



September 26, 2007

BY FACSIMILE AND MAIL

Ann Gattis
Principal
Piedra Vista High School
5700 College Boulevard
P.O. Box 5850
Farmington, NM 87402
(505) 599-8880 (facsimile)

Re: Gay-Straight Alliance

Dear Ms. Gattis:

We at the ACLU of New Mexico read with great interest the article in yesterday's newspaper about a Gay-Straight Alliance (GSA) at Piedra Vista High School. Lindsay Whitehurst, "High School Club Hotly Debated," Daily Times (Sept. 25, 2007). We write to offer our support as you fulfill your legal obligation to permit the GSA to form.

From the article, we understand – and appreciate – that you are aware of your legal obligation to permit the GSA to form. As you know, the Equal Access Act, 20 U.S.C. § 4071, requires schools to treat all non-curricular clubs alike. *Board of Educ. of Westside Cmty. Schs., Dist. 66 v. Mergens ex rel. Mergens*, 496 U.S. 226 (1990). This is no less true with respect to GSAs. As one court stated:

The [school] may be uncomfortable about students discussing sexual orientation and how all students need to accept each other, whether gay or straight . . . [H]owever, . . . [the school] cannot censor the students' speech to avoid discussions on campus that cause them discomfort or represent an unpopular viewpoint. In order to comply with the Equal Access Act, . . . the Gay-Straight Alliance must be permitted access to the school campus in the same way that the [school] provides access to all clubs.

Colin ex rel. Colin v. Orange Unified Sch. Dist., 83 F. Supp. 2d 1135, 1149 (C.D. Cal. 2000). Numerous courts have reached the same conclusion. See *Straights and Gays for Equality v. Osseo Area Schs., Dist. No. 279*, 471 F.3d 908 (8th Cir. 2006); *Gay-Straight Alliance of Okeechobee High Sch. v. School Bd. of Okeechobee County*, 483 F. Supp. 2d 1224 (S.D. Fla. 2007); *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 School Gay Straight Alliance v. Board of Educ. of Boyd County*, 258

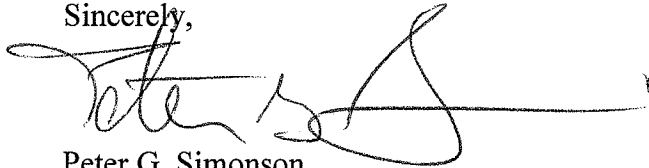
F. Supp. 2d 667 (E.D. Ky. 2003); *Franklin Cent. Gay/Straight Alliance v. Franklin Township Cmty. Sch. Corp.*, No. IP01-1518 C-M/S, 2002 WL 32097530 (S.D. Ind. Aug. 30, 2002); *East High Gay/Straight Alliance v. Board of Educ. of Salt Lake City Sch. Dist.*, 81 F. Supp. 2d 1166 (D. Utah 1999).

By acknowledging the right of the GSA to form, you are fulfilling your legal obligations and, more importantly, helping to create a safe environment in which all students have an equal opportunity to learn. Moreover, in fostering tolerance of and respect for all students, the GSA will reduce your risk of legal liability for student harassment based on actual or perceived sexual orientation or gender identity – the very type of student harassment that led to the formation of the GSA. *See Flores v. Morgan Hill Unified Sch. Dist.*, 324 F.3d 1130 (9th Cir. 2003); *Nabozny v. Podlesny*, 92 F.3d 446 (7th Cir. 1996) (same).

AMERICAN CIVIL
LIBERTIES UNION OF
NEW MEXICO

We commend you for fulfilling your legal obligation to permit the GSA to form. As you do so, please do not hesitate to contact us for support.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter G. Simonson", with a long horizontal flourish extending to the right.

Peter G. Simonson
Executive Director