[To use this document: Download a copy. Delete bracketed/highlighted text, including this header message, and replace the text with your own details and information as appropriate.

- Text highlighted in green should be replaced with your own details or information.
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- Text highlighted in red should be deleted.]

[DATE]

Re: Discrimination Against [Non-Binary, Gender Non-Conforming, or Transgender] Student

Dear [Administrator or School Board Member Name],

I am writing as a concerned community member of the recent [name the concern] concerning [name school district]. A student has experienced adverse treatment on the basis of [her/his/their] gender identity – discrimination that is unlawful according to the Minnesota Human Rights Act, the Minnesota Constitution, and Title IX, as well as in violation of Minnesota Department of Education's guidance.

This treatment is preventing this student from enjoying their right to education and equal protection under the law. I am writing to remind you of your legal obligations to protect this student and demand that the school district take appropriate action.

As you may be aware, a 2021 Minnesota Court of Appeals decision and four legal settlements, together totaling more than $900,000 for transgender students, have cemented protections for transgender students in Minnesota schools (See *N.H. v. Anoka-Hennepin School District; Woods v. Buffalo-Hanover-Montrose School District, E.R. et. al. v. Anoka-Hennepin School District, Edwards v. Nova Classical Academy*).

These cases affirm that non-binary, gender non-conforming, and transgender students in Minnesota are legally entitled to:

- Use the same restrooms, locker rooms, and other facilities as other students;
- Use the restrooms, locker rooms, and other facilities that align with their gender identity;
- Participate authentically in all school-related activities;
- Participate on teams that align with their gender identity; and
- Be protected from bullying and harassment.

[For bullying and harassment...]

[Describe your experience. Example language:]

[I have been notified that a specific student has been experiencing continuous physical and emotional bullying and harassment from other students due to their gender identity and sexual orientation. The bullying includes name calling, use of slurs, pushing, and as well as death threats. This harassment has had an extremely harmful effect on this student, whose mental health has suffered as a result.]

[Legal and/or policy information:]

The Minnesota Human Rights Act ("MHRA") and Minnesota Constitution protect students from discrimination in schools based on sexual orientation and transgender status. Schools have a legal obligation to ensure they do not have discriminatory policies on their campuses, and that they explicitly protect LGBTQ+ students from bullying and harassment. Minnesota schools are also legally responsible for adopting and enforcing policies to prevent bullying and harassment in schools.[1]

Failing to prevent and address bullying and harassment has compromised my ability to access a safe and supportive education, in direct violation of the MHRA and Minnesota Constitution.

[For inappropriate use of name and/or pronouns...]

[Describe your experience. Example language:]

[Staff, teachers, and/or peers have repeatedly failed to use the appropriate name and pronouns for a specific student. This has had an extremely harmful effect on my student, whose mental health has suffered as a result.

The repeated misgendering of this student, and the failure of the school to intervene on this bullying and harassing behavior, has resulted in an unsafe and unsupportive educational environment. While I have repeatedly reached out to the school to seek assistance in addressing and preventing this bullying, I have received very little in response.]

[Legal and/or policy information:]

The Minnesota Human Rights Act ("MHRA") and Minnesota Constitution protect students from discrimination in schools based on sexual orientation and transgender status. Schools have a legal obligation to ensure they do not have discriminatory policies on their campuses, and that

[1] Minn. Stat. § 363A.13, subd. 1. Additionally, the Safe and Supportive Minnesota Schools Act requires schools to adopt policies that prohibit harassment and bullying, including harassment and bullying based on sex, gender identity, gender expression and sexual orientation. Minn. Stat. § 121A.031 subd. 2(g).

they explicitly protect LGBTQ+ students from bullying and harassment. Further, Minnesota schools are legally responsible for adopting and enforcing policies to prevent bullying and harassment in schools.[2]

Additionally, the Minnesota Department of Education strongly recommends that school faculty and staff should respect students' names and pronouns. The Minnesota Department of Education Safe and Support Schools Toolkit states:

> "Schools should not assume a student's name, gender identity or pronoun. School officials should ask the student and use the requested name and pronouns. Students need not provide schools with legal documents to correct their first name or gender within their student records. When students are referred to by the wrong pronoun by peers or school staff, students may feel intimidated, threatened, harassed or bullied. School staff can ensure a more respectful environment for all students when efforts are made to correct the misuse of pronouns, as well as names, in student records."

Minnesota schools should be aware that pronoun usage impacts a significant number of students. In a 2020 study, The Trevor Project found that 1 in 4 LGBTQ youth use pronouns that fall outside of the binary construction of gender. School districts are responsible for ensuring their staff and faculty respect transgender, non-binary, and gender non-conforming young people; all students have the right to an education in a safe and inclusive environment.

[For athletics/facility usage...]

[Describe your experience. Example language:]

[A student in your district has been repeatedly isolated from their classmates and limited to a single restroom facility no other student was required to use, and so hard to access they often did not have time to use it between classes. They were also required to use a separate, equally inaccessible locker room, which has led to them being segregated from their peers. This experience of discrimination has caused this student's mental health to deteriorate. While I have repeatedly reached out to the school to seek assistance in addressing and preventing this discrimination, I have received very little in response.]

[Legal and/or policy information:]

In 2021, in N.H. v. Anoka-Hennepin School District, a state Court of Appeals ruled that it violates both the Minnesota Constitution and the Minnesota Human Rights Act for a school or school district to segregate transgender students from their peers in locker room and bathroom facilities and keep them from using the facilities that align with their gender identity.

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[2] Minn. Stat. § 363A.13, subd. 1. Additionally, the Safe and Supportive Minnesota Schools Act requires schools to adopt policies that prohibit harassment and bullying, including harassment and bullying based on sex, gender identity, gender expression and sexual orientation. Minn. Stat. § 121A.031 subd. 2(g).

[Concluding language for all]

Additionally, the Biden Administration has released a number of executive orders advocating against discrimination on the basis of sexual orientation or gender identity.[3] These executive orders require executive agencies to ensure that all existing and future policies prohibit such discrimination and are consistent with the Administration's goal of combatting discrimination against the LGBTQ+ community. It is also important to note that one of the executive orders explicitly addresses discrimination in educational settings and prohibits sex discrimination in education, including discrimination based on sexual orientation and gender identity.

There are severe legal and financial consequences for failing to uphold the rights of LGBTQ students. In 2011 a number of students sued the Anoka-Hennepin school district for failing to protect them from anti-LGBTQ bullying and harassment. The district ultimately paid the students $270,000 and underwent five years of monitoring by the U.S. Department of Justice and U.S. Department of Education.[4] In 2019, the Anoka-Hennepin School District was sued again for discrimination against a transgender student, and the district ultimately paid $300,000 to the student and agreed to a number of policy changes including staff-wide training.[5] In 2020, the Buffalo Montrose Hanover School District was sued by a transgender student, and paid $218,500 in addition to agreeing to undergo policy changes and training.[6] In 2017, Nova Classical Academy settled a case brought on behalf of a gender non-conforming student. The school ultimately paid $120,000 to the family and agreed to policy changes and staff-wide training.[7]

I recommend that the district refer to the Minnesota School Safety Technical Assistance Council's "Toolkit for Ensuring Safe and Supportive Schools for Transgender and Gender Nonconforming Students", published by the Minnesota Department of Education in 2017, for

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[3] *See* Executive Order 13988, "Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation," January 20, 2021, https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation; Executive Order 14021, "Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity," March 8, 2021, https://www.govinfo.gov/content/pkg/FR-2021-03-11/pdf/2021-05200.pdf.

[4] https://www.justice.gov/sites/default/files/usao-mn/legacy/2012/03/06/Anoka-Hennepin%20FINAL%20Consent%20Decree.pdf

[5] Anthony Lonetree, *Anoka-Hennepin School District Settles Transgender Bias Case Over Student Locker-Room Access*, Star Tribune (Mar. 23, 2021), https://www.startribune.com/anoka-hennepin-school-district-settles-transgender-bias-case-over-student-locker-room-access/600037655.

[6] Anthony Lonetree, *Transgender Student Wins Settlement from Wright County School District in Restroom Access Lawsuit*, Star Tribune (June 30, 2021), https://www.startribune.com/transgender-student-wins-settlement-from-wright-county-school-district-in-restroom-access-lawsuit/600073562.

[7] Mary Lynn Smith, *St. Paul Charter School, Family Settle Discrimination Complaint Over Transgender Student*, Star Tribune (Aug. 9, 2017), https://www.startribune.com/st-paul-charter-school-family-settle-discrimination-complaint-over-transgender-student/439326463.

any guidance needed to ensure a safe learning environment is created for its LGBTQ+ students.[8] As a caveat, however, the toolkit was written prior to the Minnesota Court of Appeals ruling in 2020 affirming that schools have an obligation to ensure transgender students can access bathrooms and locker rooms consistent with their gender identity. The toolkit has not yet been updated to reflect that information.

It is crucial that LGBTQ+ students are afforded the same [insert language] as their cisgender and heterosexual peers. It's not only the right thing to do, it's the law. With the above information and resources, I expect that [school/school district name] can immediately begin to protect my student and all LGBTQ+ students from segregation, bullying and harassment.

Sincerely,

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[Contact information]

For more information on how to create school environments where transgender and gender nonconforming students are safe, supported and fully included, and have equal access to the educational opportunities provided to all students, check out the Minnesota Department of Education's Toolkit for Ensuring Safe and Supportive Schools for Transgender and Gender Nonconforming Students or the HRC Foundation's Welcoming Schools program, which provides "LGBTQ+ and gender-inclusive professional development training, lesson plans, booklists and resources specifically designed for educators and youth-serving professionals."

[8] *A Toolkit for Ensuring Safe and Supportive Schools for Transgender and Gender Nonconforming Students*, Minnesota School Safety Technical Assistance Council (Sept. 25, 2017), https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=MDE072543&RevisionSelectionMethod=latestReleased&Rendition=primary.