

LEGAL DEPARTMENT  
LESBIAN GAY  
BISEXUAL  
TRANSGENDER &  
AIDS PROJECT



April 29, 2008

*Via first class mail, electronic mail, and facsimile*

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

PLEASE RESPOND TO  
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P.O. BOX 100160  
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NATIONAL OFFICE  
125 E. 60th Street, 15th Fl.  
New York, NY 10022-2400  
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OFFICERS AND DIRECTORS  
NADINE STROSSEN  
PRESIDENT

ANTHONY D. PUNERO  
EXECUTIVE DIRECTOR

RICHARD PACKS  
TREASURER

Dear Members of the Board of Commissioners:

This is a formal demand letter on behalf of Nicholas [REDACTED] (Nicolas) and his mother Nichole [REDACTED] and Andrew [REDACTED] (Andrew) and his mother Andrea [REDACTED]

Nicholas and Andrew attend Hollis F. Price Middle College High School. We are contacting you directly because our settlement discussions with the Office of General Counsel have failed.

This matter concerns the unauthorized compilation of student names for a "list" of couples, including "homo" couples, by Principal Daphne Beasley and her subsequent actions against Andrew and Nicholas. The account of Principal Beasley's surveillance and intrusion into the personal lives of the students at Hollis F. Price are not only highly disturbing but are violative of both state law and constitutional protections. Nicholas and Andrew, and their parents, have informed us that in the fall of last year, Principal Beasley demanded over the school intercom system that all of the teachers and staff at Hollis F. Price provide her with the names of all students who were a couple, "hetero or homo." It is our understanding that Principal Beasley then posted the names of all the alleged

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couples in her office and then used the list to call certain parents to share her personal beliefs and prejudices.

Specifically, we have been informed that during their telephone call about Nicholas's inclusion on the "list" as being part of a gay couple, Principal Beasley told Ms. [REDACTED] that she did not like homosexuals and found it hard to deal with homosexuality. Principal Beasley, according to Ms. [REDACTED]'s contemporaneous notes, then informed her that homosexuality would not be tolerated at Hollis F. Price and that she was glad she did not have any kids so she wouldn't have to deal with these kinds of problems. Principal Beasley also disclosed—by full name—the identity (Andrew [REDACTED]) of the student with whom Nicholas was in "a couple."

During our prior meetings with the Office of General Counsel and Assistant Superintendent Elsie Bailey, it was confirmed that Principal Beasley did in fact compile this list of student names and did in fact call certain parents—but not all—concerning the couples. The ostensible justification for compiling this list of names was Principal Beasley's alleged concern over "public displays of affection" (PDA) at school. Notably, when Ms. [REDACTED] asked Principal Beasley whether Nicholas or Andrew engaged in "public displays of affection" at school, Principal Beasley admitted that they had not. Nonetheless, Principal Beasley has arbitrarily prohibited them from walking together or studying together at school.

These actions violate Nicholas's and Andrew's legal and constitutional rights, including but not limited to the right to equal protection, the right to freedom of expression and association, right to due process, and student privacy rights. *See, e.g., Scarbrough v. Morgan County Bd. of Educ.*, 470 F.3d 250, 261 (6th Cir. 2006) (holding that government action based on ill-will against gays and lesbians violates equal protection); *Briggs v. North Muskegon Police Dep't*, 563 F.Supp. 585 (W.D.Mich.1983), *aff'd*, 746 F.2d 1475 (6th Cir. 1984) (concluding that police department violated associational and privacy rights when it fired police officer for his relationship with a co-worker); *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. Publicly revealing information regarding these interests exposes an aspect of our lives that we regard as highly personal and private."); TCA 10-7-504(a)(4)(A) (confidentiality of student records).

As a result of Principal Beasley's unlawful actions, Andrew and Nicholas have suffered emotional distress and have been prevented from fully exercising their right to freedom of association. Moreover, by falsely broadcasting to the school community that they are the type of students to engage in inappropriate gay PDA, Principal Beasley put them at risk of discrimination and harassment. Indeed, as explained by one of his teachers, Nicholas was not selected for this year's Leadership Council trip to help rebuild homes in New Orleans because of

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the false perception that he would "embarrass" the school by engaging in gay affection. No student, particularly one who has a long history of community service, should be subject to discrimination based on his actual or perceived sexual orientation.

We demand that the Board of Commissioners and the school district:

- 1) implement effective policies to prevent these types of acts from occurring and communicate the policies to all principals and staff;
- 2) compensate Andrew and Nicholas for the harms that they have suffered;
- 3) reprimand Principal Beasley for her unwarranted and unlawful actions
- 4) remove any reference of such allegations in the records of the MCS pertaining to Andrew and Nicholas; and
- 5) issue an apology to Andrew and Nicholas and to all others on the "list."

Please respond by no later than close of business on **Friday, May 9, 2008** with your position concerning the above. If we are unable to resolve this matter informally in the very near future, we will have no choice but to pursue other legal action.

I can be reached at [REDACTED] or by email at [REDACTED] and my co-counsel Bruce Kramer of Borod & Kramer, PLC can be reached at [REDACTED] or by email at [REDACTED]

Thank you in advance for your attention to this matter.

Respectfully Yours,



Christine P. Sun  
AMERICAN CIVIL LIBERTIES UNION FOUNDATION  
Senior Staff Attorney, LGBT Project

cc: Dan Ward, Interim Superintendent (c/o Sheila Brown, by facsimile)  
Daphne Beasley, Principal (c/o Sheila Brown, Esq., by facsimile)  
Bruce Kramer, Esq., Borod & Kramer, PLC