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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

MAE M., through her guardian ad litem
Anthony M., SUSAN C., through her
guardian ad litem Sabrina C., GWEN S.,
through their guardian ad litem Ramona S.,
CARSON L., through his guardian ad litem
Nancy L., DAVID P., through his guardian
ad litem RACHEL P., VIOLET B., through
her guardian ad litem INEZ B., STELLA B.,
through her guardian ad litem INEZ B.,
TEMECULA VALLEY EDUCATORS
ASSOCIATION, AMY EYTCHISON,
KATRINA MILES, JENNIFER SCHARF,
and DAWN SIBBY,

Plaintiffs,

v.

JOSEPH KOMROSKY, JENNIFER
WIERSMA, DANNY GONZALEZ,
ALLISON BARCLAY, and STEVEN
SCHWARTZ, in their official capacities as
members of TEMECULA VALLEY
UNIFIED SCHOOL DISTRICT BOARD OF
TRUSTEES, TEMECULA VALLEY
UNIFIED SCHOOL DISTRICT, and DOES
1 – 20,

Defendants.

Case No. CVSW2306224

**[PROPOSED] BRIEF OF AMICI CURIAE
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Hearing Date: December 15, 2023

Time: 8:30 AM

Department: 5

Judge: Honorable Irma Poole Asberry

Action Filed: August 2, 2023

Trial Date: TBD

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INTRODUCTION

California guarantees students of all backgrounds the fundamental right to an education and has some of the strongest antidiscrimination laws in the country that protect the rights of all students, including LGBTQ+ students, to be themselves at school. Nonetheless, even in California, the last few years have seen an alarming rise in targeted attacks against LGBTQ+ people, and in particular transgender and gender non-conforming youth.¹ This year alone, we have seen a wave of attacks against LGBTQ+ Californians and their allies—at their homes,² in their places of worship,³ at work,⁴ in libraries,⁵ and especially in schools.⁶

Temecula Valley Unified School District (TVUSD)’s policy on forcible outing continues this pattern of harmful attacks on the rights and dignity of transgender and gender non-conforming young people. The policy would require school staff to notify a student’s parents or guardians essentially if they “become[] aware” that the student is transgender or gender non-conforming—regardless of the student’s wishes or their circumstances at home. In adopting it, TVUSD board members and members of the public described being transgender as “a certain lifestyle or behavior” to be disapproved of,⁷ a “perverse sexual ideology,”⁸ the product of a “destructive agenda,”⁹ and the purported cause of a parade

¹ See Movement Advancement Project, *Under Fire: The War on LGBTQ People in America* (Feb. 2023) https://www.mapresearch.org/file/Under%20Fire%20report_MAP%202023.pdf.

² See, e.g., Catlin, *Proud Boy Arrested Outside Local LGBTQ+ Group Leader’s Home*, Gold Country Media (Mar. 29, 2023) <https://goldcountrymedia.com/news/282781/proud-boy-arrested-outside-local-lgbtq-group-leaders-home> (as of Dec. 13, 2023).

³ See, e.g., Anteola, *LGBTQ+ Friendly Church in Fresno Vandalized. Pastor Suspects a Hate Group Did It*, Fresno Bee (Apr. 19, 2023) <https://www.fresnobee.com/news/local/crime/article274471800.html> (as of Dec. 13, 2023).

⁴ See, e.g., Goldberg, *A Pride Flag, An Argument and Gunfire: The Senseless Killing of Laura Ann Carleton*, Los Angeles Times (Aug. 21, 2023) <https://www.latimes.com/california/story/2023-08-21/a-pride-flag-an-argument-and-gunfire-the-senseless-killing-of-laura-ann-carleton> (as of Dec. 13, 2023).

⁵ See, e.g., Jarone, *Multiple Schools in Davis Cleared After Police Sweep Campuses, Homes, Library Named in Bomb Threat*, Sacramento Bee (Sept. 20, 2023) <https://www.sacbee.com/news/local/crime/article279553279.html> (as of Dec. 13, 2023).

⁶ See, e.g., Childs et al., *3 Arrested Outside Glendale School Board in Violent Clashes Over LGBTQ+ Rights*, Los Angeles Times (June 6, 2023) <https://www.latimes.com/california/story/2023-06-06/glendale-braces-for-protests-ahead-of-school-board-vote-to-recognize-lgbtq-pride-month> (as of Dec. 13, 2023).

⁷ TVUSD, *AUG 22 2023 Governing Board Meeting* at 6:25:44, YouTube (Aug. 22, 2023), <https://youtu.be/0eiEUuXtPNc?t=23144> (timestamp 23:14:04).

⁸ *Id.* at 2:25:50, <https://youtu.be/0eiEUuXtPNc?t=8750>.

⁹ *Id.* at 5:04:05, <https://youtu.be/0eiEUuXtPNc?t=18245>.

of horrors.¹⁰ Transgender and gender non-conforming students at the same meeting voiced how this policy puts their lives at risk and shared stories about the harms they suffered when they were outed to their families before they were ready. Despite hearing these personal experiences from young people, TVUSD adopted its policy, and is now arguing that it must be permitted to see it through regardless of the real harm being caused, as described below.

California law requires public schools to protect transgender and gender non-conforming students from discrimination and harassment and respect their privacy. The policy challenged here does just the opposite, impairing students' ability to express themselves authentically at school and seeking to stigmatize transgender identities. The law, research, and student testimonies all make clear there is no place in California public schools for policies that put the safety and welfare of students at risk. Plaintiffs' interest in ensuring transgender and gender non-conforming students are provided a safe and supportive education environment free of hostility and discrimination is an urgent one. Failure to grant a preliminary injunction in this case will result in significant and irreparable harm to TVUSD's transgender and gender non-conforming students.

ARGUMENT

I. California Law Requires Public Schools to Protect Transgender and Gender Non-Conforming Students from Discrimination and Harassment and Respect Student Privacy.

A. TVUSD's Policy Violates the Rights of Transgender and Gender Non-Conforming Students to be Free of Discrimination and Harassment under California Law.

California law unequivocally prohibits discrimination and harassment in California public schools on the basis of sex and gender, and requires schools to affirm LGBTQ+ students' identities. Both the state Constitution's equal protection guarantee and state statutory law affirmatively require public schools to protect students from unlawful discrimination and harassment, including on the basis of gender, gender identity, gender expression, and sexual orientation.¹¹ To this end, California has enacted laws and policies that ensure a safe and welcoming learning environment for all students, including by requiring that schools affirm every student's gender identity by honoring their authentic

¹⁰ *Id.* at 6:22:55, <https://youtu.be/0eiEUuXtPNc?t=22975>.

¹¹ Cal. Const. art. I, § 7; Educ. Code § 200, 201, 220, 234 et seq.; Cal. Gov. Code § 11135.

1 name and pronouns and ensuring access to all to programs and facilities that align with their gender
2 identity.¹²

3 TVUSD’s policy violates these laws by impermissibly singling out students for discrimination
4 based on their gender identity. TVUSD’s policy discriminates by requiring notification any time a
5 student requests to be identified or treated as “a gender . . . other than the student’s biological sex or
6 gender listed on the student’s birth certificate or any other official records.”¹³ A student’s gender is the
7 only thing that triggers notification. Moreover, all students in California have the right to be affirmed in
8 school and protected from discrimination and harassment, but TVUSD’s policy imposes a condition on
9 access to these rights that only applies to transgender and gender non-conforming students. In order to
10 access protections and supports to which they are legally entitled, transgender and gender non-
11 conforming students without support at home must first risk their safety and well-being by disclosing
12 their identity to their families.

13 In California, policies that discriminate on the basis of gender are evaluated under strict scrutiny,
14 meaning that to pass constitutional muster, they must be narrowly tailored to serve a compelling state
15 interest.¹⁴ Animus toward transgender and gender non-conforming students is not a state interest, much
16 less a compelling one. Even more, the policy necessarily fails because a categorical outing policy is not
17 a narrowly tailored one. It leaves no room for nuance or for consideration of whether a student is ready
18 to come out at home or indeed what their home life is like. As we discuss below, the impact of this
19 sweeping policy on students who are not ready to come out to their families will be to force them back
20 into the closet or to place them at risk of familial rejection.

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25 ¹² See Educ. Code § 221.5(f); Cal. Dept. of Ed. (CDE), *Legal Advisory Regarding Application of*
26 *California’s Antidiscrimination Statutes to Transgender Youth in Schools*,
27 <https://www.cde.ca.gov/re/di/eo/legaladvisory.asp> (as of Dec. 13, 2023); CDE, *School Success and*
Opportunity Act (Assembly Bill 1266) Frequently Asked Questions,
<https://www.cde.ca.gov/re/di/eo/faqs.asp> (as of Dec. 13, 2023).

28 ¹³ First Am. Compl., Ex. 2 ¶ 1(a).

¹⁴ *In re Marriage Cases* (2008) 43 Cal.4th 757, 784.

B. TVUSD’s Policy Violates Student Privacy Rights under the California Constitution.

Students have a state constitutional right to privacy when it comes to personal information about them, and courts have affirmed that young people have a right to keep personal information private.¹⁵ Numerous courts have held that gender identity and sexual orientation are among the most intimate and private details of one’s life and are constitutionally protected.¹⁶ Moreover, courts have found that students do not waive their reasonable expectation of privacy simply by being out at school.¹⁷

As the California Supreme Court recognized in *American Academy of Pediatrics v. Lungren*, “[c]hildren are not simply chattels belonging to the parent, but have fundamental interests of their own that may diverge from the interests of the parent.”¹⁸ In fact, California policy has long supported the principle that minors have the ability to make independent decisions about their health and well-being, and have the right to make those decisions confidentially. *See, e.g.*, Fam. Code § 6925 and *American Academy of Pediatrics*, 16 Cal.4th 307 (all minors are able to consent to their own care for pregnancy, contraception, and abortion without parental consent or notification); Fam. Code § 6924 and Health & Saf. Code § 124260 (same for minors over the age of 12 for mental health services); Fam. Code § 6929 (same for minors over the age of 12 for substance use treatment); Ed. Code § 48205 and 87 Cal.Op.Atty.Gen. 168 (2004) (minors have the right to excuse themselves from school without parental consent or notification to attend medical appointments for care they can consent to on their own); Health

¹⁵ Cal. Const. art. I, §1; *see also Whalen v. Roe* (1997) 429 U.S. 589, 598–600; *C.N.*, *supra*, 410 F.Supp.2d at p. 903.

¹⁶ *See, e.g., Sterling v. Borough of Minersville* (3d Cir. 2000) 232 F.3d 190, 196; *Powell v. Schriver* (2d Cir. 1999) 175 F.3d 107, 111–112.

¹⁷ *See C.N.*, *supra*, 410 F.Supp.2d at p. 903. The plaintiff student in *C.N. v. Wolf*, was “openly gay at school.” Nonetheless, the court held that C.N. had a “legally protected privacy interest in information about her sexual orientation” because “the fact that an event is not wholly private does not mean that an individual has no interest in limiting disclosure or dissemination of information.” *Id.* at p. 903 (quoting *U.S. Dept. of Justice v. Reporters Committee for Freedom of Press* (1989) 489 U.S. 749 (internal quotations omitted)). For LGBTQ+ students in particular, this nuance is essential because coming out is a process, and coming out at school is not an all-or-nothing affair. An LGBTQ+ student may be out only to close friends, to a trusted teacher, to their counselor, or some combination of these. In any of these permutations, California law protects a student’s right to “openly discuss and express their gender identity or decide when or with whom to share private information. A student does not waive his or her right to privacy by selectively sharing this information with others.” CDE, *School Success and Opportunity Act (Assembly Bill 1266) Frequently Asked Questions*, *supra* at question 10.

¹⁸ *American Academy of Pediatrics v. Lungren* (1997) 16 Cal.4th 307, 336–337.

1 & Saf. Code § 123115 (minors have the right to confidentiality in medical records, even in relation to
2 their parents or guardians, for care they can consent to on their own).

3 **II. Outing Transgender and Gender Non-Conforming Students Without Their Consent**
4 **Results in Serious and Irreparable Harm to Their Social, Emotional, and Physical Well-**
5 **Being and Safety.**

6 Decades of research has shown that transgender and gender non-conforming students and their
7 families suffer irreparable harm when young people are outed before they are ready, illustrating the
8 urgent need for a preliminary injunction in this case. These harms are borne out by the record in TVUSD
9 as well as in the public record that has been generated by the recent wave of California school districts,
10 including Clovis Unified School District, Murrieta Valley Unified School District, Chino Valley Unified
11 School District, and Rocklin Unified School District, that have considered or passed policies nearly
12 identical to TVUSD's.¹⁹

13 Policies like TVUSD's subject transgender and gender non-conforming students to harm by
14 forcing them to stay "in the closet" at school, which can cause significant psychological harms. In a
15 recent article from *The Los Angeles Times*, a current Chino Valley Unified School District student
16 shared that as a result of their district's policy—which is identical to TVUSD's policy—transgender and
17 gender non-conforming students who once perceived school as a "haven when their homes were not" are
18 now "being 'shoved' back into the closet."²⁰ Courts have recognized that forcing transgender students to
19 use their birth name and pronouns exposes them to the "life threatening" risks of discrimination, when
20 they are already harassed at alarming rates in schools.²¹ Research also shows that being referred to by
21 the wrong name and pronouns results in psychological distress, including anxiety- and depression-

22 ¹⁹ See, e.g., Yarbrough, *LGBTQ Students on New School Rules: "It's Clear Our Lives are Not*
23 *Important,*" San Bernardino Sun (Aug. 28, 2023) [https://www.sbsun.com/2023/08/28/southern-](https://www.sbsun.com/2023/08/28/southern-california-lgbtq-students-say-new-rules-endanger-their-safety)
24 [california-lgbtq-students-say-new-rules-endanger-their-safety](https://www.sbsun.com/2023/08/28/southern-california-lgbtq-students-say-new-rules-endanger-their-safety) (as of Dec. 13, 2023); Montalvo, 'This is
25 [life or death.' California Teens Say Transgender Outing Policies Threaten Safety](https://www.fresnobee.com/news/local/article278697909.html), Fresno Bee (Sept. 15,
26 [2023\) https://www.fresnobee.com/news/local/article278697909.html](https://www.fresnobee.com/news/local/article278697909.html) (as of Dec. 13, 2023).

27 ²⁰ Gomez, "Kids Are Having to Use Their Deadname": Students Say Gender Policies Make Schools
28 *Feel Unsafe*, Los Angeles Times (Sept. 21, 2023) [https://www.latimes.com/california/story/2023-09-](https://www.latimes.com/california/story/2023-09-21/transgender-students-parental-notification-policies-schools-lgbtq-forced-outing)
29 [21/transgender-students-parental-notification-policies-schools-lgbtq-forced-outing](https://www.latimes.com/california/story/2023-09-21/transgender-students-parental-notification-policies-schools-lgbtq-forced-outing) (as of Dec. 13, 2023).

30 ²¹ See *Doe v. Boyertown Area School District* (3d Cir. 2018) 897 F.3d 518, 529, petition for certiorari
31 denied, (2019) 139 S. Ct. 2636; *Grimm v. Gloucester County School Board* (4th Cir. 2020) 972 F.3d
32 586, 612.

1 related symptoms.²² Another study found that transgender youth who were able to use names and
2 pronouns corresponding to their gender identity experienced a 29% decrease in reported thoughts of
3 suicide and a 56% decrease in suicidal behavior.²³

4 Schools can be critical sources of support and safety for transgender, gender non-conforming,
5 and other LGBTQ+ students. An affirming school climate is a protective factor for LGBTQ+ students,
6 in terms of harassment and bullying, mental health, and safety.²⁴ For many transgender students, school
7 is a place where they can be their authentic selves safely, even when home is not—with one study
8 showing that transgender youth were more likely to report finding affirming spaces at school (52%) than
9 at home (35%).²⁵ Turning schools from safe spaces into hostile ones, as TVUSD’s policy does, will
10 result in higher rates of harm and suicide and poorer academic outcomes among LGBTQ+ students.
11 When transgender and gender non-conforming young people feel unsafe at school, they are more than
12 twice as likely than their peers to miss school.²⁶ For example, at a recent Rocklin Unified board meeting,
13 a member of the public shared that they had been outed by their counselor while they were in school
14 and, as a result, their parents sent them to conversion therapy.²⁷ Afterwards, “[i]t separated me. . . , I was
15 vulnerable and left out, and I did not trust my teachers after that . . . I did not concentrate at school. I was

17 ²² McLemore, *A Minority Stress Perspective on Transgender Individuals’ Experiences with*
18 *Misgendering* (2018) 3 *Stigma and Health* 53, 59.

19 ²³ Russell et al., *Chosen Name Use Is Linked to Reduced Depressive Symptoms, Suicidal Ideation, and*
20 *Suicidal Behavior Among Transgender Youth* (2018) 63 *Journal Adolescent Health* 503, 505.

21 ²⁴ Leung et al., *Social Support in Schools and Related Outcomes for LGBTQ Youth: A Scoping Review*
22 (2022) 1 *Discover Ed.* <https://link.springer.com/article/10.1007/s44217-022-00016-9> (as of Dec. 13,
23 2023); Ancheta et al., *The Impact of Positive School Climate on Suicidality and Mental Health Among*
24 *LGBTQ Adolescents: A Systematic Review* (2020) 37 *Journal of School Nursing* 75,
25 <https://journals.sagepub.com/doi/10.1177/1059840520970847>(as of Dec. 13, 2023).

26 ²⁵ The Trevor Project, *2023 U.S. National Survey on the Mental Health of LGBTQ Young People* (2023)
27 https://www.thetrevorproject.org/survey-2023/assets/static/05_TREVOR05_2023survey.pdf (as of Dec.
28 13, 2023).

29 ²⁶ Jackman et al., *Suicidality Among Gender Minority Youth: Analysis of 2017 YRBS Data* (2019) 25
30 *Archives of Suicide Research* 208 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7176535> (as of Dec.
31 13, 2023); Kosciw et al., *The 2021 National School Climate Survey: The Experiences of LGBTQ+ Youth*
32 *in Our Nation’s Schools* (2022) GLSEN [https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-](https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf)
33 [Full-Report.pdf](https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf) (as of Dec. 13, 2023).

34 ²⁷ “Conversion therapy” is an umbrella term used to encompass any “sustained efforts to discourage or
35 change behaviors related to LGBTQ+ identities and expressions.” American Psychological Association,
36 *Banning Sexual Orientation and Gender Identity Change Efforts*,
37 <https://www.apa.org/topics/lgbtq/sexual-orientation-change> (as of Dec. 13, 2023).

1 always afraid.”²⁸ By contrast, having in their life at least one adult accepting of a young person’s
2 LGBTQ+ identity has a significant protective effect on their mental health. As a graduate of Orange
3 Unified publicly testified during that district’s discussion of a policy similar to TVUSD’s, “while in high
4 school, I began to learn and understand a little bit more about myself and who I was as an individual. All
5 I needed was someone to hear me, but at that time, my family would not have understood what was
6 going through my mind. A teacher listened. . . . Later on as an adult, it was my decision to come out to
7 my family when I was ready and at my own time.”²⁹ A recent survey found that LGBTQ+ youth who
8 had at least one accepting adult in their life were 30% less likely to report a suicide attempt in the
9 previous year.³⁰ As one Clovis Unified student stated, “this situation is more than just a young person
10 wanting to experiment with a new identity. It’s safety in knowing that they have a place where they can
11 freely be who they are.”³¹

12 Research shows that transgender and gender non-conforming young people who were out and
13 felt accepted by a parent/caregiver had around 40% lower odds of attempting suicide in the past year
14 compared to young people who were out but did not feel accepted.³² Family acceptance is a clear
15 protective factor in the safety and well-being of transgender and gender non-conforming students, and
16 forcing them to come out at home before they are ready exposes them to high risks of familial rejection,
17 which frequently leads to homelessness, among other negative outcomes. One 2020 survey found that
18 29% of LGBTQ youth had experienced homelessness, been kicked out of their home, or run away.³³ As

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20 ²⁸ Rocklin Unified School Board, *Rocklin Unified School District Board of Trustee’s Meeting – September 6, 2023* (Sept. 6, 2023) YouTube at 1:52:21

21 https://www.youtube.com/watch?v=e_qD1y9QUUp8 (as of Dec. 13, 2023).

22 ²⁹ Orange Unified School District, *OUSD Board Meeting – September 7, 2023* (Sept. 7, 2023) YouTube
at 5:14:15-5:15:21 <https://www.youtube.com/watch?v=fe92I8VuFtU> (as of Dec. 13, 2023).

23 ³⁰ The Trevor Project, *Acceptance from Adults is Associated with Lower Rates of Suicide Attempts Among LGBTQ Young People* (Sept. 22, 2023) <https://www.thetrevorproject.org/research-briefs/acceptance-from-adults-is-associated-with-lower-rates-of-suicide-attempts-among-lgbtq-young-people-sep-2023/> (as of Dec. 13, 2023).

25 ³¹ Clovis Unified School District, *CUSD Board Meeting 9/20/23* (Sept. 20, 2023) YouTube at 2:52:22
<https://www.youtube.com/watch?v=7yzhR6qlsCQ> (as of Dec. 13, 2023).

26 ³² The Trevor Project, *Acceptance from Adults is Associated with Lower Rates of Suicide Attempts Among LGBTQ Young People*, *supra*.

27 ³³ The Trevor Project, *National Survey on LGBTQ Youth Mental Health 2020* (2020)
28 <https://www.thetrevorproject.org/survey-2020> (as of Dec. 13, 2023). See also Baams et al., *LGBTQ*

1 one person testified at Orange Unified, “as a kid, I hid my identity from my family. I knew that they
2 would reject and disown me, but I was outed to my family when I was 15. As a result, I was rejected. . . .
3 I was asked to leave one of my parents’ homes. I was isolated and I was scared. . . . This policy by its
4 nature implies being trans is negative or dangerous.”³⁴

5 Other community members who have attended school board meetings to testify in opposition to
6 forced outing policies include social workers, clergy, and police officers, who described their experience
7 working with youth forced to leave home because their parents refused to accept their LGBTQ+ identity.
8 *See, e.g.,* Rocklin Unified School Board, *supra*, at 3:10:00 (“If [the kids] don’t take their own lives,
9 somebody else does it for them. . . . When parents pushed them out because they cannot accept their
10 personal choices, they cannot unconditionally love their children.”); Murrieta Valley USD Board of
11 Education, *August 10, 2023 Murrieta Valley USD Board of Education Meeting Before Break* (Aug. 10,
12 2023) YouTube at 1:01:53 <https://www.youtube.com/watch?v=jjJrIixQuzw> (as of Dec. 13, 2023) (“We
13 know statistically that LGBTQ children . . . are disproportionately in the foster system and on the street.
14 . . . That is for reasons of being told to leave or children’s lives being made so unbearable that they leave
15 of their own will. Once on the street, they are doing unimaginable things to survive.”); Murrieta Valley
16 USD Board of Education, *supra*, at 2:42:52 (a police officer describing having encountered children
17 being trafficked, self-medicating through substance use, or being abused after being disowned by their
18 parents for being LGBTQ+). Transgender and gender non-conforming people are also significantly more
19 likely to experience physical, psychological, and sexual abuse from an immediate family member.³⁵
20 During Rocklin Unified’s school board meeting, for example, one student shared that her friend took her
21 life after coming out to her parents as transgender: “they didn’t beat her, but they shamed her, isolated
22 and emotionally abused her. . . . When they found out, they pulled her from school, took away her
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24

25 *Youth in Unstable Housing and Foster Care*, 143(3) *Pediatrics* e20174211 (concluding based on
26 California Healthy Kids Survey data that 25.3% of unstably housed youth in California were LGBTQ).

34 Orange Unified School District, *supra* at 5:12:35 - 5:13:42.

35 Roberts et al., *Childhood Gender Nonconformity: A Risk Indicator for Childhood Abuse and*
27 *Posttraumatic Stress in Youth* (2012) 129 *Pediatrics* 410, 413-414; *see also* James et al., *The Report of*
28 *the 2015 U.S. Transgender Survey* (2016) National Center for Transgender Equality
<https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

1 phone, and forbid her from seeing any friends. She killed herself before she was old enough to drive.
2 Her parents didn't even give her a funeral because they said, 'he lived in sin and he died in sin.'"³⁶

3 While TVUSD may argue that its policy has a "safety exception"³⁷ that requires staff to contact
4 Child Protective Services (CPS), this would not effectively prevent harm to students and their families
5 and could even intensify it.³⁸ These outcomes are reflected in parallel data showing that transgender and
6 other LGBTQ+ youth are significantly overrepresented in foster care (30.4%) and unstable housing
7 (25.3%) in a nationally representative sample (11.2%).³⁹

8 What policies like TVUSD's fail to recognize is that for all LGBTQ+ people, coming out is a
9 process. For many students, talking to peers and trusted adults at schools are important steps toward
10 being ready to have conversations with their parents. This is true not just for young people sharing their
11 gender identity or sexual orientation, but for many young people contending with the possibility of any
12 kind of difficult conversation at home, whether about questions of faith, academic and career decisions,
13 relationships, or anything else. For some transgender or gender non-conforming students, TVUSD's
14 policy presents an impossible decision—suppressing their authentic selves or placing themselves at
15 potential serious risk of physical, social, and emotional harm. Either decision has immediate and
16 irreparable harms, not just for the student's health and well-being, but also for the bonds of trust that
17 make up a school community.

18 CONCLUSION

19 When LGBTQ+ young people feel safe to come out on their own terms and can be their
20 authentic selves, they are significantly more likely to thrive socially, emotionally, and academically.

21 ³⁶ Rocklin Unified School Board, *supra*, at 1:54:46.

22 ³⁷ The policy states that "[n]othing in this policy affects the obligations of the District's employees,
23 administrators, and certificated staff as mandated reporters under" sections 11164-11174.3 of the Penal
24 Code and other applicable law. Thus, on its face, it appears to instruct TVUSD personnel to contact
25 parents as well as Child Protective Services. Moreover, it is unclear what standard of proof TVUSD
26 expects students to meet, as to the extent and nature of their fear or expectation of abuse, in order to
27 trigger CPS notification—which, as described *infra*, may well make matters worse.

28 ³⁸ Harvey et al., *Reimagining Schools' Role Outside of the Family Regulation System* (2021) 11
Columbia Journal Race & Law 575
https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=4606&context=faculty_scholarship (as
of Dec. 13, 2023).

³⁹ Baams et al., *LGBTQ Youth in Unstable Housing and Foster Care* (2019) 143 Pediatrics
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6398424/> (as of Dec. 13, 2023).

1 Research shows many ways that school districts can create such a positive school climate, including
2 adopting robust antidiscrimination policies, training for educators and staff, teaching inclusive curricula,
3 and empowering students to create clubs and other spaces on campus where they can be themselves.
4 TVUSD's policy does the opposite; it sends a message to the entire school community that certain
5 gender identities are dangerous and must be suppressed. Allowing it to go into effect would cause
6 irreparable harm to transgender and gender non-conforming students and to the broader school
7 community. For these reasons, we ask that the Court grant Plaintiffs' motion for preliminary injunction.

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9 Date: December 14, 2023

Respectfully submitted,

10 ACLU FOUNDATION OF SOUTHERN
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