

United States Court of Appeals
For The Eighth Circuit
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April 23, 2024

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RE: 24-1075 GLBT Youth in IA Schools, etc., et al v. Kimberly Reynolds, et al

Dear Counsel:

The amici curiae brief of the amici The Trevor Project, Inc., and GLSEN, Inc. in support of the appellees has been filed. If you have not already done so, please complete and file an Appearance form. You can access the Appearance Form at www.ca8.uscourts.gov/all-forms.

Please note that Federal Rule of Appellate Procedure 29(g) provides that an amicus may only present oral argument by leave of court. If you wish to present oral argument, you need to submit a motion. Please note that if permission to present oral argument is granted, the court's usual practice is that the time granted to the amicus will be deducted from the time allotted to the party the amicus supports. You may wish to discuss this with the other attorneys before you submit your motion.

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District Court/Agency Case Number(s): 4:23-cv-00474-SHL

**In the United States Court of Appeals
for the Eighth Circuit**

GLBT YOUTH IN IOWA SCHOOLS TASK FORCE,
d/b/a IOWA SAFE SCHOOLS, *et al.*,
Plaintiffs-Appellees,

v.

KIM REYNOLDS, in her official capacity as
Governor of the State of Iowa, *et al.*,
Defendants-Appellants,

JULIE MITCHELL, in their official capacities as BOARD MEMBERS OF THE
URBANDALE COMMUNITY SCHOOL DISTRICT, *et al.*,
Defendants.

Appeal from the United States District Court
for the Southern District of Iowa

Case No. 4:23-cv-00474, Honorable Stephen H. Locher, District Judge

BRIEF OF AMICI CURIAE THE TREVOR PROJECT, INC. AND GLSEN, INC.
in Support of Appellees and Affirmance

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and 29(a)(4)(A), The Trevor Project, Inc. (“The Trevor Project”) and GLSEN, Inc. (“GLSEN”) are a 501(c)(3) organizations. The Trevor Project and GLSEN do not have parent corporations. The Trevor Project and GLSEN are not a publicly traded companies, and no publicly held corporation owns 10% or more of their stock.

Dated: April 17, 2024

Respectfully submitted,

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IDENTITY AND INTEREST OF AMICI CURIAE AND SOURCE OF THEIR AUTHORITY TO FILE THIS BRIEF

Founded in 1998, The Trevor Project is the nation’s leading lesbian, gay, bisexual, transgender, queer, and questioning (“LGBTQ”) youth crisis intervention and suicide prevention organization. It is the only nationwide organization that offers accredited, free, and confidential phone, instant message, and text messaging crisis intervention services with an exclusive focus on LGBTQ youth. Tens of thousands of individuals use these services every month. In Fiscal Year 2023, The Trevor Project’s services reached over 500,000 LGBTQ crisis contacts. By monitoring, analyzing, and evaluating data obtained from these services and national surveys, The Trevor Project produces innovative research and insights that bring new knowledge, with clinical implications, on issues affecting LGBTQ youth.

GLSEN is the leading national organization on LGBTQ issues in K-12 education, working to ensure that all youth—including lesbian, gay, bisexual, transgender, queer, nonbinary, Two-Spirit,¹ and intersex

¹ Two-Spirit is a term used by some Indigenous people to describe their sexual orientation, gender identity, spiritual identity, or some combination thereof. *Two-Spirit Community*, UNIV. TORONTO,

youth—have equal opportunities to thrive, grow, and reach their full potential. GLSEN works to build safe and affirming learning environments for LGBTQ youth while advancing racial, gender, and disability justice in education settings. Each year, GLSEN programs and resources reach millions of students and educators in K-12 schools, via action at the national, state, and local level. Since 1990, GLSEN has improved conditions for LGBTQ students across the United States and helped launch an international movement to address LGBTQ issues in education.

The Trevor Project and GLSEN have a special interest in this litigation because their experiences have made them far too familiar with and knowledgeable of the harm that laws like Senate File 496 (“SF496”) cause to LGBTQ youth. For decades, The Trevor Project and GLSEN have worked directly with LGBTQ youth, many of whom struggle with harassment and bullying, feelings of shame and exclusion, and a lack of social support from peers and adults. The Trevor Project and GLSEN are

<https://lgbtqhealth.ca/community/two-spirit.php> (last visited Apr. 16, 2024). Different Two-Spirit individuals may attribute different meanings to the identity, which has long been represented in many Indigenous cultures. *Id.*

therefore acutely aware of the severe mental health consequences of exposure to and enforcement of discriminatory legislation like SF496. They can provide a unique and important perspective regarding the damaging results that will flow from SF496 if this Court does not affirm the district court's preliminary injunction.²

² The parties have consented to amici filing this brief. Fed. R. App. P. 29(a)(2). No counsel for a party authored this brief in whole or in part; no party or counsel contributed money intended to fund this brief's preparation or submission; and no person, other than amici, their members or their counsel, contributed money intended to fund the brief's preparation or submission. Fed. R. App. P. 29(a)(4)(E).

SUMMARY OF ARGUMENT

For many LGBTQ children facing mental health challenges as a result of discrimination, a safe and supportive school offers a lifeline. Affirming school environments and inclusive learning practices are vital for LGBTQ children’s healthy development and survival. Positive depictions and instruction around identity development promote mental health, supportive educators reduce negative health outcomes, and inclusive curricula improve academic outcomes.

Senate File 496 (“SF496”) threatens immediate and irreparable harm to Iowa’s LGBTQ children by stigmatizing their identities within their school experience. The data are clear—SF496 would chill speech that can affirm and support vulnerable LGBTQ children. The law’s vague anti-LGBTQ demands create immense uncertainty for teachers and administrators regarding permitted topics and texts. Unsure how to conform with the law, teachers and administrators have erred on the side of caution in their compliance, removing programs and curricula that even mention LGBTQ people. This erasure leads to further stigmatization and the silencing of LGBTQ children and their supporters.

In short, SF496 sends the message to LGBTQ children that they should not exist. And LGBTQ children are listening—SF496’s directives are associated with deleterious mental health effects and increased rates of suicide for LGBTQ children. Against the backdrop of the LGBTQ youth mental health crisis—according to The Trevor Project’s data, an astounding 44% LGBTQ youth surveyed in Iowa in 2021 reported that they had seriously considered suicide in the past year—the consequences of enforcing SF496 are clear, cruel, and irrevocable. This Court should affirm the preliminary injunction against it.

ARGUMENT

To protect Iowa’s LGBTQ children and adolescents from adverse health and academic outcomes, including increased risks of suicide and depression that result from isolation, shame, and distress, the Court should affirm the injunction against SF496.

The story of SF496—which may appear, on cursory glance, intended to protect children—can be summarized by one quote from the Iowa Senate Floor during debate. SF496 sponsor Senator Ken Rozenboom, facing questions about the outer bounds of the bill’s enforcement, replied, “We all know what we’re talking about here.”³

And indeed, we do. SF496, though cloaked in references to “age-appropriate” content free of “sex act[s],” is not at all about protecting children from obscene and harmful content.⁴ Laws protecting children from obscene content and overseeing school libraries were already on the

³ *Senate Video (2023-03-22)*, 90th Iowa. S. Sess. 73rd Day at 6:46:00-6:46:45 PM (Mar. 22, 2023), <https://www.legis.iowa.gov/dashboard?view=video&chamber=S&clip=s20230322024547181&dt=2023-03-22> (quoting Ia. Sen. Rozenboom).

⁴ *See generally* S.F. 496, 90th Gen. Assemb., Reg. Sess. (Iowa 2024).

books in Iowa when SF496 was introduced.⁵ Instead, SF496 affects one specific group of children: LGBTQ youth.⁶ But rather than protect them, it warns them: You are not welcome here.

In this brief, The Trevor Project and GLSEN draw upon their experience and research to explain the on-the-ground, real-world impacts SF496 will have on the children of Iowa. Part I describes the general mental health crisis suffered by LGBTQ youth to provide general background against which SF496 must be evaluated. Part II explains how supportive school environments improve mental health and academic outcomes for LGBTQ youth—environments that SF496 wholly forbids. The Trevor Project’s own research confirms as much, with LGBTQ youth in Iowa and across the nation routinely contacting The Trevor Project’s crisis services expressing the heartbreaking effects of exclusion. Finally, Part III provides stories confirming what the data in

⁵ See IOWA CODE §§ 728.2, 728.3 (prohibiting dissemination of obscene material to minors and the admission of minors to premises where obscene material is exhibited); IOWA ADMIN. CODE r. 281-12.3(12)(a)-(b) (setting standards for school library programs, including alignment with curricular goals and connecting with parents and the community); IOWA ADMIN. CODE r. 281-12.3(12)(c) (requiring school districts to adopt policies regarding “selection and reconsideration of school library materials”).

⁶ See App. 522, R. Doc. 65, at 44.

Part II show: SF496 will result, and has indeed already resulted, in severe harm to the LGBTQ children and youth of Iowa.

I. LGBTQ Youth Are Facing a Mental Health Crisis.

The harmful effects of SF496 must be considered within the law's greater context. Data clearly show that, amid a national emergency in children's mental health,⁷ LGBTQ young people suffer acutely.

LGBTQ youth are at significantly greater risk of adverse health outcomes than their peers. For five consecutive years, The Trevor Project has conducted a National Survey on LGBTQ Youth Mental Health, which in 2023 reported data collected from over 28,000 individuals between the ages of 13 and 24.⁸ The Trevor Project's 2022 National Survey found that

⁷ Am. Acad. of Pediatrics et al., *AAP-AACAP-CHA Declaration of a National Emergency in Child and Adolescent Mental Health*, AM. ACAD. OF PEDIATRICS (Oct. 19, 2021), <https://www.aap.org/en/advocacy/child-and-adolescent-healthy-mental-development/aap-aacap-cha-declaration-of-a-national-emergency-in-child-and-adolescent-mental-health/> (last visited Apr. 15, 2024); The Trevor Project, *Facts About Suicide Among LGBTQ+ Young People* (Jan. 1, 2024), <https://www.thetrevorproject.org/resources/article/facts-about-lgbtq-youth-suicide/> (last visited Apr. 15, 2024) ("Suicide is the second leading cause of death among young people aged 10 to 14, and the third leading cause of death among 15-24 year olds.").

⁸ THE TREVOR PROJECT, 2023 U.S. NATIONAL SURVEY ON THE MENTAL HEALTH OF LGBTQ YOUNG PEOPLE 3–4 (May 2023), <https://www.thetrevorproject.org/survey->

44% of LGBTQ young people surveyed in Iowa had seriously considered suicide in the past year and 16% had attempted suicide.⁹ The numbers were even worse for transgender and nonbinary youth¹⁰: 52% had seriously considered suicide and 22% had attempted suicide.¹¹ A devastating 76% of surveyed LGBTQ youth in Iowa reported experiencing symptoms of anxiety, and 61% reported experiencing symptoms of depression.¹² Over half (56%) of LGBTQ youth in Iowa who wanted mental health care in the past year were not able to get it, citing fears of talking about mental health concerns with others and not being taken seriously, as well as not wanting to have to ask a parent or

2023/assets/static/05_TREVOR05_2023survey.pdf [hereinafter, “2023 TREVOR PROJECT SURVEY”].

⁹ THE TREVOR PROJECT, 2022 NATIONAL SURVEY ON LGBTQ YOUTH MENTAL HEALTH BY STATE 87 (Dec. 2022), <https://www.thetrevorproject.org/wp-content/uploads/2022/12/The-Trevor-Project-2022-National-Survey-on-LGBTQ-Youth-Mental-Health-by-State.pdf> [hereinafter “2022 TREVOR PROJECT SURVEY”]; *see also* Tracey Peter, Catherine Taylor & Christopher Campbell, “*You Can’t Break...When You’re Already Broken*”: *The Importance of School Climate to Suicidality Among LGBTQ Youth*, 20 J. GAY & LESBIAN MENTAL HEALTH 195 (2016).

¹⁰ A nonbinary person does not identify as exclusively a woman or exclusively a man. Many nonbinary people choose to use the pronouns they and them, rather than he, him, she, or her.

¹¹ 2022 TREVOR PROJECT SURVEY, *supra* note 9, at 87.

¹² *Id.* at 87.

caregiver for permission, as reasons.¹³ Furthermore, these mental health outcomes can also affect physical health, as stress and isolation in childhood and adolescence can exacerbate stress-related health problems, such as cardiovascular disease and hypertension.¹⁴

These increased risks of depression and death by suicide are not surprising given that LGBTQ people also face the risk of harm from others. LGBTQ people experience an “elevated risk of hate crime violence.”¹⁵ Almost three-quarters (73%) of LGBTQ youth in Iowa reported having experienced discrimination based on their sexual orientation or gender identity.¹⁶ Forty percent reported that they had been physically threatened or harmed based on their sexual orientation or gender identity.¹⁷ This violence translates to devastating mental health crises and suicidality.¹⁸

¹³ *Id.* at 88.

¹⁴ Nolan S. Kline et al., *Responding to “Don’t Say Gay” Laws in the US: Research Priorities and Considerations for Health Equity*, 19 SEXUALITY RSCH. & SOC. POL’Y 1397, 1398–99 (2022).

¹⁵ *Id.* at 1399 (citing 2019 data by the Federal Bureau of Investigation).

¹⁶ 2022 TREVOR PROJECT SURVEY, *supra* note 9, at 89.

¹⁷ *Id.*

¹⁸ *See, e.g.,* Earl Horlyk, *Sister: Bullying Led Primghar Teen to Suicide*, SIOUX CITY J. (Apr. 16, 2012),

<https://siouxcityjournal.com/news/local/state-and-regional/sister->

In sum, even without the stress and harm caused by SF496, LGBTQ youth already face an uphill battle with respect to mental and physical health.

II. Research Shows the Importance of Supportive School Environments to Boosting the Academic Performance and Outcomes for LGBTQ Youth—Discriminatory Laws Like SF496 Hinder Such Positive Outcomes.

Upholding the preliminary injunction against SF496 is vital to the lives of Iowa’s LGBTQ young people. Given the mental health crisis in the LGBTQ community generally, and for young people within that community in particular (as discussed in Section I), it is important for LGBTQ youth to have safe and supportive environments. As described below, schools often provide that environment through inclusive curricula, diverse reading material, extra-curricular activities, and teacher support. The data show that the health and academic outcomes for LGBTQ children improve when supportive school environments exist,

bullying-led-primghar-teen-to-suicide/article_9fa262c6-a8be-5187-ad4c-8fb31ffa683c.html (last visited Apr. 15, 2024); Bret Hayworth, *8 Years After Northwest Iowa Suicide, Family Members Remember and Debate Anti-Bullying Efforts*, SIOUX CITY J. (Apr. 18, 2020), https://siouxcityjournal.com/news/local/education/8-years-after-northwest-iowa-suicide-family-members-remember-and-debate-anti-bullying-efforts/article_98bf09ae-9e3f-5945-b575-1393b2fdc647.html. (last visited Apr. 15, 2024).

and that outcomes worsen when support is removed. Because SF496 prohibits the policies and practices that allow schools to create safe spaces in which LGBTQ children can flourish, the data—including The Trevor Project’s own research—demonstrate that the law harms LGBTQ youth.

A. An Affirming School Environment Promotes the Healthy Development, Learning, and Survival of LGBTQ Children and Adolescents.

A positive and affirming school environment is vital to the health and well-being of LGBTQ youth. Schools can take specific and concrete steps to foster this environment, including through the design of the curriculum, choices related to reading material, creating and supporting access to extracurricular activities, and encouragement of teachers to provide a safe environment. The research shows how much these policies help LGBTQ youth.

LGBTQ children and adolescents, like all children, need to feel accepted in order to thrive. The Trevor Project’s analysis of data from the 2023 National Survey on LGBTQ Youth Mental Health found that LGBTQ young people who were out and felt accepted in their identity by a parent or caregiver had approximately 40% lower odds of attempting

suicide in the past year compared to young people who were out to a parent or caregiver but did not feel accepted.¹⁹ The same survey reports that LGBTQ young people who were out to and felt supported by even just one of four different types of adults in their lives—a parent or caregiver, another (non-sibling) family member, *a teacher or other school staff member*, or a doctor or health care professional—had 24% lower odds of reporting a suicide attempt in the past year compared to those who were out to at least one of these adults and not accepted.²⁰ Transgender and nonbinary adolescents who reported that everyone in their households respected their pronouns reported lower rates of attempting suicide.²¹ Another study of lesbian, gay, and bisexual youth showed that sexual identity-specific support, as opposed to general support, was associated with lower emotional distress.²² Of the youth The Trevor

¹⁹ THE TREVOR PROJECT, *Research Brief: Acceptance from Adults Is Associated With Lower Rates of Suicide Attempts Among LGBTQ Young People 2* (Sept. 2023), https://www.thetrevorproject.org/wp-content/uploads/2023/09/Sept-2023-Brief_Accepting-Adults_Final.pdf.

²⁰ *Id.* at 3.

²¹ 2023 TREVOR PROJECT SURVEY, *supra* note 8, at 4.

²² Jack K. Day et al., *Gay-Straight Alliances, Inclusive Policy, and School Climate: LGBTQ Youths' Experiences of Social Support and Bullying*, 30 J. RSCH. ON ADOLESCENCE 418, 420 (2020).

Project surveyed in 2023, 82% reported that it would be helpful for the people in their lives to know more about support and acceptance; nearly four in five reported the same for gender identity (78%) and sexual orientation (77%); and 68% wished people in their lives knew more about creating safe spaces.²³

It often falls to schools to provide the acceptance LGBTQ youth need. Many LGBTQ young people do not have access to safe spaces: among LGBTQ young people who were surveyed by The Trevor Project in 2023, only 38% reported that they lived in an LGBTQ-affirming home.²⁴ A mere 16% reported access to affirming community events.²⁵ School, on the other hand, was an affirming space for 54% of those surveyed—outranked in The Trevor Project’s survey only by affirming online spaces at 68%.²⁶ The data illustrate the crucial role schools play

²³ 2023 TREVOR PROJECT SURVEY, *supra* note 8, at 21. The Trevor Project provides guidance on creating safer spaces, advising tolerant and nonjudgmental adults, and resources for LGBTQ youth. An absence of bullying is also a marker of a safe school. THE TREVOR PROJECT, *Creating Safer Spaces in Schools for LGBTQ Youth* (Aug. 21, 2021), <https://www.thetrevorproject.org/resources/article/creating-safer-spaces-in-schools-for-lgbtq-youth>.

²⁴ 2023 TREVOR PROJECT SURVEY, *supra* note 8, at 22.

²⁵ *Id.*

²⁶ *Id.*

in ensuring a supportive and affirming environment for LGBTQ youth, especially for those that lack at-home support.

Schools can provide this support in myriad ways, including through (1) an inclusive curriculum; (2) comprehensive book choices; (3) extra-curricular programs like gay-straight alliance clubs (gender/sexual orientation) (“GSAs”); and (4) individualized support from teachers.²⁷ With these practices in place, LGBTQ children are safer; without them, LGBTQ children face poor health and academic outcomes.

First, a school can foster a safe space for LGBTQ children by providing a curriculum that incorporates LGBTQ persons, history, and events. The Trevor Project’s 2021 National Survey found that LGBTQ young people who learned about LGBTQ issues in school had 23% lower odds of reporting a suicide attempt in the past year compared to those

²⁷ See, e.g., THE TREVOR PROJECT, *Research Brief: School-Related Protective Factors for LGBTQ Middle and High School Students* (Aug. 2023), https://www.thetrevorproject.org/wp-content/uploads/2023/08/The-Trevor-Project_School-Protective-Factors.pdf (analyzing The Trevor Project survey data of schools’ “protective factors”—access to a gay-straight alliance, gender-neutral bathrooms, teachers who respected their pronouns, sex education that includes LGBTQ experiences, and history that discusses LGBTQ people—and finding that access to at least one factor correlated with an affirming school, which has correlated with reduced suicide risk).

who did not learn about these issues in school.²⁸ And LGBTQ students who learned about LGBTQ identities and topics specifically from teachers and professors at their schools were significantly less likely to report recent symptoms of depression in the 2023 survey. LGBTQ students at schools with curricula including LGBTQ issues in a positive manner also had had higher levels of self-esteem, reported lower levels of depression, and were less likely to have seriously considered suicide than students at schools without an inclusive curriculum, according to the GLSEN 2021 National School Climate Survey, which gathered data from over 22,000 LGBTQ students aged 13 to 21.²⁹

Such curricula also reduce the risk of harm LGBTQ children face from others. LGBTQ students at schools with LGBTQ-inclusive curricula heard homophobic remarks and negative remarks about gender

²⁸ THE TREVOR PROJECT, *Research Brief: LGBTQ Youth Suicide Prevention in Schools 2* (Aug. 2021), <https://www.thetrevorproject.org/wp-content/uploads/2021/08/Trevor-Project-Schools-Research-Brief.pdf>.

²⁹ JOSEPH G. KOSCIW, CAITLIN M. CLARK & LEESH MENARD, THE 2021 NATIONAL SCHOOL CLIMATE SURVEY: THE EXPERIENCES OF LGBTQ+ YOUTH IN OUR NATION'S SCHOOLS, GLSEN 65 (2022), <https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf> [hereinafter "2021 GLSEN SURVEY"].

expression and transgender people less frequently than students at schools without inclusive curricula.³⁰ They were also less likely to report feeling unsafe because of their gender, gender expression, or sexuality and reported lower rates of severe victimization.³¹ The percentage of students experiencing severe in-person victimization because of their sexual orientation, for example, was cut nearly in half at schools with LGBTQ-inclusive curricula.³²

Unsurprisingly, GLSEN's survey also found that feeling safe and supported also leads to better *educational* outcomes. LGBTQ students at schools with an inclusive curriculum had higher grade point averages than those at schools without an inclusive curriculum.³³ LGBTQ students who reported lower levels of severe online and in-person peer victimization also reported higher grade point averages.³⁴ And LGBTQ students with more supportive educators reported higher grade point

³⁰ *Id.* at 63.

³¹ *Id.* at 64.

³² *Id.*

³³ *Id.* at 65–66.

³⁴ *Id.* at 37.

averages and were more likely to aspire to pursue education beyond high school.³⁵

Second, beyond the formal curriculum a school adopts, the books that schools carry also impact health and academic outcomes for LGBTQ children. The library is “the most important information source” for LGBTQ people, who often do not feel safe seeking information or exploring their identities elsewhere.³⁶ School libraries with a diversity of materials supplement gaps in formal classroom education on LGBTQ issues and help all students learn to become accepting of LGBTQ people.³⁷ The American Library Association has reported research that inclusive school libraries help students understand themselves and others better, encourage deeper and more prolific reading, and facilitate

³⁵ *Id.* at 66–67.

³⁶ Sandra Hughes-Hassell, Elizabeth Overberg & Shannon Harris, *Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ)-Themed Literature for Teens: Are School Libraries Providing Adequate Collections?*, 16 SCH. LIBR. RSCH., 2013, at 2 (quoting L.B. Alexander & S.D. Miselis, *Barriers to LGBTQ Collection Development and Strategies for Overcoming Them*, 5 YOUNG ADULT LIBR. SERVS. 3, 43–49 (2007)).

³⁷ John Hudson, *Breaking the Silence: Toward Improving LGBTQ Representation in Composition Readers*, 29 COMPOSITION F., Spring 2014, <https://compositionforum.com/issue/29/breaking-the-silence.php> (last visited Apr. 16, 2024).

difficult but necessary conversations between children and trusted adults.³⁸

Students are more likely to select books reflecting their own lives and experiences.³⁹ When children “cannot find themselves reflected in the books they read . . . they learn a powerful lesson about how they are devalued in the society of which they are a part.”⁴⁰ For LGBTQ young people, such books help them “to know they are not alone, to connect with others like them, to find positive role models, and, perhaps most importantly, to affirm the fact that they are normal.”⁴¹

Third, schools create a supportive environment through extra-curricular measures. For example, GLSEN’s 2021 National School Climate Survey reported that LGBTQ students at schools with active GSAs heard fewer anti-LGBTQ remarks, were less likely to feel unsafe

³⁸ See generally UNITE AGAINST BOOK BANS, EMPOWERED BY READING: THE BENEFITS OF GIVING YOUTH ACCESS TO A WIDE VARIETY OF READING MATERIALS (2022), <https://uniteagainstbookbans.org/wp-content/uploads/2022/09/Empowered-by-Reading-final.pdf>.

³⁹ *Id.*

⁴⁰ Rudine Sims Bishop, *Mirrors, Windows, and Sliding Glass Doors*, in COLLECTED PERSPECTIVES: CHOOSING AND USING BOOKS FOR THE CLASSROOM (Hughes Moir, Melissa Cain & Leslie Prosa-Beres eds., 1990).

⁴¹ Hughes-Hassell, Overberg & Harris, *supra* note 36, at 3.

due to their identities, experienced less severe victimization, and were less likely to miss school for reasons of feeling unsafe or uncomfortable than those at schools without GSAs.⁴² LGBTQ students at schools with GSAs and LGBTQ-focused anti-bullying policies were also less likely to experience homophobic and gender-based bullying, and they reported higher rates of perceived acceptance by peers and teachers, according to a 2019 study by the Journal of Research on Adolescence.⁴³ Measures as small as displaying “safe space” stickers and posters at school have been shown to increase the likelihood that students report having supportive teachers and staff at school.⁴⁴

Fourth, teachers themselves play an important role in how safe a LGBTQ child feels (and thus their health and academic outcomes).⁴⁵ The Trevor Project’s 2023 Survey found that LGBTQ young people who

⁴² 2021 GLSEN Survey, *supra* note 29, at 59.

⁴³ Day et al., *supra* note 22, at 425–26.

⁴⁴ 2021 GLSEN SURVEY, *supra* note 29, at 68.

⁴⁵ *Id.* at 63–69; *see also* George L. Wimberly, Lindsey Wilkinson & Jennifer Pearson, *LGBTQ Student Achievement and Educational Attainment*, in *LGBTQ ISSUES IN EDUCATION: ADVANCING A RESEARCH AGENDA* 121, 124 (George L. Wimberly ed., 2015) (explaining research demonstrating that LGBTQ students’ GPAs are “positively correlated with teacher support”).

reported feeling their sexual orientation was accepted by their teachers had 43% lower odds of attempting suicide in the past year.⁴⁶ Furthermore, supportive student-teacher interactions “reduce hostile school experiences . . . and improv[e] the learning environment” for LGBTQ youth.⁴⁷

SF496 prohibits each of these crucial conditions for a supportive and affirming school environment. It forbids inclusive curricula.⁴⁸ It bans books containing depictions of LGBTQ characters and same-sex relationships.⁴⁹ Although the State now claims that the law does not

⁴⁶ THE TREVOR PROJECT, *supra* note 19, at 2.

⁴⁷ 2021 GLSEN SURVEY, *supra* note 29, at 69; *see also* Marisa E. Marraccini & Zoe M. F. Brier, *School Connectedness and Suicidal Thoughts and Behaviors: A Systematic Meta-Analysis*, 32 SCH. PSYCH. Q. 6 (2017) (school connectedness includes feeling cared about and respected by adults at school).

⁴⁸ App. 522, R. Doc. 65, at 44 (noting the State’s position that SF496 “forbids programs, promotion, and instruction relating to transgender people and non-heteronormative relationships”); App. 457, R. Doc. 62, at 84 (When asked about whether a third grade teacher could provide a book with a gay character, counsel for the state responded that “the teacher cannot use that as curriculum.”).

⁴⁹ *See* App. 736, R. Doc. 34-10, ¶ 17 (“Several school districts in Iowa have chosen to interpret part of SF 496 to mean that libraries are not allowed to have books that include LGBTQ+ characters.”); App. 515, R. Doc. 65, at 37 (describing State’s “considerable emphasis on one specific book . . . *Gender Queer: A Memoir*”). Indeed, in a nationwide study of the books banned as a result of laws like SF496 during the 2022–23

cover GSAs,⁵⁰ schools have interpreted the law as banning or restricting such organizations.⁵¹ And several school districts have required teachers to remove displays of support for LGBTQ students, including rainbow images, pride flags, and “safe space” stickers, from classrooms.⁵²

SF496 utilizes schools to send young people a “silent message” that is “an expression of our culture’s homophobia, a message of exclusion and delegitimation.”⁵³ Because that law stifles supportive school environments, eliminates inclusive curriculum and books, bans GSAs, and dissuades teachers from providing particularized support for LGBTQ youth, it will result in the negative health and academic outcomes described.

B. Preliminary Data from The Trevor Project Illustrate The Negative Impact SF496 Has Already Had, And Will Likely Continue to Have, on LGBTQ Youth.

school year, 26% of unique banned titles that were banned had LGBTQ characters or themes. Kasey Meehan & Jonathan Friedman, BANNED IN THE U.S.A.: STATE LAWS SUPERCHARGE BOOK SUPPRESSION IN SCHOOLS, PEN AMERICA (Apr. 20, 2023), <https://pen.org/report/banned-in-the-usa-state-laws-supercharge-book-suppression-in-schools/>.

⁵⁰ Br. of State Defendants-Appellants at 16, 33.

⁵¹ See App. 522, R. Doc. 65, at 44 (noting that “[t]he breadth of the law means that a reasonable school district would not permit [plaintiff] to join a GSA”); App. 48–49, R. Doc. 1, at 44–45 (describing schools’ restrictions on and closures of GSAs).

⁵² App. 44, R. Doc. 1, at 40.

⁵³ Hudson, *supra* note 37.

Because SF496 is relatively new and currently enjoined, the negative effects of that specific law have not yet been extensively studied. But the deleterious mental health outcomes caused by the mere debate over, and ultimate passage of, the law corroborate the research outlined above: SF496 already has exacerbated, and will continue to exacerbate, the mental health crisis among LGBTQ youth.

The recent wave of anti-LGBTQ legislation has made LGBTQ young people feel angry and unsafe. For example, in The Trevor Project's 2023 survey, 85% of surveyed LGBTQ youth reported paying attention to media reports about LGBTQ rights somewhat or a lot, and 67% specifically reported being aware of state or local Don't Say Gay and Trans laws.⁵⁴ The Trevor Project observed a 10.8% increase in youth reaching out to the nonprofit to discuss issues related to LGBTQ legislation in Iowa during a four-month span in 2023 around the passage of SF496, as compared to the same timeframe in 2022.⁵⁵

⁵⁴ 2023 TREVOR PROJECT SURVEY, *supra* note 8, at 13.

⁵⁵ This information comes from anonymized data that The Trevor Project has collected, compiled, and reviewed on its telephone, chat, and text messaging platforms. In order to protect the privacy of the youth

When LGBTQ students were asked to identify their emotions in response to policies that would ban classroom discussion of LGBTQ topics, over half felt angry, 45% felt sad, 29% felt stressed, and 25% felt hopeless.⁵⁶ When asked about policies that would ban books discussing LGBTQ policies, 66% reported feeling angry, 46% reported feeling sad, 27% reported feeling stressed, and 23% reported feeling hopeless.⁵⁷ In Iowa specifically, youth who contacted the Trevor Project expressed feeling overwhelmed by the rapid enactment of anti-LGBTQ laws in their state.⁵⁸

Awareness of the anti-LGBTQ legislative climate that has produced laws like SF496 has worsened the mental health of LGBTQ children and adolescents.⁵⁹ In 2022, 87% of surveyed LGBTQ youth in Iowa reported that recent politics, which can include the discourse around bills like

using its services, The Trevor Project does not make this data publicly available.

⁵⁶ THE TREVOR PROJECT, ISSUES IMPACTING LGBTQ YOUTH: POLLING PRESENTATION 14 (2023), https://www.thetrevorproject.org/wp-content/uploads/2023/01/Issues-Impacting-LGBTQ-Youth_Morning-Consult-Poll_Jan-2023_Public.pdf [hereinafter “POLLING PRESENTATION”].

⁵⁷ *Id.* at 15.

⁵⁸ *See supra* note 55.

⁵⁹ *See, e.g.*, POLLING PRESENTATION, *supra* note 56, at 4, 7–8.

SF496, had negatively impacted their well-being.⁶⁰ And in The Trevor Project’s 2023 Survey, nearly one third of LGBTQ youth nationwide reported having poor mental health most of the time or always because of anti-LGBTQ policies and legislation.⁶¹ Nearly 2 in 3 surveyed LGBTQ youth reported that hearing about legislation that might ban people from talking about LGBTQ people at school significantly worsened their mental health.⁶²

Transgender and nonbinary youth feel the effects of anti-LGBTQ legislation and sentiment even more heavily. In a 2022 poll conducted by The Trevor Project, on the effects of anti-LGBTQ laws on LGBTQ youth, 86% of transgender and nonbinary youth who were surveyed reported that debates around anti-trans legislation negatively impacted their mental health.⁶³ Asked about how they were impacted by anti-trans legislation, transgender and nonbinary children responded that they were “exhausted and frustrated” by the “constant debate on [their]

⁶⁰ 2022 TREVOR PROJECT SURVEY, *supra* note 9, at 89.

⁶¹ 2023 TREVOR PROJECT SURVEY, *supra* note 8, at 13.

⁶² *Id.* at 4.

⁶³ POLLING PRESENTATION, *supra* note 56, at 4–5.

existence.”⁶⁴ They feared for their “life and safety” and felt “increasingly trapped.”⁶⁵ Many described feeling hopeless and scared.⁶⁶ The Trevor Project has continued to hear these concerns from trans and nonbinary youth and their loved ones.⁶⁷ For example, one respondent to an Instagram Q&A posted by The Trevor Project said, “I’m scared for my trans sibling’s and my own safety. I’m scared it won’t get better anymore.”⁶⁸

The mere existence of SF496 and laws like it has already caused negative health outcomes. Once the law accomplishes its goal of eliminating supportive school environments, it will only get worse for LGBTQ youth in Iowa.

III. Stories from Iowa Show The Harm SF496 Has Caused and Will Continue To Cause Iowa’s LGBTQ Youth.

Anecdotal evidence about the effect of SF496 corroborates what the research described in the prior section shows: students in Iowa are

⁶⁴ *Id.* at 10.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *See supra* note 55.

⁶⁸ The Trevor Project (@trevorproject), Instagram (Feb. 28, 2024), https://www.instagram.com/p/C35rJs1MxnU/?hl=en&img_index=4 (last visited Apr. 15, 2024).

indeed experiencing the harmful outcomes described above as schools start to comply with SF496.

As SF496 moved through the legislature, Urbandale parent Kris Maul—who is trans himself—worried about kids for whom “school is truly their only safe place, and that’s going to be taken away from them. And they’re going to feel totally alone, and like they have nothing. That just breaks my heart.”⁶⁹ Maul’s child Agatha, who is genderfluid⁷⁰ and omnisexual,⁷¹ transferred out of public school because of bullying.⁷²

Des Moines twelve-year-old Berry, who is a plaintiff in this case, was bullied by classmates after they changed their name and pronouns.⁷³

⁶⁹ Catherine Wheeler, *Central Iowa Families Worry Anti-LGBTQ Legislation Will Further Isolate Children*, IOWA PUBLIC RADIO (March 13, 2023), <https://www.iowapublicradio.org/ipr-news/2023-03-13/central-iowa-families-worry-anti-lgbtq-legislation-will-further-isolate-children> (last visited Apr. 14, 2024).

⁷⁰ A gender fluid individual “is a person whose gender identity (the gender they identify with most) is not fixed.” It “is a form of gender identity or gender expression, rather than a sexual orientation.” WEBMD, *What Is Fluid?*, (July 2, 2023), <https://www.webmd.com/sex/what-is-fluid> (last visited Apr. 14, 2024).

⁷¹ An omnisexual person is “attracted to those of all gender identities and sexual orientations.” WEBMD, *What Is Omnisexual?*, (July 2, 2023), <https://www.webmd.com/sex/what-is-omnisexual> (last visited Apr. 14, 2024).

⁷² Wheeler, *supra* note 69.

⁷³ *Id.*

They were left out of classroom discussions that used gendered curriculum.⁷⁴ When Berry’s family considered leaving Iowa due to anti-LGBTQ sentiment, Berry did not want to leave friends “to have to deal with this on their own . . . [without] an accepting place to go.”⁷⁵

For Dani Kallas, a nonbinary student in the Linn-Mar Community School District in Marion, Iowa, finding the “right words” was an important part of coming out.⁷⁶ For Dani, asking their friends at school to try out different pronouns helped them find those words and gain confidence in their identity before coming out at home.⁷⁷ “It took a long time for me to figure out what I wanted to say,” Dani reported, but they considered school a supportive place, in part because of a policy that allowed students to use their preferred names, pronouns, and gender-

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ Nikoel Hytrek, *LGBTQ Youth Found Support at Iowa Schools. Now It’s Gone*, IOWA STARTING LINE (March 28, 2023), <https://iowastartingline.com/2023/03/28/lgbtq-youth-found-support-at-iowa-schools-now-its-gone> (last visited Apr. 15, 2024).

⁷⁷ *Id.*

aligned restrooms.⁷⁸ The school district withdrew that policy after SF496 passed, leaving Dani and their classmates feeling “betrayed.”⁷⁹

Fellow Linn-Mar student Kayde explained that they were able to explore questions about their genderfluid and pansexual⁸⁰ identity by doing research and asking others.⁸¹ They expressed concern about the confusion that would result from students not being able to ask teachers questions about LGBTQ issues.⁸²

Many of Dani and Kayde’s classmates shared their concerns. In March of 2023, as SF496 made headlines in Iowa, hundreds of Iowa children silently voiced their opposition by walking out of school.⁸³ In many of the walkouts across the state, students marched to government

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ A pansexual person is attracted to all people no matter their gender identity. A pansexual person differs from an omnisexual person insofar “as pansexual feel attraction to people without noticing their gender, while omnisexual people recognize the gender of potential partners.” WebMD, *supra* note 71.

⁸¹ Nikoel Hytrek, *Banning Education Won’t Make LGBTQ People Go Away, Students Say*, IOWA STARTING LINE (Mar. 29, 2023), <https://iowastartingline.com/2023/03/29/banning-education-wont-make-lgbtq-people-go-away-students-say> (last visited Apr. 15, 2024).

⁸² *Id.*

⁸³ *Id.*

or historic sites, like the Old Capitol in Iowa City and the governor’s mansion in Des Moines.⁸⁴ They held up rainbow flags and signs reading “We are HUMAN”⁸⁵ and “YOU CANNOT BAN MY EXISTENCE.”⁸⁶ Days later, thousands of people rallied together outside of the Iowa Capitol in protest of SF496.⁸⁷

The experiences of these young people are not unique. And their families have reason to worry because of the tragic deaths by suicide of young LGBTQ Iowans. Kenneth Weishuhn Jr. of Primghar, Iowa—known by his loved ones as K.J.—was only 14 years old when he hanged himself on April 14, 2012, after being bullied for coming out as gay.⁸⁸ After coming out, Kenneth quickly faced a barrage of threatening calls,

⁸⁴ Samantha Hernandez et al., “We Say Gay!” *Hundreds of Students Across Iowa Walk Out of Class to Protest LGBTQ Bills*, DES MOINES REGISTER (March 1, 2023), <https://www.desmoinesregister.com/story/news/education/2023/03/01/hundreds-of-iowa-students-walk-out-to-protest-lgbtq-bills/69949781007/> (last visited Apr. 14, 2024).

⁸⁵ *Id.*

⁸⁶ Hytrek, *supra* note 76.

⁸⁷ Nikoel Hytrek, *Four Iowa LGBTQ+ Students and the New State Laws Upending Their Lives*, IOWA STARTING LINE (March 27, 2023), <https://iowastartingline.com/2023/03/27/4-iowa-lgbtq-students-and-the-new-state-laws-upending-their-lives> (last visited Apr. 15, 2024).

⁸⁸ Horlyk, *supra* note 18.

voicemails, and online comments from his classmates at South O'Brien High School.⁸⁹ Someone created an “online hate page against gay people” and sent invitations to all his friends.⁹⁰ Just a month after coming out, Kenneth was dead.⁹¹ His mother and sister wished his school had done more to protect him.⁹²

The next year, in 2013, 16-year-old A.J. Betts of Southeast Polk High in Pleasant Hill, Iowa, killed himself after experiencing bullying for being openly gay.⁹³ Two years after that, in 2015, 12-year-old Alyssa Morgan—who attended Southeast Polk Junior High, just next door to A.J.’s school—killed herself on April 3 of her seventh-grade year. To Nicole Morgan, her daughter Alyssa was a “typical 12-year-old girl” who liked drawing and taking selfies.⁹⁴ But at her school, Alyssa felt

⁸⁹ *Id.*; Hayworth, *supra* note 18.

⁹⁰ Hayworth, *supra* note 18.

⁹¹ Horlyk, *supra* note 18.

⁹² *Id.*

⁹³ *Gay Iowa Teen Commits Suicide, Was Allegedly Bullied By Classmates*, HUFFINGTON POST (July 29, 2013), https://www.huffpost.com/entry/gay-iowa-teen-suicide_n_3672008 (last visited Apr. 14, 2024).

⁹⁴ Vanessa Peng, *Mother of Bullied Student Who Found Her Dead Shares Her Story*, KCCI (Apr. 30, 2015), <https://www.kcci.com/article/mother-of-bullied-student-who-found-her-dead-shares-her-story-1/6906441> (last visited Apr. 9, 2024).

unprotected from the bullying she experienced from being openly bisexual.⁹⁵

Kenneth, A.J., and Alyssa’s deaths were avoidable. Even though years have passed since then, advocates for LGBTQ youth in Iowa report that self-harm and suicide attempts are at an “all-time high” in the wake of SF496 and other anti-LGBTQ legislation.⁹⁶

CONCLUSION

LGBTQ youth deserve the opportunity to safely grow up with the support of their schools. The Trevor Project and GLSEN thus respectfully request this Court to uphold the preliminary injunction against SF496.

Dated: April 17, 2024

Respectfully submitted,

⁹⁵ *Id.*

⁹⁶ Tom Barton, *Self-Harm at ‘All-Time High’ Among Iowa LGBTQ Youth*, GAZETTE (Oct. 21, 2023), <https://www.thegazette.com/news/center-self-harm-at-all-time-high-among-iowa-lgbtq-youth/> (last visited Apr. 14, 2024).

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CERTIFICATE OF COMPLIANCE

I am the attorney for Amici Curiae The Trevor Project and GLSEN.

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CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the appellate CM/ECF system.

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