



October 4, 2011

VIA FACSIMILE, ELECTRONIC and U.S. MAIL

Mr. Michael Lowry
Director, Monroe County Schools
205 Oak Grove Road
Madisonville, TN 37354

Dear Mr. Lowry:

We represent Sequoyah High School student Chris Sigler and his family.

It is our understanding that last Friday, September 30, Sequoyah High School principal Maurice Moser called Chris Sigler into his office, threatened to suspend him, and then verbally and physically assaulted him, for exercising his constitutionally protected right to free speech. According to our clients, Mr. Moser objected to a T-shirt Chris was wearing that bore the phrases "SQHS" on the front and "Gay Straight Alliance: We've Got Your Back" on the back. They tell us that he interrupted Chris's economics class during a test to confront him, made the remainder of the class excepting Chris and his sister leave the classroom, then not only yelled at and taunted Chris, but actually grabbed him by the arm and shoulder, pushed him toward a wall, chest-bumped him, stood over him in a threatening posture, and grabbed at his backpack as if trying to trip him. It is our understanding that Mr. Moser stopped his attack after a school resource officer and Chris's mother intervened, and that Mr. Moser eventually agreed not to formally suspend Chris only on the condition that he leave the school grounds with his mother and not return for the remainder of the school day.

Chris Sigler and all other students at Sequoyah High School have free speech and free expression rights under the First Amendment to the United States Constitution, as well as Article I, section 19 of the Tennessee Constitution. Chris's wearing of the "Gay Straight Alliance" T-shirt was a permissible exercise of his constitutional rights, which Mr. Moser infringed by ordering him to change his clothing or leave school. Mr. Moser may not lawfully punish Chris, or deny him participation in school, for engaging in constitutionally protected conduct. See *Tinker v. Des Moines Ind. Comm. Sch. Dist.*, 393 U.S. 503, 507-14 (1969) (holding unconstitutional high school's decision to send students home for wearing black armbands to protest the Vietnam War).

Chris Sigler made his "Gay Straight Alliance" T-shirt by hand and wore it to school for the first time on Tuesday, September 27. It is our understanding that Chris endured some name-calling by a fellow student outside of class, and that

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION
OF TENNESSEE

P. O. BOX 120160
NASHVILLE, TN 37212

Phone: (615) 320-7142
www.aclu-tn.org

one of his classmates complained to a teacher about his shirt during an afternoon class. That teacher ordered Chris to cover the shirt during his class in the future. Chris reported the name-calling the next day, but was told that the school administration would not discipline the students involved. Last Friday, Chris wore the shirt a second time, and it is our understanding that he had not experienced any further complaints or harassment as of third period when he was summoned to the school office and initially told by Mr. Moser that he could choose between turning the shirt inside out, changing shirts, or being suspended. Chris refused to follow these unconstitutional instructions and attempted to proceed to his fourth period class, but a few minutes later Mr. Moser barged in and assaulted him.

It is our understanding that Mr. Moser has indicated he took issue with the T-shirt because he feared it would disrupt classes and because Chris had earlier in the week reported the incident of homophobic name-calling directed at him by a fellow student outside of class in response to the T-shirt when he wore it the first time. However, when students engage in harassment or bullying, whether their purported reason is a T-shirt or something else, the school administration is obligated to stop the harassment and maintain order and safety. Chris's wearing of the shirt for 1 ½ school days last week did not "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school," nor is there any reason to believe that his continuing to wear it would have done so. Accordingly, the principal's purported concern about potential disruption cannot justify infringing Chris's right to express himself peacefully. *See Tinker*, 393 U.S. at 509 (rejecting "undifferentiated fear or apprehension of disturbance" as an excuse for denying students free expression rights, and noting that "a few hostile remarks" directed at armband-wearers by fellow students did not constitute substantial interference with school operations or discipline); *see also Burnside v. Byars*, 363 F.2d 744 (5th Cir. 1966) (distinguishing activities like "carrying banners, scattering leaflets, and speechmaking," which a school could bar from classrooms as too disruptive, from students' wearing of "freedom buttons" on their collars, a protected form of speech and expression); *Gillman ex rel. Gillman v. Sch. Bd. for Holmes County, Fla.*, 567 F. Supp. 2d 1359 (N.D. Fla. 2008) (rejecting principal's attempt to censor high school students' wearing of pro-gay slogans on T-shirts and other items as a violation of free speech rights and as viewpoint discrimination, and holding that such "speech should not be silenced because of alleged disruptions caused by other students).

The "Gay Straight Alliance" T-shirt is entirely permissible under the published "Student Dress Code" of Monroe County Schools. Further, it is our understanding that students at Sequoyah High School commonly wear T-shirts and other items expressing potentially controversial views, including political

slogans, religious messages, sexual references, and even Confederate flag images, and that the school administration has permitted this despite the dress code's stated prohibition of "Rebel Flags" and "vulgar, offensive, or suggestive pictures/slogans". It is patently unconstitutional for the administration of Sequoyah High School to engage in viewpoint discrimination by selectively censoring expressive student apparel based on the content of its messages.

The T-shirt Chris Sigler wore to school last Tuesday and Friday was a way of communicating his opinion on a matter of interest to him and many others in the Sequoyah High School community: namely, students' effort to get school recognition of a Gay-Straight Alliance ("GSA") as a non-curricular club. It is our understanding that this was not the first time Mr. Moser had threatened disciplinary action so as to chill students' exercise of their constitutional rights to free speech, free expression, and free association in relation to the proposed club. Several weeks ago, Mr. Moser announced that any student found to possess a copy of either of two petitions that had been circulated around the school – one in support of official recognition for the Gay-Straight Alliance, the other opposed – would be punished. This is a grossly disproportionate and potentially illegal response to students' effort to form a school club. We are gravely concerned about the apparent pattern of chilling students' free speech and expression on the topic of the GSA. Under the Equal Access Act, 20 U.S.C. § 4071, Sequoyah High School and Monroe County Schools must treat the proposed GSA exactly as they would any other proposed club, and cutting off discussion in the school community regarding the club proposal is constitutionally impermissible.

Further, we are also deeply concerned about the Sequoyah High School administration's apparent reluctance to address the ongoing pattern of harassment and bullying of students who are or are perceived to be lesbian, gay, bisexual, or transgender ("LGBT") or to be allies of the LGBT community, as reported by several current and former students. The school has a legal obligation to ensure the safety of all its students, and failure to fulfill this obligation can both have devastating consequences for students and their education and expose the school and district to extensive liability.¹ Chris Sigler and his classmates rightly argue that establishment of a GSA at Sequoyah High School would provide a safe space for students exposed to such harassment and would provide a forum for student efforts to promote respect for all.²

¹ The U.S. Department of Education further described public schools' obligations to address bullying and harassment, including bullying and harassment on the basis of sexual orientation, in a Dear Colleague letter dated October 26, 2010, a copy of which is annexed as Attachment A.

² The U.S. Department of Education noted the importance of GSAs as a means of combating widespread bullying and harassment of LGBT students in another Dear Colleague letter dated June 14, 2011, a copy of which is annexed as Attachment B.

We demand that Monroe County Schools state in writing by Tuesday, October 11, 2011, that it will permit any Sequoyah High School student to wear clothing or accessories that peacefully expresses an opinion regarding the proposed Gay-Straight Alliance free from threats of discipline or physical intimidation or assault. We further demand that Chris Sigler be permitted to finish or retake the economics test that was administered last Friday, that he not be charged an absence for any of the classes he involuntarily missed due to Mr. Moser's objection to his exercise of his right to free speech, and that he not be subject to any further punishment or retribution. If we do not receive a satisfactory response by October 11, we anticipate filing suit and seeking a temporary restraining order to prevent further censorship at Sequoyah High School.

In the interest of time, please direct your response to the facsimile number or e-mail address listed above. If you have any questions, please contact Tricia Herzfeld at (615) 320-7142 ext. 303 or Amanda Goad at (212) 549-2661.

Sincerely,



Tricia Herzfeld
Legal Director
ACLU of Tennessee



Amanda C. Goad
Staff Attorney
ACLU LGBT Project

cc: Dr. Larry Stein, Chair, Monroe County School Board
Mr. Maurice Moser, Principal, Sequoyah High School
Mr. Chuck Cagle, Esq.