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March 12, 2013

Dr. Joseph Padasak, Superintendent
Mr. Stanley Helman, Board President
Chambersburg Area School District
435 Stanley Avenue
Chambersburg, PA 17201

BY FAX TO (717) 261-3321

RE: Formation of Gay-Straight Alliance at Chambersburg Area Senior High School

Dear Dr. Padasak and Mr. Helman,

We represent students who are members of the Chambersburg Area Senior High School's Gay-Straight Alliance (GSA). It has come to our attention that the Chambersburg School Board has denied a request by the GSA for official club status. We write to respectfully request that the District reconsider this decision.

As we understand it, the GSA initially presented its request for official status to the School Board in January 2013, and the Board tabled the decision because of a problem with the GSA's bylaws. The GSA subsequently amended its bylaws to cure the defect and resubmitted the request. The student government approved the GSA's request each time, but at the February 27, 2013 School Board meeting, the Board voted 5-4 to deny the GSA official club status. It is our understanding that without official approval the GSA may not use the school's morning announcement system or put up flyers advertising its events, may not hold events or fundraisers, and may not participate as a group in Color Day events.

The federal Equal Access Act (EAA) requires federally funded secondary schools that permit meetings of any non-curriculum-related student groups to provide equal access to all students wishing to form such groups. 20 U.S.C. § 4071. Indeed, the United States Department of Education issued a letter to school officials and legal guidelines affirming that under federal law GSAs must

be treated the same as other student clubs.¹ Courts consistently uphold the Equal Access Act's protection for students wishing to form GSAs.²

We understand that the District has granted official approval to a number of non-curricular student groups at the Chambersburg High School, including the Bible Club, the Fellowship of Christian Athletes, and the Ping Pong Club. Accordingly, under the Equal Access Act, the District cannot arbitrarily withhold official approval of the Gay-Straight Alliance. Rather, the District must provide the GSA with equal access to school facilities and club privileges.

Granting the GSA status as an official club is not just a legal duty; it makes sense from an educational and a safety perspective, too. Discrimination and harassment can have a devastating impact on gay youth, and GSAs provide an important forum for students who are concerned about sexual orientation. A disproportionate amount of physical violence against lesbian, gay, bisexual and transgender people of all ages is perpetrated by teenagers. Gay/straight alliances help to combat verbal and physical harassment. They create a space where students can come together to share their experiences, to discuss anti-gay attitudes they may experience in school, or to debate different perspectives on gay-related issues. Open and honest student discussion about sexual orientation is a uniquely effective way of making young people aware of the harms caused by discrimination and violence. As one federal judge commented in an opinion supporting an injunction against a School District that tried to prevent students from forming a GSA: "This injunction is not just about student pursuit of ideas and tolerance for diverse viewpoints. As any concerned parent would understand, this case may involve the protection of life itself." *Colin v. Orange Unified Sch. Dist.*, 83 F. Supp. 2d 1135, 1151 (C.D. Cal. 2000).

In light of these considerations, we ask that the District reconsider its rejection of the GSA's request for official club status.

Because of the importance of this matter, please let us know by the close of business on Friday, March 15, 2013, whether the School District will grant formal approval to students'

¹ See <http://www2.ed.gov/policy/elsec/guid/secletter/110607.html> (Letter from Education Secretary Duncan).

² See, e.g., *Pratt v. Indian River Central Sch. Dist.*, 803 F. Supp. 2d 135 (N.D.N.Y. Mar. 29, 2011); *Straights and Gays for Equality v. Osseo Area Schools-District No. 279*, 540 F.3d 911 (8th Cir. 2008); *Gay-Straight Alliance of Yulee High Sch. v. Sch. Bd of Nassau Cnty.*, 602 F. Supp. 2d 1233 (M.D. Fla., March 11, 2009); *Gonzalez v. Sch. Bd. of Okeechobee County*, 571 F. Supp. 2d 1257 (S.D. Fla. 2008); *White County High Sch. Peers Rising in Diverse Educ. v. White County Sch. Dist.*, No. 2:06-CV-29WCO, 2006 WL 1991990 (N.D. Ga. July 14, 2006); *Boyd County High Sch. Gay Straight Alliance v. Bd. of Educ. Of Boyd County*, 258 F. Supp. 2d 667 (E.D. Ky. 2003); *Franklin Cent. Gay/Straight Alliance v. Franklin Township Cmty. Sch. Corp.*, No. IP01-1518 C-M/S, 2002 WL 32097530 (S.D. Ind. Aug. 30, 2002); *Colin v. Orange Unified Sch. Dist.*, 83 F. Supp. 2d 1135, 1148 (C.D. Cal. 2000); *E. High Gay/Straight Alliance v. Bd. of Educ. of Salt Lake City Sch. Dist.*, 81 F. Supp. 2d 1166 (D. Utah 1999). The First Amendment's free-speech and assembly clauses also favor the students' right to form a GSA, but courts tend to rule under the EAA because application is so straightforward.

formation of the Gay-Straight Alliance club at the Chambersburg Area Senior High School, and do so on the same terms and conditions extended to other non-curricular clubs. If we do not hear from you by the appointed deadline we will construe your silence as a refusal of this request. Please note that the ACLU of Pennsylvania will take all necessary and appropriate legal action to protect our clients' rights if the District refuses this request. If forced to file suit, we will request that the District pay our attorneys' fees, as provided for by federal civil rights laws. Please feel free to contact us with any questions.

Thank you in advance for your anticipated cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Molly Tack-Hooper", followed by a horizontal flourish.

Molly Tack-Hooper
Staff Attorney
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