flags and will be introduced at the next board meeting

on October 11. *New Central Bucks School District President Dana Hunter joins*

The Program, Talk Radio 1210 WPHT (Sept. 22, 2022) at 11:15,

[https://www.audacy.com/1210wpht/podcasts/the-dom-giordano-program-262/new-](https://www.audacy.com/1210wpht/podcasts/the-dom-giordano-program-262/new-central-bucks-school-district-president-dana-hunter-joins-the-program-1526477497/)

[central-bucks-school-district-president-dana-hunter-joins-the-program-1526477497;](https://www.audacy.com/1210wpht/podcasts/the-dom-giordano-program-262/new-central-bucks-school-district-president-dana-hunter-joins-the-program-1526477497/)

Ullery, *Could Central Bucks restrict teachers’ speech?* .

VI. CONCLUSION

A hostile environment for LGBTQ+ students, particularly gender non-conforming students, has persisted in the Central Bucks School District for many years. CBSD not only has failed to take reasonable measures to address the hostile environment, but also has adopted policies and taken actions overtly hostile towards LGBTQ+ students. CBSD has created an atmosphere of fear and intimidation among staff, further contributing to the hostile environment for students. CBSD's actions constitute intentional gender-based discrimination in violation of Title IX of the Education Amendments of 1972 and the Fourteenth Amendment to the United States Constitution.

The students and families who are submitting this complaint would like CBSD to take *at least* the measures recommended by the U.S. Department of Education for supporting transgender and other gender-nonconforming youth in school:

Using welcoming and inclusive language in school, district, college, and university mission statements, such as a commitment to ensuring a safe and supportive campus that is free from discrimination and harassment for LGBTQ+ students.

Ensuring that school policies clearly affirm students' right to be free from discrimination based on sexual orientation or gender identity in all aspects of school, including the nondiscriminatory use of discipline and equal access to school programs and activities.

Adopting policies that respect all students' gender identities—such as the use the name a student goes by, which may be different from their legal name, and pronouns that reflect a student's gender identity—and implementing policies to safeguard students' privacy—

such as maintaining the confidentiality of a student's birth name or sex assigned at birth if the student wishes to keep this information private, unless the disclosure is legally required.

Adopting policies or model plans to guide school staff on how to support students and communicate with families, such as developmentally appropriate protocols to support students in any transition process, and a checklist of issues to discuss with the student or their family. *Did you know?* Some schools and districts develop gender support plans to ensure a supportive environment for transgender students and create gender communication plans tailored to specific students' needs.

Facilitating opportunities for students to find support with peers, teachers, faculty, and staff, such as student-led organizations, and identifying safe spaces on campus. *Did you know?* According to one survey, students who identified as LGBTQ+ at schools with a gay-straight alliance or gender and sexuality alliance reported that they heard anti-LGBTQ+ slurs, harassing language, and negative remarks at school less often; were less likely to report feeling unsafe because of their sexual orientation and gender expression; were less likely to report missing school due to safety concerns; and reported feeling a greater sense of belonging to their school community, among other benefits.

Providing professional development opportunities for educators on equitable and supportive treatment of historically underserved students, including LGBTQ+ youth, and taking steps to promote increased diversity among educators.

<https://www2.ed.gov/about/offices/list/ocr/docs/ed-factsheet-transgender-202106.pdf>.

CBSD also should be required to take whatever additional measures are necessary to eliminate the hostile environment for LGBTQ+ students, including *mandatory* training for staff, administration, and the school board on supporting LGBTQ+ youth.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Witold J. Walczak".A handwritten signature in black ink, appearing to read "Richard T. Ting".

Witold J. Walczak, Legal Director
Richard T. Ting, Staff Attorney
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