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May 19, 2023

Via Electronic Mail Only

Re: *Proposed Parental Notice School Board Policy*

Dear School Board Members:

Advocates for Faith & Freedom is a nonprofit legal organization based in California. We have initiated numerous lawsuits against government agencies throughout the country regarding matters of great public interest for the last 17 years.

One of the most fundamental constitutional rights every parent holds dear is the right to raise their children. As school board members, parents of your community entrust you with implementing policies and procedures that protect the well-being of their children. No school administrator or entity can replace the extraordinary role of a parent in a child's life. As such, this proposed school board policy provides a legal avenue for school districts to further support the parent-child relationship by keeping parents informed about the physical, mental, and emotional well-being of their children.

Rather than withholding information from parents regarding their children, school districts should implement policies that further foster the needed transparency between parent and child. This parental right is "essential," *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923), a "basic civil right[] of man," *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942), "far more precious . . . than property rights," *May v. Anderson*, 345 U.S. 528, 533 (1953), and "established beyond debate as an enduring American tradition," *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972).

While children have a right to privacy, this right does not eliminate or truncate the right of a parent to direct the upbringing of their child. "It is cardinal with us that the custody, care, and nurture of the child reside *first in the parents*, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder It is in recognition of this that these decisions have respected the private realm of family life which the state cannot enter." *Prince v. Commonwealth of Massachusetts*, 321 U.S. 158, 166 (1944) (emphasis added). "The law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions. More important, historically it has recognized that natural bonds of affection lead parents to act in the best interests of their children." *Parham v. J. R.*, 442 U.S. 584, 602 (1979).

School districts do not violate any state or federal law by disclosing information to parents regarding their child's gender identity. The Family Educational Rights and Privacy Act (FERPA) already affirms parents' right to review their child's student records. Under FERPA, school officials can disclose information from a student's records to parents of the student "in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals." 34 C.F.R. § 99.36(a). Information related to a child's request to

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go by a different name or to be treated as a different gender is needed by parents so that parents can ensure their child's physical, mental, and emotional needs are being fully met at home and school.

Many school districts are prohibited from giving minor children vaccines, providing aspirin, taking children on field trips, and allowing children to play school sports without parental consent. Requiring parental consent and notification of these aspects of a child's life, but not requiring parental notification regarding a child's gender identity is inconsistent and fails to provide wholistic care for a child in the educational setting. By failing to inform parents regarding their children's gender identity, school districts violate parental rights by failing to include parents in the major and psychological impacts of gender dysphoria upon a child's life. Such a policy [or lack thereof] places children in dangerous and vulnerable situations while they attempt to navigate gender dysphoria independently or with school administrators who cannot fulfil the role of the child's parent. Children lack the "maturity, experience, and capacity for judgment required for making life's difficult decisions." *Parham*, 442 U.S. at 602. Parents' rights "presumptively include[] counseling [their children] on important decisions." *See H.L. v. Matheson*, 450 U.S. 398, 410 (1981).

Advocates for Faith & Freedom is dedicated to protecting constitutional rights in the courts, including the right of a parent to direct the care, custody, and control of their children. We strongly support the implementation of a parental notification policy across California school districts. Parents – not the government – have the best interest of their children. As such, parents should be included, informed, and involved in the discussions surrounding the well-being of their children across school campuses.

Sincerely,

ADVOCATES FOR FAITH & FREEDOM



Robert H. Tyler
President & General Counsel