

No. 25-1105

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

KRISTEN CROOKSHANKS, as parent and next of friend of a minor on behalf
of C.C.; MINDY SMITH, as parent and next of friend of a minor on behalf of
E.S.; NAACP-COLORADO-MONTANA-WYOMING STATE AREA
CONFERENCES; and THE AUTHORS GUILD,

Plaintiffs - Appellees,

v.

ELIZABETH SCHOOL DISTRICT,

Defendant - Appellant.

*On Appeal from the United States District Court
for the District of Colorado, Case No. 1:24-cv-03512-CNS-STV,
Hon. Charlotte N. Sweeney, District Judge*

**BRIEF OF AMICI CURIAE THE COLORADO LGBTQ+ BAR
ASSOCIATION, THE SOUTH ASIAN BAR ASSOCIATION OF
COLORADO, THE COLORADO WOMEN'S BAR ASSOCIATION, THE
ASIAN PACIFIC AMERICAN BAR ASSOCIATION OF COLORADO, THE
NATIONAL LGBTQ+ BAR ASSOCIATION, ONE COLORADO, YOUTH
PRIDE ASSOCIATION, AND THE TREVOR PROJECT IN SUPPORT OF
PLAINTIFFS-APPELLEES AND AFFIRMANCE**

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RULE 26.1 DISCLOSURE

Amici curiae the Colorado LGBTQ+ Bar Association, the South Asian Bar Association of Colorado, the Colorado Women’s Bar Association, the Asian Pacific American Bar Association of Colorado, the National LGBTQ+ Bar Association, One Colorado, Youth Pride Association, and The Trevor Project are professional associations and/or 501(c)(3) organizations, do not have parent corporations, are not publicly traded companies, and no publicly held corporation owns 10% or more of their stock.

IDENTITY AND INTERESTS OF *AMICI CURIAE*¹

Amici curiae the Colorado LGBTQ+ Bar Association, the South Asian Bar Association of Colorado, the Colorado Women’s Bar Association, the Asian Pacific American Bar Association of Colorado, The National LGBTQ+ Bar Association, One Colorado, Youth Pride Association, and The Trevor Project (“Amici”) are local and national bar associations and nonprofit organizations devoted to promoting and defending the civil, legal, and human rights of lesbian, gay, bisexual, transgender, and queer (“LGBTQ+”) individuals, Black, Indigenous, and people of color (“BIPOC”), and other marginalized groups and individuals. Collaboratively and individually, Amici advocate for laws and policies in Colorado and beyond to eliminate discrimination, promote the recognition of and sensitivity to legal and social issues faced by LGBTQ+ and BIPOC individuals, and encourage educational programs and curricula that foster the safety, well-being, and development of diverse viewpoints, backgrounds, identities, and stories.

Amici have a strong interest in ensuring that Colorado’s youth—and LGBTQ+ and BIPOC students specifically—can access safe, supportive, and affirming educational environments, which includes school libraries featuring books with LGBTQ+ and BIPOC characters and stories. It is critical that *all* Colorado

¹ Pursuant to Rule 29(4)(E), counsel for Amici state that no counsel for a party authored this brief in whole or in part, and no party, counsel for a party, or any person or entity other than Amici has made a monetary contribution to the preparation or submission of this brief.

youth can see themselves represented in books in their schools. Amici submit this brief to highlight the importance of supportive school environments to LGBTQ+ and BIPOC youth and the harms caused by the decision made by the Elizabeth School District (the “District”) to remove 19 books (the “Removed Books”) from their school shelves. To prevent such harms, Amici urge the Court to affirm the preliminary injunction.

INTRODUCTION

Literature transforms human experience and reflects it back to us, and in that reflection we can see our own lives and experiences as part of the larger human experience. Reading then, becomes a means of self-affirmation, and readers often seek mirrors in their books. ... Our classrooms need to be places where all the children from all the cultures that make up the salad bowl of American society can find their mirrors.

—Dr. Rudine Sims Bishop²

The District’s decision to eliminate the Removed Books from its schools’ shelves “based on the authors’ and books’ content and viewpoints on issues such as race, sexual orientation, gender identity, [and] LGBTQ content,” App. Vol. 2 at 553, is part of a nationwide, systematic censorship of stories and histories of underrepresented individuals. As the district court determined, the Removed Books were pulled from school libraries, not to advance a particular “educational mission,” but rather, “to fulfill the pledge to carry out [the School Board’s] conservative agenda.” App. Vol. 2 at 548; *see also* Answer Brief 40–42.

Denying students access to books on issues like race, sexual orientation, and discrimination—in essence, imposing a district-wide book ban on stories by and about LGBTQ+ and BIPOC individuals and communities—does more than remove

² Rudine Sims Bishop, *Mirrors, Windows, and Sliding Glass Doors*, PERSPECTIVES: CHOOSING AND USING BOOKS FOR THE CLASSROOM, Vol. 6, no. 3 (Summer 1990), *as digitally re-published on* READING IS FUNDAMENTAL (Jan. 3, 2015), <https://scenicregional.org/wp-content/uploads/2017/08/Mirrors-Windows-and-Sliding-Glass-Doors.pdf>.

titles from shelves. It creates an unsupportive school environment for all students and reinforces a broader system of exclusion, erasure, and inequality.

The district court correctly issued the preliminary injunction. Not only are Plaintiffs-Appellees likely to succeed on the merits of their First Amendment and Colorado Constitutional violation claims, App. Vol. 2 at 553–57, but also, the District’s book ban has caused, and would continue to cause, irreparable harm to Plaintiffs-Appellees absent an order requiring the District to return the Removed Books to the shelves, App. Vol. 2 at 557–63.

Other numerous, profound, and long-lasting harms will result from the District’s book ban if allowed to stand, beyond those discussed in the district court’s order. This brief details those harms, with reference to research studies analyzing the real-world results of similar book bans in other schools. The Court may rely on these studies to affirm the preliminary injunction on the basis that the District’s book ban will cause irreparable harm and is hostile to the public interest.

SUMMARY OF ARGUMENT

Schools are places where young people cultivate intellectual curiosity, build interpersonal relationships, and nurture their sense of self. A child’s school environment carries significant ramifications for their wellbeing. Research demonstrates that supportive school environments are critical to achieving positive academic and personal outcomes for children. *See* Argument § I.A.

When school environments are not affirming, students suffer. While that is true for all students, unsupportive classrooms are particularly damaging for LGBTQ+ and BIPOC youth. Data demonstrate that LGBTQ+ and BIPOC youth are subject to more adverse mental health outcomes than their peers, driven in large part by stigmatization, bullying, and lack of acceptance. These detrimental mental health outcomes carry long-term consequences, including significantly increased rates of suicidality in LGBTQ+ and BIPOC children. The existence of an affirming school environment is, for many young people in Colorado, a matter of life and death. *See* Argument § I.B.

Contrary to providing a supportive school environment, the District's actions have fostered a culture antithetical to acceptance. The District's removal of books is, at its core, a ban on books. And this act of censorship was not applied indiscriminately. Rather, the book ban explicitly targeted LGBTQ+ and BIPOC authors and stories. In doing so, the District communicated a clear message to its LGBTQ+ and BIPOC students—that stories by and about people like them are unwanted, unwelcome, and inappropriate and, by extension, so are they. *See* Argument § II. The consequences of the District's book ban cannot be understated. It extends far beyond the removal of books from the shelves, instead, causing lasting and dangerous harm to the District's students. *See* Argument § III. To prevent irreparable harm, the District's book ban cannot continue.

ARGUMENT

I. Student Success Is Contingent Upon Supportive School Environments.

As Plaintiffs-Appellees explain, protecting constitutional rights in schools—especially in school libraries—is vital to the health of our society. Answer Brief 51. This is because school environments have a significant impact on student outcomes. A supportive, culturally informed, and inclusive academic environment benefits all students, regardless of their demographic background.

Moreover, although positive school environments are advantageous to all students, these environments are particularly important to LGBTQ+ and BIPOC youth. Providing a supportive setting in which these students learn and grow helps mitigate the negative impacts caused by social stigma and marginalization.

A. Affirming school environments foster success for all students.

A positive school environment where students feel a sense of safety, belonging, and support improves academic success, student engagement, and student mental health.³ School environments are a reflection of the “norms, goals, values, interpersonal relationships, teaching and learning practices, and

³ Linda Darling-Hammon & Jennifer DePaoli, *Why School Climate Matters and What Can Be Done to Improve It*, 20 STATE EDUC. STANDARD: J. NAT’L ASS’N STATE BDS. EDUC., May 2020, at 6, 7; Riley J. Steiner et al., *Adolescent Connectedness and Adult Health Outcomes*, 144 AM. ACAD. PEDIATRICS, July 2019, at 1, 2; Eva Oberle et al., *Positive Mental Health and Supportive School Environments: A Population-Level Longitudinal Study of Dispositional Optimism and School Relationships in Early Adolescence*, 214 SOC. SCI. & MED, Oct. 2018, at 154, 156.

organizational structures” in place.⁴ An equitable school environment “exhibits a quality and character that fosters” “emotionally and physically safe, healthy learning environments for all; caring, courageous, self-reflective relationships among and between peers and adults; and multiple, culturally responsive pathways to participation that meaningfully enhance academic, social, emotional, civic, and moral development.”⁵

Equitable, culturally-competent school settings provide academic benefits for all students. School environments that foster improved connection among varying demographic groups “enhance[] academic outcomes for both minoritized and White youth.”⁶ The importance and longevity of these enhanced outcomes cannot be understated. When students feel a sense of connection with, and understanding of, their peers and teachers, they are more likely to graduate high school and attend college, which in turn yields increased economic mobility and professional opportunities.⁷

⁴ Randy Ross et al., *Creating Equitable School Climates*, 20 STATE EDUC. STANDARD: J. NAT’L ASS’N STATE BDS. EDUC., May 2020, at 17, 17.

⁵ *Id.* at 17–18.

⁶ Maciel M. Hernández et al., *Identifying Culturally Relevant School Support Profiles and Links to Academic Functioning in Adolescents*, 54 J. YOUTH ADOLESCENCE 785, 787 (2025) (citation omitted).

⁷ SHANETTE C. PORTER, ET. AL., INVESTING IN ADOLESCENTS: HIGH SCHOOL CLIMATE AND ORGANIZATIONAL CONTEXT SHAPE STUDENT DEVELOPMENT AND EDUCATIONAL ATTAINMENT 7 (Univ. of Chi. Consortium on Sch. Rsch. ed., 2023), <https://consortium.uchicago.edu/sites/default/files/2023-04/Investing%20in%20Adolescents-Apr%202023-Consortium.pdf>; Ron Haskins, *Education and*

In addition, allowing students to encounter and engage with their own culture and other cultures supports not only academic success, but mental health.⁸ School “connectedness”—*i.e.*, the students’ belief that adults and peers in the school care about them and their education—has been shown to, among other things, lower the likelihood of youth experiences of violence, emotional distress, suicidal ideation, and suicide attempts.⁹ It is the feeling of support from the greater school environment, rather than from individual relationships with peers and adults, that contributes meaningfully to improving students’ mental health.¹⁰

To maintain a positive school environment, students must be able to access experiences different from their own. Reading presents a primary vehicle for such learning. *See* Answer Brief 35 (noting the “unique nature” of a school library as one of the only places where a student is truly free to explore new ideas). “[T]here is abundant evidence suggesting that reading, particularly reading fiction, has positive consequences for social cognition.”¹¹ Literature allows readers to view a perspective

Economic Mobility, in GETTING AHEAD OR LOSING GROUND: ECONOMIC MOBILITY IN AMERICA 91, 99–100 (Economic Mobility Project ed., 2008).

⁸ *See generally* Hernández et al., *supra* note 6.

⁹ Div. of Adolescent & Sch. Health, *Safe and Supportive School Environments*, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION (Nov. 29, 2024), <https://www.cdc.gov/healthy-youth/what-works-in-schools/safe-supportive-school-environments.html>.

¹⁰ Oberle et al., *supra* note 3, at 159.

¹¹ Steven C. Schwering et al., *Exploring the Relationship Between Fiction Reading and Emotion Recognition*, 2 AFFECTIVE SCI. 178, 178 (2021).

different from their own and to step into the experiences of another.¹² “[B]ooks might teach the reader about what a person experiences, which may lead to more empathy.”¹³ In particular, “[c]ontroversial literature is vital in developing critical thinking skills, encouraging students to analyze complex themes, challenge societal norms, and engage in meaningful discussions.”¹⁴ Critically, “cultivating a rich literary environment promotes open-mindedness and prepares students for a diverse society.”¹⁵ And on a broader scale, First Amendment jurisprudence historically reflects this value judgment, protecting the public’s “access to a wide range of views.” Answer Brief 46 (quoting *Moody v. Netchoice*, 603 U.S. 707, 741 (2024)).

Literature is also self-affirming: “seeing aspects of yourself in the characters and people featured in books and stories can illustrate to all readers that ‘the lives of

¹² Grace Pickering, “*Harmful to Minors*”: *How Book Bans Hurt Adolescent Development*, 84 SERIALS LIBRARIAN 32, 37 (2023); see also MARY L. WARNER, ADOLESCENTS IN THE SEARCH FOR MEANING: TAPPING THE POWERFUL RESOURCE OF STORY, at xii–xiii (2006).

¹³ Pickering, *supra* note 12, at 37.

¹⁴ *How Book Banning Challenges Education and Academic Freedom in Schools*, AM. U. SCH. EDUC. (Dec. 17, 2024), <https://soeonline.american.edu/blog/impact-of-book-banning/>.

¹⁵ *Id.*

people like you are worthy of being told.”¹⁶ Representation “can be crucial to adolescent self-determination.”¹⁷

The positive effects of a supportive school environment—fostered in large part by access to books and connections with various cultures, demographics, and viewpoints—continue into adulthood. This, in turn, results in improved mental health and resilience in students.¹⁸

B. Affirming school environments are particularly critical to achieving positive outcomes for LGBTQ+ and BIPOC youth.

“Nearly one in three adolescents report poor mental health, and the problems range from persistent feelings of sadness and hopelessness to thoughts of suicide and suicide attempts.”¹⁹ LGBTQ+ and BIPOC youth are not inherently prone to adverse mental health due to their sexuality, gender identity, or race.²⁰ LGBTQ+ youth, however, “are at increased risk for mental health problems due to the personal,

¹⁶ IRENE PICTON & CHRISTINA CLARK, NATIONAL LITERACY TRUST, SEEING YOURSELF IN WHAT YOU READ: DIVERSITY AND CHILDREN AND YOUNG PEOPLE’S READING IN 2022, at 1 (2022).

¹⁷ Pickering, *supra* note 12, at 37.

¹⁸ Oberle et al., *supra* note 3, at 155; Steiner et al., *supra* note 3, at 2.

¹⁹ Gay Ivey & Peter Johnston, *Improving Teens’ Reading and Their Well-Being*, ASS’N FOR SUPERVISION & CURRICULUM DEV. (May 21, 2024), <https://ascd.org/blogs/improving-teens-reading-and-their-well-being>.

²⁰ See, e.g., *Facts about Suicide Among LGBTQ+ Young People*, TREVOR PROJECT (Jan. 2024), <https://www.thetrevorproject.org/resources/article/facts-about-lgbtq-youth-suicide>; *Racism and Mental Health*, MENTAL HEALTH AM., <https://mhanational.org/resources/racism-and-mental-health/> (last visited June 19, 2025).

familial, and societal stigma and isolation they experience.”²¹ And, if adverse conditions develop in BIPOC youth, they can be “more persistent”²² or have a “disproportionate impact” because of the “inequities that result from structural racism” and the cumulative impact of “societal stigmas and stressors.”²³ As a result, LGBTQ+ and BIPOC youth face a significantly higher risk of adverse health outcomes than their peers,²⁴ including an increased suicide risk, due to their stigmatization in society.²⁵

While “[i]t is a widely held belief that all children ‘have the right to be physically and emotionally safe at school,’ ... research consistently tells us that a majority of [LGBTQ+] students ... do not feel safe in their own schools.”²⁶ In particular, LGBTQ+ adolescents are “extremely vulnerable to peer stigma.”²⁷ Hostile school climates affect not only LGBTQ+ students’ mental health, but also

²¹ Pickering, *supra* note 12, at 38.

²² *Id.*

²³ *AAP-AACAP-CHA Declaration of a National Emergency in Child and Adolescent Mental Health*, AM. ACAD. 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/>.

²⁴ *See generally* R. NATH, ET. AL., 2024 U.S. NATIONAL SURVEY ON THE MENTAL HEALTH OF LGBTQ+ YOUNG PEOPLE (2024).

²⁵ *See, e.g., Facts about Suicide*, *supra* note 20.

²⁶ Robert A. McGarry, *Educators as Allies in Support of Lesbian, Gay, Bisexual, Transgender, and Questioning Students and Parents*, in *CREATING SAFE AND SUPPORTIVE LEARNING ENVIRONMENTS* 230, 230 (Emily S. Fisher & Karen Komosa-Hawkins eds., 2013) (citation omitted).

²⁷ Pickering, *supra* note 12, at 38.

their academic success. When compared to LGBTQ+ students within a supportive school environment, LGBTQ+ students without one are nearly three times as likely to miss school, more likely to have poorer academic performance, and nearly twice as likely to report that they have been disciplined in school and do not plan to pursue post-secondary education.²⁸

These nationwide trends are consistent with Colorado-specific data.²⁹ In 2024, 41% of LGBTQ+ youth in Colorado reported seriously considering suicide in the past year, 12% reported attempting suicide, 68% reported symptoms of anxiety, and 56% reported symptoms of depression.³⁰ In an especially alarming statistic, in 2023, 61.4% of transgender high schoolers in Colorado “felt so sad or hopeless almost every day for two weeks or more in a row during the past 12 months that they stopped doing some usual activities.”³¹

²⁸ JOSEPH G. KOSCIW, ET. AL., GLSEN, THE 2021 NATIONAL SCHOOL CLIMATE SURVEY: THE EXPERIENCES OF LGBTQ+ YOUTH IN OUR NATION’S SCHOOLS, at xix, 35–36 (2022); Mark L. Hatzenbuehler, et. al., *Protective School Climates and Reduced Risk for Suicide Ideation in Sexual Minority Youths*, 104 AM. J. PUB. HEALTH 279, 279 (2014).

²⁹ See Karen Augé, *Suicides of Bullied Gay Kids in Other States Jolt Colorado Educators to Action*, DENV. POST (May 5, 2016), <https://www.denverpost.com/2016/05/05/suicides-of-bullied-gay-kids-in-other-states-jolt-colorado-educators-to-action/>.

³⁰ See NATH, *supra* note 24.

³¹ *Healthy Kids Colorado Survey Dashboard*, Colo. Dep’t Pub. Health & Env’t, <https://cdphe.colorado.gov/healthy-kids-colorado-survey-information/healthy-kids-colorado-survey-dashboard> (choose “High School Data Dashboard”; then choose “2023” from the Step 1 drop-down menu; then choose “Mental Health” from the Step 2 drop-down menu) (last visited June 19, 2025).

BIPOC youth likewise experience disproportionate levels of adverse mental health outcomes when compared to their White peers.³² A 2025 report by The AAKOMA Project reveals that, within the past year, more than 37% of BIPOC youth and young adults ages 13–25 seriously considered suicide, with nearly 34% self-harming and more than 16% attempting suicide.³³ Furthermore, the report found that nearly 29% of BIPOC youth and young adults “often or very often” faced racial trauma—“mental and emotional injury caused by encounters with racism, racial bias, racial/ethnic discrimination, and racial hate crimes”—within the past year, with over 21% of this trauma resulting from teachers and employers.³⁴ Again, these trends are reflected in Colorado’s students. In 2023, BIPOC high school and middle school students reported seriously considering suicide, making a plan to commit suicide, attempting suicide, engaging in self-harm, and feeling depressed at rates higher than their White peers.³⁵

³² See, e.g., EMERGENCY TASKFORCE ON BLACK YOUTH SUICIDE AND MENTAL HEALTH, CONGRESSIONAL BLACK CAUCUS, RING THE ALARM: THE CRISIS OF BLACK YOUTH SUICIDE IN AMERICA 1 (2020); ALFIEE BRELAND-NOBLE, AAKOMA PROJECT, STATE OF MENTAL HEALTH FOR YOUTH OF COLOR 2022, at 13–30 (2023), <https://aakomaproject.org/wp-content/uploads/2023/04/SOMHYOC-FullReport.pdf>; Farzana T. Saleem et al., *Addressing the “Myth” of Racial Trauma: Developmental and Ecological Considerations for Youth of Color*, 23 CLIN. CHILD FAM. PSYCH. REV., Mar. 2020, at 1, 1–2.

³³ ALFIEE BRELAND-NOBLE, AAKOMA PROJECT, STATE OF MENTAL HEALTH OF YOUTH AND YOUNG ADULTS OF COLOR 2025, at 28–30 (2025).

³⁴ *Id.* at 35–36.

³⁵ *Healthy Kids Colorado Survey*, *supra* note 31.

These adverse mental health outcomes are exacerbated for young people who are *both* LGBTQ+ and BIPOC.³⁶ “LGBTQ youth of color ... have multiple marginalized identities and experiences to contend with,”³⁷ which can make these individuals “more susceptible to negative experiences and decreased mental health.”³⁸ People that are both LGBTQ+ and BIPOC “report experiencing more depressive symptoms relative to their same racial/ethnic counterparts.”³⁹

Bullying, harassment, and violence targeting LGBTQ+ and BIPOC students happens every day, aggravating negative mental health outcomes.⁴⁰ In 2023, nearly 25% of Colorado high school students who were bullied in school reported bullying because of their sexual orientation, and 18% reported they were bullied because of

³⁶ See, e.g., *Facts about Suicide*, *supra* note 20; *Racism and Mental Health*, *supra* note 20; *The Mental Health and Well-Being of Indigenous LGBTQ Young People*, TREVOR PROJECT (Nov. 30, 2023), <https://www.thetrevorproject.org/research-briefs/the-mental-health-and-well-being-of-indigenous-lgbtq-young-people/>; Amy E. Green et. al., *Cumulative Minority Stress and Suicide Risk Among LGBTQ Youth*, 69 AM. J. CMTY. PSYCH. 157 (2021); Kali Cyrus, *Multiple Minorities as Multiply Marginalized: Applying the Minority Stress Theory to LGBTQ People of Color*, 21 J. GAY & LESBIAN MENTAL HEALTH 194 (2017); M. PRICE-FEENEY ET. AL., TREVOR PROJECT, ALL BLACK LIVES MATTER: MENTAL HEALTH OF BLACK LGBTQ YOUTH 10 (2020).

³⁷ A.E. GREEN ET. AL., TREVOR PROJECT, BREAKING BARRIERS TO QUALITY MENTAL HEALTH CARE FOR LGBTQ YOUTH 5 (2020).

³⁸ PRICE-FEENEY ET. AL., *supra* note 36, at 3.

³⁹ Luis A. Parra et al., *Greater Lifetime Stressor Exposure Is Associated with Poorer Mental Health among Sexual Minority People of Color*, 79 J. CLINICAL PSYCH. 1130, 1132 (2023).

⁴⁰ See, e.g., *Challenges Facing LGBTQ Youth*, 25 GEO. J. GENDER & L. 417, 447–54 (2023) (Amanda Maze-Schultz ed.).

their gender identity.⁴¹ In the same survey, 17.1% of middle school students who were bullied reported bullying because of their sexual orientation and 12.9% reported bullying because of their gender identity.⁴² 30.3% of high school students who reported bullying were bullied because of race and 28.1% of middle school students who reported bullying were bullied because of race or ethnicity.⁴³

Cumulatively, this data demonstrates an inextricable link between unsupportive school environments and deleterious—and even fatal—outcomes for LGBTQ+ and BIPOC youth. However, not all determinantal experiences can be accounted for as these statistics do not report the experiences of youth, including LGBTQ+ and BIPOC youth, who died by suicide.

Negative mental health outcomes can also negatively impact long-term physical health. A longitudinal study reveals that, on average, “[c]hildren and adolescents with mental health problems often display impaired mental health, lower life satisfaction and poorer health-related quality of life as adults.”⁴⁴ Bullied adolescents are also more likely to report use of alcohol, cigarettes, and inhalants within twelve months of the bullying event compared to those who were not

⁴¹ *Healthy Kids Colorado Survey*, *supra* note 31.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Robert Schlack et al., *The Effects of Mental Health Problems in Childhood and Adolescence in Young Adults: Results of the KiGGS Cohort*, 6 J. HEALTH MONITORING 3, 8 (2021).

bullied.⁴⁵ Furthermore, research indicates mental illnesses like depression can directly lead to physical illnesses by weakening the body’s immune response, thereby increasing susceptibility to viral and bacterial infections as well as the severity of allergies and asthma.⁴⁶ The consequences of adverse mental health in childhood can—and often do—extend into adulthood.

A supportive school environment mitigates these adverse outcomes. For example, LGBTQ+ and BIPOC students whose schools have inclusive curriculums are less likely to feel unsafe due to their identities, are more likely to have accepting peers, and are more likely to feel connected to their school community.⁴⁷ Indeed, LGBTQ+ youth who find their school to be “LGBTQ+-affirming” report lower rates of attempting suicide than those who did not.⁴⁸ Supportive school settings can help “instill[] a belief in the intrinsic worth of all individuals,” thus ensuring the health and wellbeing of LGBTQ+ and BIPOC students.⁴⁹

⁴⁵ NAT’L ACADEMIES SCIS., ENG’G, & MED., PREVENTING BULLYING THROUGH SCIENCE, POLICY, AND PRACTICE 129 (2016).

⁴⁶ Gregory A. Aarons et al., *Association Between Mental and Physical Health Problems in High-Risk Adolescents: A Longitudinal Study*, 43 J. ADOLESCENT HEALTH 260, 261 (2008).

⁴⁷ See ADRIAN ZONGRONE ET AL., GLSEN, ERASURE AND RESILIENCE: THE EXPERIENCES OF LGBTQ STUDENTS OF COLOR: NATIVE AMERICAN, AMERICAN INDIAN, AND ALASKA NATIVE LGBTQ YOUTH IN U.S. SCHOOLS 32 (2020).

⁴⁸ See, e.g., *Facts About Suicide*, *supra* note 20; TREVOR PROJECT, SCHOOL-RELATED PROTECTIVE FACTORS FOR LGBTQ MIDDLE AND HIGH SCHOOL STUDENTS 1 (2023).

⁴⁹ KOSCIW ET. AL., *supra* note 28, at 62.

II. Book Bans—like the District’s Book Removal—Foster Unwelcoming School Environments by Silencing LGBTQ+ and BIPOC Stories.

Despite the urgent, data-driven need for schools to provide affirming environments for LGBTQ+ and BIPOC students, policies like the District’s book ban do the opposite. Although book bans are often rationalized as a tool to shield young people from obscene or inappropriate content, like the District’s, these bans disproportionately restrict access to books discussing gender identity, queer sexuality, and the BIPOC experience,⁵⁰ which results in hostile school environments that isolate marginalized youth.

The District’s book ban does not stand alone. During the 2023-2024 school year, there were more than 10,000 instances of banned books in public schools, affecting more than 4,000 unique titles. Of the total number of books banned, 36% of banned titles featured characters or people of color and 25% included LGBTQ+ people or characters.⁵¹ In 2021 and 2022, 41% of banned books addressed LGBTQ+ themes or had prominent characters that were LGBTQ+ (with 9% transgender stories); 40% contained protagonists or prominent secondary characters of color; 21% directly address racism and race; 22% contained sexual content of different

⁵⁰ Jenna Spiering et al., *From Book Rating to Book Bans: A Critical Content Analysis of BookLooks.Org’s Report Cards on LGBTQIA+ Titles*, 8 J. INTELLECTUAL FREEDOM & PRIV. 22, 29 (2023).

⁵¹ *Cover to Cover: An Analysis of Titles Banned in the 23–24 School Year*, PEN AM. (Feb. 27, 2025), <https://pen.org/report/cover-to-cover/>.

kinds (including informational books about puberty and relationships); and 10% were related to rights and activism.⁵²

These targeted book-removal policies are part of a larger, national trend to remove the presence of LGBTQ+ and BIPOC inclusive books in schools. *See, e.g., GLBT Youth in Iowa Sch. Task Force v. Reynolds*, 114 F.4th 660, 670 (8th Cir. 2024) (remanding consideration of motion to preliminarily enjoin Iowa statute regulating books in public school libraries, including books with LGBTQ+ content); *Fayetteville Pub. Library v. Crawford County*, 684 F. Supp. 3d 879, 887, 911 (W.D. Ark. 2023) (granting motion to preliminarily enjoin Arkansas statute targeting “obscene” materials in public libraries, including books with LGBTQ+ content). The District’s book ban thus operates as part of a nationwide, systematic censorship of stories and histories of underrepresented individuals.

These trends are even more concerning when evaluated alongside the critical underrepresentation of BIPOC and LGBTQ+ people in literature and publishing.⁵³ Over 50% of young people in the United States are people of color.⁵⁴ Yet, in one

⁵² *Banned in the USA: The Growing Movement to Censor Banned Books in Schools*, PEN AM. (Sept. 19, 2022), <https://pen.org/report/banned-usa-growing-movement-to-censor-books-in-schools/>.

⁵³ Anjali Adukia et al., *What We Teach About Race and Gender: Representation in Images and Text of Children’s Books* (Nat’l Bureau of Econ. Rsch., Working Paper No. 29123, 2021).

⁵⁴ *Child Population*, CHILDREN’S DEFENSE FUND, <https://www.childrensdefense.org/tools-and-resources/the-state-of-americas-children/soac-child-population/> (last visited June 19, 2025).

study analyzing 495 mainstream children’s books, 88% of the depicted faces were identified as White, and 92% of the famous figures mentioned were also classified as White.⁵⁵ In contrast, only 12% of the faces identified were classified as Asian, Black, Latine, or Indigenous.⁵⁶ The same study found that popular children’s books published in the last century consistently portray non-White characters with lighter skin colors.⁵⁷ And “while just over 1 in 3 (34.9%) children and young people from White backgrounds say they struggle to see themselves in what they read, this increases to nearly 1 in 2 (45.2%) children and young people from Black ethnic backgrounds.”⁵⁸

Similarly, “[r]oughly 21% of Generation Z Americans who have reached adulthood ... identify as LGBT.”⁵⁹ Yet, the Cooperative Children’s Book Center reported that a mere 3.1% of books they received prominently feature LGBTQ+ characters or themes.⁶⁰ LGBTQ+ and BIPOC children are therefore already less

⁵⁵ Adukia et al., *supra* note 53.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Picton & Clark, *supra* note 16, at 2 (emphases omitted).

⁵⁹ Jeffrey M. Jones, *LGBT Identification in U.S. Ticks Up to 7.1%*, GALLUP (Feb. 17, 2022), <https://news.gallup.com/poll/389792/lgbt-identification-ticks-up.aspx>.

⁶⁰ *The Numbers Are In: 2019 CBCC Diversity Statistics*, COOP. CHILDREN’S BOOK CTR. (June 16, 2020), <https://ccbc.education.wisc.edu/the-numbers-are-in-2019-ccbc-diversity-statistics/>.

likely to see themselves in the books they read, and book bans only exacerbate this inequity.

There is a significant cost associated with silencing the few stories that represent the lived experience of marginalized communities. Allowing topics like gender, race, and sexuality to be freely discussed not only destigmatizes them but also validates the experiences of people who have experienced racism and/or sex-or gender-based discrimination. By contrast, “removing depictions of successful Black people, immigrants, or LGBTQ people from libraries ... limit[s] the ability of children to see themselves succeeding in our society.”⁶¹

If students cannot access books that diverge from the dominant cultural narrative (in this case, the Board members’ “conservative values,” Answer Brief 40), they are left with the overwhelming impression that only stories centering on White, cisgender, and heterosexual characters are “appropriate” for the classroom. This erasure is a form of systematic oppression: “When children cannot find themselves reflected in the books they read, or when the images they see are distorted, negative, or laughable, they learn a powerful lesson about how they are devalued in the society of which they are a part.”⁶²

⁶¹ Eliot T. Tracz, *Censorship and Book Bans: Two Non-Constitutional Arguments Against Queer Erasure*, 52 HOFSTRA L. REV. 903, 920 (2024)

⁶² Bishop, *supra* note **Error! Bookmark not defined..**

It is not surprising, then, that book bans create an unsafe school environment for members of marginalized groups, causing some marginalized youth to feel so disenfranchised that some consider and attempt suicide.⁶³ Scrubbing educational materials of divergent viewpoints ultimately reinforces the negative stereotypes of minority groups.⁶⁴ Take, for example, books containing LGBTQ+ characters or themes, which are often mischaracterized⁶⁵ by book-ban proponents as “obscene” or inherently sexual. *E.g.*, Answer Brief 13–14 (explaining Board members’ comments about *#Pride: Championing LGBTQ Rights*, in which Director Booth asserted that “LGBTQ is only regarding sexual preference which does not belong in any school”); App. Vol. 1 at 138 (book review of *You Should See Me in a Crown* stating the book should be removed from the library collection because the “Lesbian romance mentioned” is not “appropriate for middle school”). Removing books on this basis plays into stereotypes about that community: “that simply by existing and their lives being described, the books are pornographic.”⁶⁶

⁶³ *Anti-Transgender Laws Cause Up to 72% Increase in Suicide Attempts Among Transgender and Nonbinary Youth, Study Shows*, TREVOR PROJECT (Sept. 26, 2024), <https://www.thetrevorproject.org/blog/anti-transgender-laws-cause-up-to-72-increase-in-suicide-attempts-among-transgender-and-nonbinary-youth-study-shows/>.

⁶⁴ Tobin Kassa, Note, *Book Bans Under a Hostile Environment Theory*, 56 COLUM. HUM. RTS. L. REV. 351, 397 (2025).

⁶⁵ Spiering et. al., *supra* note 50.

⁶⁶ Pickering, *supra* note 12, at 35.

Moreover, failing to provide access to culturally accessible materials to “students whose stories or life experiences are not reflected in regular lessons or educational materials” can “have a detrimental effect on academic success.”⁶⁷ This is because “the ways in which identities are represented in the classroom through materials presented by educators affect student achievement” and “ability to learn.”⁶⁸

Proponents of book bans—like the School Board—emphasize the parental right to control a child’s access to controversial material.⁶⁹ Available evidence, however, does not suggest that reading banned books *creates* negative social, educational, or mental health outcomes in children.⁷⁰ And removing books that grapple with difficult topics like racial violence, political unrest, sexuality, discrimination, or abuse from school libraries does not keep these things from happening. Instead, book bans send a clear message to the already-vulnerable

⁶⁷ NAT’L EDUC. ASS’N, THE VERY FOUNDATION OF GOOD CITIZENSHIP: THE LEGAL AND PEDAGOGICAL CASE FOR CULTURALLY RESPONSIVE AND RACIALLY INCLUSIVE PUBLIC EDUCATION FOR ALL STUDENTS 17 (2022).

⁶⁸ *Id.* at 16.

⁶⁹ Marisa Shearer, *Banning Books or Banning BIPOC?*, 117 NW. U. L. REV. 24, 40 & nn.100–102 (2022).

⁷⁰ Christopher J. Ferguson, *Is Reading “Banned” Books Associated with Behavior Problems In Young Readers? The Influence of Controversial Young Adult Books on the Psychological Well-Being of Adolescents*, 8 PSYCH. AESTHETICS, CREATIVITY & ARTS 354 (2014).

students who themselves are navigating those issues: *your lived experience causes discomfort to your White, heterosexual, cisgender peers—better keep it to yourself.*⁷¹

Book bans also have the pernicious effect of shielding students from content that might allow them to empathize with their marginalized peers by “learn[ing] about experiences different from their own.”⁷² The “lack of representation and narrow stereotypical portrayals” remaining after book bans “create missed opportunities for all students, preventing them from fully understanding how various racial, ethnic, and gender groups have been a part of and are a part of the American narrative.”⁷³ Indeed, research indicates that “rejecting critical conversations about diversity and inclusion in classrooms can lead to student disengagement and disinterest in their learning environments.”⁷⁴ This, in turn, “can entrench inequity” and “have a harmful effect on how students perceive achievement and ‘merit,’ and, subsequently, how they relate to one another.”⁷⁵

Moreover, this misplaced shielding carries academic consequences. When books are banned in schools, all students are deprived of the opportunity to access

⁷¹ Chana Joffe-Walt, *Talking While Black—Act II: The Farce Awakens*, THIS AM. LIFE, <https://www.thisamericanlife.org/758/transcript>.

⁷² Scientific American, *Book Bans Harm Kids* (Nov. 19, 2024), <https://www.scientificamerican.com/article/book-bans-harm-kids/>.

⁷³ NAT’L EDUC. ASS’N, *supra* note 67, at 16.

⁷⁴ *Id.* at 17.

⁷⁵ *Id.*

diverse perspectives, engage in critical thinking, and empathize with others.⁷⁶ Experts caution that banning books can create “significant gaps in knowledge for young learners”⁷⁷ by affecting curriculum planning and “limiting educators’ ability to include diverse perspectives and critical topics,” resulting in long-term effects like “narrowed academic standards and diminished student engagement.”⁷⁸ In one study, nearly *three quarters* of surveyed teachers reported that book-banning initiatives dampened their students’ engagement in reading.⁷⁹ The evidence is clear: limiting students’ access to diverse stories hinders their ability to think independently and empathize with others, diminishes their civic engagement and readiness to address real-world issues, and, ultimately, stymies their overall academic and personal development.⁸⁰

Here, the record demonstrates that the District’s book removal policy was *intended* to target LGBTQ+ and BIPOC stories. See App. Vol. 2 at 544–50, 553;

⁷⁶ *How Book Banning Challenges Education and Academic Freedom in Schools*, *supra* note 14.

⁷⁷ Maoria Kirker, *Mason Expert Says That Book Banning Hurts Students’ Access to Learning*, GEORGE MASON U. (Jan. 20, 2020), <https://www.gmu.edu/news/2022-01/mason-expert-says-book-banning-hurts-students-access-learning>.

⁷⁸ *How Book Banning Challenges Education and Academic Freedom in Schools*, *supra* note 14.

⁷⁹ FIRST BOOK RSCH. & INSIGHTS, EDUCATOR INSIGHTS ON THE CONVERSATION AROUND BANNED BOOKS 16 (2023).

⁸⁰ *How Book Banning Challenges Education and Academic Freedom in Schools*, *supra* note 14.

Answer Brief 40–42. The policy thus perpetuates a vicious cycle of distrust and exclusion, standing in stark contrast to the District’s stated mission of “provid[ing] ... students with excellent and diverse learning opportunities that inspire passion for learning, develop individual potential and prepare them for a successful future.” App. Vol. 1 at 120. If the book-removal policy is allowed to stand, the situation will only worsen for the already-vulnerable students in Elizabeth’s public schools.

III. The District’s Book Removal Has Harmed and Will Continue to Harm LGBTQ+ and BIPOC Students.

Evidence from students and parents in the District demonstrates the harm caused by the book removal—harm that will only continue if the preliminary injunction is not upheld.

Sixteen-year-old C.C., a queer student at Elizabeth High School, was so “devastated” when she learned of the district’s policy that she “cried about it when [she] came home from school that day.” App. Vol. 1 at 065, ¶¶ 7–8. To her, it was “clear that [the District] w[as] targeting LGBTQ people” in removing books that discuss queer experiences from the shelves. *Id.* at ¶ 8. C.C. emphasized the importance of queer teenagers like herself being able to “access to books about LGBTQ people who are accepted and proud of who they are.” App. Vol. 1 at 066, ¶ 9. Instead, C.C. attested, “the District is restricting access to those books and stigmatizing them.” *Id.* “Based on the books [the District] removed and labeled as ‘sensitive,’” C.C. was left with the impression that “people like [her]” do not “fit

into their worldview.” App. Vol. 1 at 067, ¶ 15. And because the “District has made clear that there is something wrong with [the ideas contained in the removed books],” C.C. “worr[ies]” that she and others “who discuss or learn about the ideas in the removed books will be stigmatized.” App. Vol. 1 at 068, ¶ 20.

Likewise, C.C.’s mother, Kristen Crookshanks, was “angry and disheartened” when she learned about the District’s book-removal policy, at least in part because “it was clear to [her] that the District was targeting books about LGBTQ people and people of color.” App. Vol. 1 at 072–73, ¶¶ 8, 11. Crookshanks wants C.C. to have access to books with characters she can relate to and worries that restricting that access could cause C.C. to feel “ashamed or alone” due to her sexual orientation. App. Vol. 1 at 073, ¶ 13.

Mindy Smith, the mother of E.S., a preschooler at Running Creek Elementary School in Elizabeth County, was similarly dismayed. App. Vol. 1 at 078, ¶ 7. Smith wishes for her children to have access to a diverse array of reading materials so that they can grow up to understand the value in many different ideas and viewpoints. *Id.* at ¶ 6. She mourns the loss of viewpoint diversity at Elizabeth’s schools. Smith does not want her son to “think that some books are wrong just because his school board disagrees with them,” or to “be educated in an environment where LGBTQ+ people and people of color are stigmatized.” App. Vol. 1 at 079, ¶¶ 12, 13.

Some parents were so alarmed by the removal of books from school libraries that they disenrolled their children from Elizabeth schools. App. Vol. 1 at 085–86, ¶

9. For example, one parent of a fifth-grade student saw the “removal of books as yet another manifestation of racism in the District.” *Id.* That parent unenrolled her child from Running Creek Elementary because she “wanted her daughter to be educated in a school that values her and doesn’t deprive her of access to books about Black people she can relate to.” *Id.* The feeling of marginalization that this parent was left to grapple with constitutes independently actionable injury. Answer Brief 25–26.

The experiences of these students and families are not out of the ordinary. Research shows that restricting materials that reflect the lived experiences and histories of BIPOC and LGBTQ+ students have widespread negative effects on their mental health. Banning representative books incites feelings of exclusion and invisibility among BIPOC and LGBTQ+ students. “Through challenging and censoring books with LGBTQ+ themes, governments and school boards teach young LGBTQ+ adolescents to feel ashamed and isolated of their identity.”⁸¹ “Book bans internalize a sense of shame and isolation within young LGBTQ+ people, especially as many struggle to find self-acceptance and self-love”⁸² This, in turn, intensifies

⁸¹ Lauren Welter, *With the Banned: School Book Bans Defy Domestic and International Values*, 35 IND. INT’L & COMPAR. L. REV. 153, 167 (2025); see also Maya Pottinger, *What Message Do Book Bans Send to Black Students?*, WORD IN BLACK (Sept. 20, 2022), <https://wordinblack.com/2022/09/what-message-do-book-bans-send-to-black-students/>.

⁸² Orion Rummler, *Book Bans Internalize ‘Shame’ for Young LGBTQ+ People, Advocates Say. Here’s How They’re Pushing Back*, 19TH NEWS (Feb. 23, 2023), <https://19thnews.org/2023/02/book-bans-lgbtq-reading/>.

these students’ risk of mental health issues,”⁸³ and exacerbates the sense that their “identities are under attack.”⁸⁴ For example, The Trevor Project reported that “nearly 2 in 3 LGBTQ young people said that hearing about potential state or local laws banning people from discussing LGBTQ people at school made their mental health a lot worse.”⁸⁵ Indeed, one student explained, “[b]y removing [LGBTQ+ and BIPOC focused] books, it creates a sense and feeling of not being accepted ... [and] opens a feeling of shame,” resulting in LGBTQ+ and BIPOC individuals “not feel[ing] valid, or even humanized.”⁸⁶ Through book removal policies like the District’s, *i.e.*, those solely motivated by the Board members’ own brand of political orthodoxy, Answer Brief 40–42, “children receive messages from ... school administrators that being themselves—Black, queer, an immigrant, etc.—is wrong and learn to despise themselves.”⁸⁷

⁸³ Pickering, *supra* note 12, at 39; 2023 U.S. National Survey on the Mental Health of LGBTQ+ Young People, TREVOR PROJECT, <https://www.thetrevorproject.org/survey-2023/> (last visited June 19, 2025).

⁸⁴ BOOKS UNBANNED, IN THEIR OWN WORDS: YOUTH VOICES ON BOOKS UNBANNED 4, <https://booksunbanned.com/documents/Books%20Unbanned%20Teen%20Testimonials.pdf>.

⁸⁵ 2023 U.S. National Survey on the Mental Health of LGBTQ+ Young People, *supra* note 83.

⁸⁶ The Learning Network, *What Students Are Saying About Banning Books from School Libraries*, N.Y. TIMES (Feb. 18, 2022), <https://www.nytimes.com/2022/02/18/learning/students-book-bans.html>.

⁸⁷ Tracz, *supra* note 61, at 920.

The declarations Plaintiffs-Appellees submitted in support of their preliminary injunction motion demonstrated to the district court that these outcomes occurred in the District. When the District specifically targeted the Removed Books based on their LGBTQ+ and BIPOC characters and stories, C.C., other students, and their families received the District’s message that the “people responsible for [students’] education don’t want ... [students] to learn about LGBTQ history or LGBTQ people,” App. Vol. 1 at 065-66, ¶ 8, or “race and racism in America,” App. Vol. 1 at 079, ¶¶ 11, 15. As a result, they felt “stigmatized,” App. Vol. 1 at 068, ¶ 20, and “not welcome in Elizabeth schools,” App. Vol. 1 at 085, ¶ 8.

LGBTQ+ and BIPOC students in Elizabeth deserve the opportunity to be supported by their schools. The Court should ensure that they are provided this opportunity by upholding the district court’s preliminary injunction.

CONCLUSION

The Court should affirm the preliminary injunction.

DATED: June 20, 2025

Respectfully submitted,

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I hereby certify that this document complies with the format and word limit of Fed. R. App. P. 29(a)(4)-(5) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f) and Fed. R. App. P. 32(g), this document contains 6,499 words. This document also complies with the typeface and style requirements of Fed. R. App. P. 32(a)(5) and Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point font.

DATED: June 20, 2025

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to Fed. R. App. P. 25(c), that the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will send a notification to the attorneys of record in this matter, who are registered with the Court's CM/ECF system.

DATED: June 20, 2025

/s/ Kristina (Tina) R. Van Bockern
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