



December 20, 2007

*Via facsimile and first class mail*

Principal Lynn F. Briley  
I.C. Norcom High School  
1801 London Boulevard  
Portsmouth, VA 23704  
Phone: (757) 393-5442  
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Dear Principal Briley:

We have been contacted by Bethany Laccone, a student who attends I.C. Norcom High School for a hotel management class. Bethany has informed us that Assistant Principal [REDACTED] and her teacher, [REDACTED], have prohibited her from wearing a t-shirt that has two female gender symbols with the word "Pride" underneath them. I write so that we can work to resolve this matter quickly.

It is our understanding that on or about December 10, 2007, Assistant Principal [REDACTED] and Ms. [REDACTED] informed Bethany that she could not wear her t-shirt because it was "bluntly salacious," or something to that effect. Bethany was given the unlawful choice that day of either hiding her shirt under a jacket, turning it inside out, or being subject to suspension from school.

We believe that this censorship as described by Bethany raises very grave free speech concerns. As you should be aware, two interlocking female symbols is a well-known and historic signifier of lesbian pride and female solidarity. Accordingly, the t-shirt worn by Bethany intended to convey a particularized, political message that lesbian identity should be celebrated and is a source of pride.

Students have a right to political speech, including expression of their sexual orientation, unless school officials can demonstrate that the forbidden conduct would "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school." *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 513 (1969), *reaffirmed by Morse v. Frederick*, 127 S.Ct. 2618, 2626 (2007). The "urgent wish to avoid the controversy which might result from the expression" is not sufficient to overcome a student's right to freedom of expression. *Tinker* at 510-11.

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
LESBIAN GAY BISEXUAL  
TRANSGENDER &  
AIDS PROJECT

PLEASE RESPOND TO:  
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TREASURER

Courts have upheld the rights of students to wear clothing that conveys a message that others deem controversial. *See Castorina v Madison County School Board*, 246 F. 3d 536 (6th Cir. 2001) (t-shirt depicting confederate flag); *Chambers v Babbitt*, 145 F. Supp. 2d 1068 (D. Minn. 2001) (sweatshirt emblazoned with message "Straight Pride"); *Barber v Dearborn Public Schools*, 286 F. Supp. 2d 847 (E.D. Mich. 2003) (t-shirt with picture of President Bush with caption "International Terrorist"). Similarly, courts have upheld the rights of gay and lesbian students to be openly gay and to express their sexual orientation at school. *See Henkle v. Gregory*, 150 F. Supp. 2d 1067, 1076 (D. Nev. 2001); *Fricke v. Lynch*, 491 F. Supp. 381, 385 (D.R.I. 1980).

We are unaware of any substantial or material disruption resulting from the wearing of the t-shirt at Norcom High. In fact, prior to Assistant Principal [REDACTED]'s and Ms. [REDACTED]'s censorship, Bethany had worn the t-shirt at Norcom High, and at her full-time high school, Woodrow Wilson High, on many occasions without any resulting disruption. The only disruptions seem to be a result of the administration's actions.

To the extent that you believe that the t-shirt may be censored under school policy that prohibits clothing with "salacious" messages, you are mistaken. The Merriam-Webster dictionary defines "salacious," as "arousing or appealing to sexual desire or imagination: lascivious," or "lecherous, lustful." Under no reasonable interpretation of the symbols is the t-shirt salacious. There is nothing inherently sexual or lustful about a t-shirt that depicts historic symbols of lesbian pride or of lesbian identity.

To resolve this matter, we ask you to do the following:

- 1) Reverse any disciplinary action that may have been taken against Bethany as a result of her wearing the t-shirt described above, including but not limited to removing any resulting disciplinary notices in her student file;
- 2) Provide written assurance that neither Bethany nor any other students will be punished solely for the expression of their political views on their t-shirts;
- 3) Provide written assurance that Bethany and other students will be able to wear t-shirts that celebrate their gay and lesbian sexual orientation or their support for gay and lesbian people or issues;
- 4) Add to the school policy a provision with makes it clear that students will not be punished for the expression of their political views unless the speech causes a *material* disruption of the school; and
- 5) Apologize to Bethany for Assistant Principal [REDACTED]'s and Ms. [REDACTED]'s characterization of Bethany's expression of her lesbian identity as salacious.

If there are reasons unknown to us that expressing one's gay or lesbian sexual orientation on clothing are causing a material disruption to the educational environment of the school, we would like to know what those reasons are. Please respond to this letter by **Friday, January 11, 2008**, so we will know whether we will have to pursue remedies in a different forum.

We can be reached at the telephone and facsimile numbers listed below.

Very Truly Yours,

ACLU FOUNDATION OF VIRGINIA    ACLU LGBT PROJECT

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