



**VIA ELECTRONIC & U.S. MAIL**

Dr. Marlon D. King, Superintendent  
Haywood County Schools  
900 East Main Street  
Brownsville, Tennessee 38012



March 1, 2012

Dear Dr. King:

We write, on behalf of several students and families, to notify the District of deeply troubling religious and anti-gay remarks allegedly made to students by the principal of Haywood High School. Multiple students have contacted our offices to report that, during a February 9, 2012, senior assembly Principal Dorothy Bond declared that gay people are “going to a bad place” and are “not on God’s path,” that homosexuality would not be “tolerated” or “allowed” at Haywood High School, and that any students observed displaying affection for members of the same sex at school would be punished with a 60-day suspension, assignment to an alternative school, and/or expulsion. We have also received reports that she made similar remarks to a junior assembly on the same day. Earlier in the year, Principal Bond singled out a lesbian student and told her she was going to “hell” because of her sexual orientation. We understand that these remarks may be part of broader patterns of official anti-gay remarks and policies and of proselytizing and prayer during school events. We further understand that, during the same assembly, Principal Bond subsequently dismissed all male students and then criticized teenage mothers—including singling out a particular student she knew to be pregnant—predicting that they would end up “jobless, homeless, and living off the government.” These allegations, if substantiated, detail serious violations of students’ constitutional and statutory rights and create a hostile and unsafe environment for gay, lesbian, and bisexual students, students of minority faiths or no faith at all, and pregnant or parenting students.

**I. Violations of Students’ First Amendment Expressive and Associational Rights**

Unfortunately, the February 9 assembly was not the first time that Principal Bond has made inappropriate, anti-gay remarks to students. For

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION  
OF TENNESSEE

P. O. BOX 120160  
NASHVILLE, TN 37212

Phone: [615] 320-7142  
www.aclu-tn.org

example, after one student was accused of publicly displaying affection for her girlfriend, Principal Bond called that student into her office and informed her that she “needs to stop,” that being gay “isn’t the right choice,” and that she would end up “going to hell” because of her sexual orientation. Moreover, we understand that Principal Bond may have interfered with the establishment of a Gay-Straight Alliance student organization and has indicated that students in same-sex relationships may be barred from attending the school prom as couples. These incidents and actions violate Haywood High School students’ constitutionally protected rights of free expression, speech, and association.

Students’ rights under the First Amendment to the U.S. Constitution, as well as Article I, section 19 of the Tennessee Constitution, extend to the expression of controversial or unpopular viewpoints at school. *See, e.g., Tinker v. Des Moines Ind. Cmty. Sch. Dist.*, 393 U.S. 503, 507-14 (1969) (upholding students’ right to wear armbands in protest of Vietnam War); *Burnside v. Byars*, 363 F.2d 744 (5th Cir. 1966) (students’ wearing of “freedom buttons” in protest of racial segregation was a protected form of expression). In particular, students have the right to express pro-gay sentiments at school. *See, e.g., Gillman ex rel. Gillman v. Sch. Bd. for Holmes Cnty.*, 567 F. Supp. 2d 1359 (N.D. Fla. 2008) (rejecting principal’s attempt to censor high school students’ wearing of pro-gay slogans as a violation of free speech rights); *see also Boyd Cnty. High Sch. Gay Straight Alliance v. Bd. of Educ.*, 258 F. Supp. 2d 667, 690 (E.D. Ky. 2003) and *Colin ex rel. Colin v. Orange Cnty. Unified Sch. Dist.*, 83 F.Supp. 1135, 1149 (C.D. Cal. 2000) (school administrators’ discomfort with sexual orientation as a discussion topic could not justify censoring Gay-Straight Alliances).

In addition, students have a right to free speech regarding their own sexual orientation. *See, e.g., Henkle v. Gregory*, 150 F.Supp.2d 1067, 1074-76 (D. Nev. 2001) (student stated valid First Amendment claim where school officials had taken adverse action against him for being openly gay); *McLaughlin v. Bd. of Educ. of Pulaski Cnty.*, 296 F.Supp.2d 960, 963-64 (E.D. Ark. 2003). Principal Bond’s reported remarks linking homosexuality to religious condemnation and threatening severe, educationally disruptive punishment create an impermissible chilling effect on students’ exercise of these First Amendment rights. *See, e.g., Gibson v. Fla. Legislative Investigation Comm’n*, 372 U.S. 539, 557 (1963) (noting that “the deterrent and ‘chilling’ effect on the constitutionally enshrined rights of free speech, expression, and association” is particularly “immediate and substantial” where “the challenged privacy is that of persons

expressing beliefs already unpopular with their neighbors”); *Wieman v. Updegraff*, 344 U.S. 183, 195 (1952) (Frankfurter, J., concurring) (“Such unwarranted inhibition . . . has an unmistakable tendency to chill that free play of the spirit which [is particularly important in an educational context]”). For example, as a result of Principal Bond’s alleged comments, students may be deterred from expressing pro-gay political views at school or identifying themselves at school as gay, lesbian, bisexual, or questioning, or as being in a same-sex dating relationship.

The First Amendment also requires public schools to allow students to bring same-sex dates to school functions, such as prom. *See, e.g., Fricke v. Lynch*, 491 F. Supp. 381, 385-86 (D.R.I. 1980) (gay student had First Amendment right to bring male date to prom). Both the First Amendment and the federal Equal Access Act protect students’ right to form extracurricular clubs, including Gay-Straight Alliances and similar groups. *See, e.g., Straights & Gays for Equality v. Osseo Area Sch. Dist. No. 279*, 540 F.3d 911 (8th Cir. 2008); *Boyd Cnty.*, 258 F. Supp. 2d at 667 (E.D. Ky. 2003). To the extent that Haywood High School has adopted contradictory policies, they must be reversed.

## **II. Violations of Students’ Equal Protection and Privacy Rights Regarding Sexual Orientation**

Principal Bond’s alleged threat to severely punish students for expressions of same-sex affection also runs counter to the school’s own published disciplinary policy and represents an unconstitutional, dangerous attempt by the principal to base student discipline on her personal beliefs in violation of students’ equal protection and privacy rights.

Public displays of affection among teenagers of any sexual orientation can, of course, become disruptive at school, and school administrators may appropriately restrict such displays. However, Haywood High School has already adopted a policy on such displays, as shown in its Student Handbook for the 2011-2012 school year. The handbook states, in a section on page 13 titled “Acceptable Student Behavior”: “There will be no hugging, close physical contact, or kissing allowed between students at school.” On the following page, the School-Wide Positive Behavior Support Flow Chart shows “Physical Contact” as a “Minor” behavior issue to be “Classroom Managed.” The school’s existing policy of prohibiting *all* student public displays of affection, regardless of the sex

of those involved, illustrates that Principal Bond's alleged threat was rooted in her personal negative feelings toward gay, lesbian, and bisexual students rather than a need to promote order at school. Similarly, Principal Bond's alleged threat to subject students expressing same-sex affection to suspension, alternative school placement, and/or expulsion – each of which would have significant adverse impacts on a student's academic progress and prospects – contravenes the school's previously stated classification of such behavior as “minor” and lacks any nondiscriminatory justification. Governmental actions of this nature, based solely on animus toward gay and lesbian people, plainly violate the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. See *Romer v. Evans*, 517 U.S. 620, 632 (1996); *Scarborough v. Morgan Cnty. Bd. of Educ.*, 470 F.3d 250, 261 (6th Cir. 2006); *Stemler v. City of Florence*, 126 F.3d 856, 873-74 (6th Cir. 1997); *C.N. v. Wolf*, 410 F. Supp. 2d 894, 903 (C.D. Cal. 2005) (student stated a valid Equal Protection claim by alleging that principal had, among other things, suspended her for same-sex kiss at school).

In addition, any threat to punish severely those students observed engaging in same-sex affection raises serious concerns regarding students' privacy and safety. Treating same-sex displays of affection as a distinct, more serious offense would entail notifying parents that a student had engaged in this specific behavior, and thus involuntarily disclosing information about a student's sexual orientation to his or her parents. Although many families are immediately supportive upon learning that a young person is gay, others are not, and teenagers' apprehension of potential family reactions can cause grievous harm on its own. See, e.g., *Sterling v. Borough of Minersville*, 232 F.3d 190, 196 (3d Cir. 2000) (when police threatened to inform teenager's family he was gay, he committed suicide); Hyde, J., “From Home to Street: Understanding Young People's Transitions Into Homelessness,” 28 *J. of Adolescence* 171, 175 (2005). Because information about their sexual orientation is so personal and sensitive, students have the right to control how, and with whom, they share it. See *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977) (constitutional right to privacy encompasses an individual's interest in avoiding disclosure of highly personal information); *Sterling*, 232 F.3d at 196 (“It is difficult to imagine a more private matter than one's sexuality and a less likely probability that the government would have a legitimate interest in disclosure of sexual identity”); *Bloch v. Ribar*, 156 F.3d 673, 685 (6th Cir. 1998) (“Sexuality and choices about sex . . . are interests of an intimate nature which define significant portions of our personhood . . . [and] an

aspect of our lives that we regard as highly personal and private . . .”); *see also Wolf*, 410 F. Supp. at 903 (student who had kissed another girl at school could pursue claim against principal for informing her mother that she was a lesbian). Disclosure of students’ sexual orientation to parents in connection with imposing disparate disciplinary action would violate that right.

### **III. Violations of Equal Protection and Title IX Based on Sex, Pregnancy, and Parenting Status**

Under Title IX of the Education Amendments of 1972, education programs and activities in receipt of federal funds are prohibited from discriminating against students, including subjecting them to harassment or excluding them from educational opportunities, on the basis of sex. 29 U.S.C. § 1681. This prohibition extends to discrimination on the basis of sex stereotyping and pregnancy. *See* 34 C.F.R. § 106.40; *Montgomery v. Indep. Sch. Dist.*, 109 F. Supp. 2d 1081, 1092 (D. Minn. 2003). Moreover, under the Constitutional guarantee of equal protection, state actors may not discriminate on the basis of sex without an “exceedingly persuasive justification” demonstrating that the sex discrimination is substantially related to an important governmental interest. *See United States v. Virginia*, 518 U.S. 515 (1996). This constitutional guarantee prohibits public education institutions from acting based on “overbroad stereotypes” about men and women, *Virginia*, 518 U.S. at 533, and extends to discrimination on the basis of pregnancy “designed to effect an invidious discrimination against the members of one sex or the other.” *Geduldig v. Aiello*, 417 U.S. 484, 496-97 & n.20 (1974).

Under Title IX, public schools must respond appropriately to incidents of sexual harassment of students, and have an obligation to create a safe environment that eliminates “verbal, nonverbal or physical aggression, intimidation or hostility” against students on the basis of sex or sex stereotypes, which may include targeting of students perceived to be gay. *See* Russlyn Ali, Asst. Sec’y for Civil Rights, U.S. Dep’t of Educ., “Dear Colleague Letter: Harassment and Bullying” (Oct. 26, 2010). Recent events across the country, including a rash of suicides by bullied gay and lesbian teens, make clear just how important these protections are.

In this instance, Principal Bond’s reported remarks themselves arguably create the type of hostile environment that substantially interferes with students’

educational opportunities and is thus prohibited by Title IX. These remarks sent several pernicious messages to students: that harassment, bullying, and targeting of their gay and lesbian peers are not only acceptable, but encouraged, and that LGBT students and pregnant and parenting students alike are unwelcome in the school. Furthermore, Principal Bond's statements were based on sex stereotypes that women and girls who become pregnant will be uninterested in or unable to complete their education. These comments also further the sex stereotypes that the proper place for women and girls is at home with their children rather than pursuing their education or careers, and that pregnancy sets a "bad example" for other students—i.e. that pregnant students have transgressed acceptable norms of feminine behavior by engaging in sexual activity and should be publicly shamed, made an example of, and punished for their behavior. Such comments by school administrators or officials could substantially interfere with students' ability to participate in or benefit from the services, activities, or opportunities offered by the school, and thus may rise to the level of prohibited harassment under Title IX.

Targeting female students – but not male students who might have engaged in sexual activity or fathered children – with negative messages about teen pregnancy and parenthood also raises serious concerns under both Title IX and the Equal Protection Clause. As discussed above, the principal's reported statements were rooted in overbroad sex stereotypes about the proper role and behavior of young women. It is difficult to imagine how singling out female students for this message was related in any way to furthering any important governmental interest. Moreover, allegedly directing those comments to an individual student who was known to be pregnant subjected that student to public humiliation based on her sex and her pregnancy, and may have violated her right to informational privacy. *See Gruenke v. Seip*, 225 F.3d 290 (3d Cir. 2000). Should further evidence come to light that students have been otherwise targeted for disparate treatment or disciplinary action based on their perceived sexual orientation or their pregnancy and parenting status, these actions would likewise violate Title IX and the Constitution. *See* 34 C.F.R. § 106.40; *see, e.g., Chipman v. Grant Cnty Sch. Dist.*, 30 F. Supp. 2d 975 (E.D. Ky. 1998) (granting preliminary injunction to student excluded from National Honor Society based on likelihood of success on the merits of Title IX pregnancy discrimination claim); *Pfeiffer v. Marion Ctr. Area Sch. Dist.*, 917 F.2d 779 (3d Cir. 1990) (recognizing that student's exclusion from National Honor Society could have constituted

unlawful sex discrimination under Title IX and remanding case for determination of whether sexually active male students had been similarly treated).

#### **IV. Violations of Students' Establishment Clause Rights**

Finally, we understand that the February 9 incident, during which Principal Bond reportedly referenced her personal religious beliefs, was not the first time that she has proselytized students. We are informed that she has used the school's public address system to tell all students to "remember Jesus and the sacrifice He made." We also understand that school officials incorporate prayer and religious messages into other school events. Earlier this school year, for example, Principal Bond gathered all students in the cafeteria and led a prayer after a serious car accident impacted the school community. Students who did not bow their heads to take part in the prayer were scolded by administrators and threatened with disciplinary action. Official prayers also have been included in sporting events, graduation ceremonies, and other school activities. Most recently, we understand that the Beta Club induction ceremony included a religious devotional. In addition, it appears that members of Teen Advisors, a Haywood High student club, are permitted to visit District middle and elementary school classrooms, where they give presentations that often contain religious messages.

These activities indicate a broad policy and practice by Haywood High School officials of sponsoring prayer and proselytizing in violation of the Establishment Clause of the First Amendment to the U.S. Constitution. As the Supreme Court has explained, because students are especially impressionable and their attendance is involuntary, "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools." *Lee v. Weisman*, 505 U.S. 577, 592 (1992). Thus, the federal courts "have been particularly vigilant in monitoring compliance with the Establishment Clause" in the public school context. *Edwards v. Aguillard*, 482 U.S. 578, 583 (1987). Accordingly, "[s]chool sponsorship of a religious message is impermissible." *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309 (2000) (prohibiting official, student-led prayer at football games). Specifically, public schools may not incorporate prayer and proselytizing into classes or other official school events and activities. *See, e.g., id.*; *Lee v. Weisman*, 505 U.S. 577, 586 (1992) (holding that clergy's invocation at graduation ceremony violated Establishment Clause); *Engel v. Vitale*, 370 U.S. 421, 436 (1962) (barring public

schools from holding daily prayer recitations); *Sch. Dist. v. Schempp*, 374 U.S. 203, 226-27 (1963) (invalidating state rules providing for Bible reading or prayer in public schools).

**V. Request for Investigation and Response**

These serious allegations demand immediate investigation and action by the District. In order to adequately address the alleged constitutional violations detailed above, we believe that the District must, at a minimum, take the following steps:

- 1) Clarify, in writing, to all Haywood High School students that (a) students engaging in displays of affection for members of the same sex will not be subjected to suspension, assignment to another school, or expulsion; and (b) student displays of affection toward members of the same sex are subject to the same policies, rules, and treatment as all other displays of affection.
- 2) Clarify, in writing, to all Haywood High School students that school policy permits them to engage in constitutionally protected conduct without fear of punishment or retaliation, including (a) speech or expression identifying themselves as gay, lesbian, or bisexual; (b) speech or expression acknowledging that two students of the same sex are dating; and (c) speech or expression in support of gay-related political or social viewpoints.
- 3) Clarify, in writing, to all Haywood High School students that (consistent with federal law) the school will not tolerate “verbal, nonverbal or physical aggression, intimidation or hostility” against students on the basis of sex or sex stereotypes, which may include the targeting of students perceived to be gay and the targeting of pregnant or parenting students.
- 4) Clarify, in writing, to all Haywood High School students that pregnant and parenting students have a federally guaranteed right to be free from discrimination on account of their pregnancy (including false pregnancy, childbirth, termination of pregnancy, or recovery therefrom); that school officials may not exclude students from school, including classes or other programs or activities, due



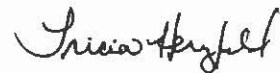
to pregnancy; that school officials may not pressure students to drop out of school or enroll in alternative education due to pregnancy; that school officials have an obligation to accommodate students' requests for time off from school for medical reasons, including time off from school to obtain prenatal care, on the same basis as they accommodate absences necessitated by other temporary disabilities; and that students have a right to necessary medical leave related to pregnancy, childbirth and recovery therefrom for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student must be reinstated to the status she held when the leave began.

- 4) Issue an apology, in writing, to all students from Principal Bond, acknowledging that her remarks were inappropriate and not representative of school policy, and recognizing that lesbian, gay, and bisexual students, as well as pregnant and parenting students, are entitled to the same protections as all other students and are welcome at Haywood High School.
- 5) Cease all unconstitutional promotions of religion, including officially sponsored prayer and proselytizing during classes, assemblies, graduations, awards ceremonies, and other school events.

All students, regardless of gender, sexual orientation, or faith, should feel safe and welcome in Tennessee's public schools. We are hopeful that the District agrees with this basic principle of equality and that this matter can be resolved amicably.

Please let us know, in writing, no later than the close of business on March 9, 2012, what specific steps you plan to take to address these matters. In the meantime, to further our investigation of these allegations and assist us in determining whether we must take additional action to protect students' statutory and constitutional rights, please provide the public records in the attached request, pursuant to the Tennessee Open Records Act. Should you wish to discuss this matter further, please do not hesitate to contact Tricia Herzfeld at (615) 320-7142 or [tricia@aclu-tn.org](mailto:tricia@aclu-tn.org).

Respectfully,

A handwritten signature in black ink that reads "Tricia Herzfeld". The signature is written in a cursive style with a large initial "T".

Tricia Herzfeld  
Legal Director  
ACLU of Tennessee

Amanda C. Goad  
Staff Attorney  
ACLU LGBT Project

Heather L. Weaver  
Staff Attorney  
ACLU Program on Freedom of Religion and  
Belief

Galen Sherwin  
Staff Attorney  
ACLU Women's Rights Project



March 1, 2012

VIA ELECTRONIC AND CERTIFIED U.S. MAIL

Dr. Marlon D. King  
Superintendent  
Haywood County Schools  
900 East Main Street  
Brownsville, TN 38012  
[REDACTED]

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LIBERTIES UNION  
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OF TENNESSEE

P. O. BOX 120160  
NASHVILLE, TN 37212

Phone: (615) 320-7142  
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Dear Dr. King,

I request access to, and a copy of, public records in your possession, custody, or control, pursuant to the Tennessee Public Records Act, T.C.A. § 10-7-503(a). This gives me, as a citizen and resident of the State of Tennessee, the right to prompt access to public records for the purposes of inspection and copying.

I request access to and copies of any and all records, including emails, relating to:

1. All records referring or relating to the February 9, 2012, Haywood High School senior assembly described in our accompanying letter, as well as to all assemblies of the freshman, sophomore, and junior classes held on February 9, 2012. This request includes, but is not limited to, all communications sent to or from school officials and all complaints or other objections – whether made by school officials, students, parents, community members, or any other person or group – regarding the February 9 assemblies.
2. All records referring or relating to any school event during which Principal Bond, other school officials, or invited guests discussed the topic of lesbian, gay, bisexual, or transgender people. This request includes, but is not limited to all communications sent to or from school officials and all complaints or other objections – whether made by school officials, students, parents, community

members, or any other person or group – regarding the discussion and/or event.

3. All audio and/or video recordings of the February 9, 2012, senior assembly described in our accompanying letter, and of any other class assemblies held on February 9.
4. All audio and/or video recordings of any school event during which Principal Bond, other school officials, or invited guests discussed the topic of lesbian, gay, bisexual, or transgender people.
5. All informal and/or formal school policies, rules, or guidelines governing, referring to, or relating to student displays of affection.
6. All informal and/or formal school policies, rules, or guidelines specifically governing, referring to, or relating to lesbian, gay, bisexual, or transgender students.
7. All records referring or relating to potential or actual harassment of or discrimination against lesbian, gay, bisexual, or transgender students at the School.
8. All informal and/or informal policies, rules, or guidelines specifically governing, referring to, or relating to student guests, dates, or other companions permitted to attend school events.
9. All records reflecting, referring to, or relating to any formal or informal decision to prohibit a student, guest, date, or other companion from attending a school event, or to limit any individual's participation in a school event, on the basis of the student's, guest's, or other individual's gender or sexual orientation.
10. All records referring or relating to any past or current request or application to form a gay-straight alliance club or any other student club at the school relating to the topics of sexual orientation and/or gender identity and expression.
11. All records referring or relating to any school event during which Principal Bond, other school officials, or invited guests discussed the topic of student pregnancy, expectant or parenting students, student reproductive health, and/or student sexual health and practices. This request includes, but is not limited to all communications sent to or from school officials and all complaints or other objections – whether made by school officials, students,

parents, community members, or any other person or group – regarding the discussion and/or event.

12. All audio and/or video recordings of any Haywood High School event during which Principal Bond, other school officials, or invited guests discussed the topic of student pregnancy, expectant or parenting students, student reproductive health, and/or student sexual health and practices.
13. All informal and/or formal policies, rules, or guidelines governing, referring to, or relating to student pregnancy, expectant or parenting students, student reproductive health, and/or student sexual health and practices.
14. All records referring or relating to any school grievance procedures related to student or parent complaints of discrimination or harassment on the basis of sex, pregnancy, parental status, sexual orientation, gender identity and expression, or religion.
15. All records referring or relating to complaints filed by Haywood High School parents or students of discrimination or harassment on the basis of sex, pregnancy, parental status, sexual orientation, gender identity and expression, or religion.
16. Any records, including policies adopted or proposed or internal memoranda, governing student requests for time off from school:
  - a. to attend pre- and post-natal doctor's visits;
  - b. for medical leave during pregnancy and/or delivery and following childbirth;
  - c. for parental leave following childbirth or time off related to child care responsibilities;
  - d. to attend pediatric or other medical appointments for their children;
  - e. for any other absence related to pregnancy, childbirth, or child care responsibilities.
17. Any records, including policies adopted or proposed or internal memoranda, governing Haywood High School student requests for home-instruction, tutoring, or other supplemental instruction relating to class time or coursework missed due to pregnancy, childbirth, or child care responsibilities.
18. Any records related to programs or services, whether offered directly by school district personnel or by third-party organizations, groups, individuals, or entities, and including

alternative schools, to which pregnant, expectant or parenting students are referred, including documentation of such referrals.

19. Any records reflecting drop-out rates and graduation rates of students known by Haywood High School officials to be pregnant, expectant and/or parenting.
20. All records referring to, relating to, or reflecting the inclusion of prayer, proselytizing, or other religious content and messages during past or planned school events. This request includes, but is not limited to, all communications sent to and from school officials and all complaints and objections – whether made by school officials, students, parents, community members, or any other person or group – regarding prayer, proselytizing, or other religious content and activities during school events. This request also includes, but is not limited to agendas, minutes, programs, and itineraries reflecting the incorporation of prayer or other religious content into school events.
21. All records referring or relating to the Teen Advisors club and performances, skits, or other presentations given to students at Haywood High School or any other Haywood County school.
22. All audio and/or video recordings of any school event featuring proselytizing, prayer, or any other religious content or activity
23. All informal and/or formal policies, rules, or guidelines governing, referring to, or relating religion.

In the above request, the term “school” means Haywood High School, and the term “school officials” includes administrators, teachers, agents, officers, employees, representatives, servants, attorneys or anyone acting on behalf of Haywood High School.

The phrase “school event” includes, but is not limited to, Haywood High School’s classes and school-sponsored events, meetings, and activities that take place before, during, and after school hours, such as assemblies, athletic events, graduation ceremonies, awards ceremonies, student club activities, dances, etc.

The term “documents” includes all email correspondence, which should be produced in electronic form where possible.

Please provide all documents responsive to these requests that have been generated since August 2006.

As used in this request, the term "records" includes but is not limited to all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, information stored or maintained electronically or other material, regardless of physical form or characteristics or any copy thereof. Please note that the term "record" refers to those items in your possession, custody, or control, or those items which were, but are no longer, in your possession, custody, or control.

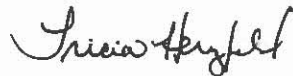
If you claim that any document or portion thereof is exempt from inspection under T.C.A. § 10-7-504, or any other statute or judicial decision, as to each document or portion you claim to be exempt, please state the basis for the exemption, and identify the document or portion by date; by sender, recipient, or author; and by a description of the contents sufficiently detailed to enable an independent evaluation of the exemption.

If any record is otherwise withheld for any reason, please indicate the type of record withheld, the title or style of the record, the length or size of the record, the author of the record, a description of the subject matter of the record, the file(s) where the record (or copies thereof) may be located, and the reason(s) the record is being withheld.

Pursuant to state law, I request a copy of these public records be forwarded to the address indicated on this letter within seven (7) days. If you anticipate that the completion of this request will take longer to complete, please contact me with an anticipated time for completion of this request.

I agree to pay reasonable copying and postage fees up to \$100.00. Please notify me if the fees associated with filling this request will exceed this amount before completing the request.

Sincerely,



Tricia Herzfeld  
Legal Director

cc: Samuel L. Jackson, Esq.



March 1, 2012

VIA ELECTRONIC AND CERTIFIED U.S. MAIL

Dr. Marlon D. King, Superintendent  
Haywood County Schools  
900 East Main Street  
Brownsville, Tennessee 38012



AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION  
OF TENNESSEE

P. O. BOX 120160  
NASHVILLE, TN 37212

Phone: (615) 320-7142  
www.aclu-tn.org

Dear Dr. King:

This letter provides you with notice that you have an affirmative obligation to appropriately preserve and retain any information and/or physical evidence that may be relevant to the following issues:

1. Any assemblies held at Haywood High School February 6-12, 2012.
2. Any school event during which Principal Bond, other school officials, or invited guests discussed the topic of lesbian, gay, bisexual, or transgender people, including but not limited to, all communications sent to or from school officials and all complaints or other objections – whether made by school officials, students, parents, community members, or any other person or group – regarding the discussion and/or event at any Haywood County School.
3. All informal and/or formal school policies, rules, or guidelines governing, referring to, or relating to student displays of affection.
6. All informal and/or formal school policies, rules, or guidelines specifically governing, referring to, or relating to lesbian, gay, bisexual, or transgender students.
7. Potential or actual harassment of discrimination against lesbian, gay, bisexual, or transgender students at Haywood County Schools.
8. Any formal and/or informal policies, rules, or guidelines specifically governing, referring to, or relating to student guests, dates, or other companions permitted to attend school events.



9. Any formal or informal decision to prohibit a student, guest, date, or other companion from attending a school event, or to limit any individual's participation in a school event, on the basis of the student's, guest's, or other individual's gender or sexual orientation.
10. Any past or current request or application to form a gay-straight alliance club or any other student club at the school relating to the topics of sexual orientation and/or gender identity and expression.
11. Any school event during which Principal Bond, other school officials, or invited guests discussed the topic of student pregnancy, expectant or parenting students, student reproductive health, and/or student sexual health and practices, including but not limited to, all communications sent to or from school officials and all complaints or other objections – whether made by school officials, students, parents, community members, or any other person or group – regarding the discussion and/or event.
12. All audio and/or video recordings of any Haywood County School events during which Principal Bond, other school officials, or invited guests discussed the topic of student pregnancy, expectant or parenting students, student reproductive health, and/or student sexual health and practices.
13. Any informal and/or formal policies, rules, or guidelines governing, referring to, or relating to student pregnancy, expectant or parenting students, student reproductive health, and/or student sexual health and practices.
14. Any school grievance procedures related to student or parent complaints of discrimination or harassment on the basis of sex, pregnancy, parental status, sexual orientation, gender identity and expression, or religion.
15. Complaints filed by School parents or students of discrimination or harassment on the basis of sex, pregnancy, parental status, sexual orientation, gender identity and expression, or religion.
16. Any policies adopted or proposed or internal memoranda, governing student requests for time off from school:
  - a. to attend pre- and post-natal doctor's visits;
  - b. for medical leave during pregnancy and/or delivery and following childbirth;

- c. for parental leave following childbirth or time off related to child care responsibilities;
  - d. to attend pediatric or other medical appointments for their children;
  - e. for any other absence related to pregnancy, childbirth, or child care responsibilities.
17. Any policies adopted or proposed or internal memoranda, governing Haywood County Schools student requests for home-instruction, tutoring, or other supplemental instruction relating to class time or coursework missed due to pregnancy, childbirth, or child care responsibilities.
18. Any programs or services, whether offered directly by school district personnel or by third-party organizations, groups, individuals, or entities, and including alternative schools, to which pregnant, expectant or parenting students are referred, including documentation of such referrals.
19. Any records reflecting drop-out rates and graduation rates of students known by Haywood County Schools officials to be pregnant, expectant and/or parenting.
20. All records referring to, relating to, or reflecting the inclusion of prayer, proselytizing, or other religious content and messages during past or planned school events, including but not limited to all communications sent to and from school officials and all complaints and objections – whether made by school officials, students, parents, community members, or any other person or group – regarding prayer, proselytizing, or other religious content and activities during school events. This request also includes, but is not limited to, agendas, minutes, programs, and itineraries reflecting the incorporation of prayer or other religious content into school events.
21. Any Teen Advisors club and performances, skits, or other presentations given to students at Haywood High School or any other Haywood County school.
22. Any audio and/or video recordings of any school event featuring proselytizing, prayer, or any other religious content or activity.
23. Any informal and/or formal policies, rules, or guidelines governing, referring to, or relating religion.

The potentially relevant information is expected to include documents and/or electronically stored information (ESI) as defined by the Federal Rules of Civil Procedure. We therefore demand that you, including third parties and past employees, preserve and do not delete, discard, or otherwise destroy original and all copies of documents, ESI or tangible materials. This includes computers and devices in your possession, under the control of your company, your employees or agents. If any items covered above are not in your possession or control, please notify the current custodian of their duty to preserve information.

Although it is your responsibility to identify and appropriately preserve and retain all relevant information, we have specifically identified these items, among others, as having a particularized likelihood of containing discoverable information about the above referenced topics.

1. Any computers or other devices used by any Haywood Schools employees, agents, volunteers or contractors including any external components. Please determine if any computers and/or devices may have been used to transmit, store or otherwise convey data and take appropriate measures to preserve.
2. All emails actually or apparently sent to and from the account of any Haywood Schools employees, agents, volunteers or contractors, including personal accounts used for school purposes.
3. All electronic files pertaining to the above referenced topics.
4. Any databases related to the above referenced topics.
5. Other related materials. Appropriate preservation and retention of electronic information requires that the information be stored in the state and format that it currently exists. Copying or other manipulation could modify relevant information potentially resulting in evidence spoliation.

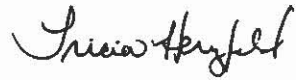
For computers and other devices (including portable and home systems) identified you need to act to prevent modification, destruction or concealment of ESI due to deleting files, overwriting files, using data shredding and erasure applications, defragmenting, reimaging, encrypting, compressing or physical damage. Data may need to be preserved by immediate acquisition, authentication and preservation of data (forensically qualified image). **Be advised that the data not acquired in a forensically qualified method may be challenged. Simply booting a drive, examining its contents or running any application will**

**irretrievably alter the evidence it contains and may constitute unlawful spoliation of evidence.**

Please suspend any policies or protocols that may lead to any destruction of ESI. Notify any and all employees in possession of discoverable material. Disregarding these obligations may be considered spoliation of evidence.

If you have any questions feel free to contact me at [tricia@aclu-tn.org](mailto:tricia@aclu-tn.org) or 615-320-7142.

Sincerely,

A handwritten signature in cursive script that reads "Tricia Herzfeld".

Tricia Herzfeld  
Legal Director