

No. 16-273

In the Supreme Court of the United States

GLOUCESTER COUNTY SCHOOL BOARD,
Petitioner,

v.

G. G., BY HIS NEXT FRIEND AND
MOTHER, DEIRDRE GRIMM,
Respondent.

*On Writ of Certiorari to the United States
Court of Appeals for the Fourth Circuit*

**BRIEF OF DR. BEN BARRES, MS. JENNIFER MICHELLE
CHAVEZ, MR. CHRIS MOSIER, AND 98 OTHER
TRANSGENDER AMERICANS AS *AMICI CURIAE*
IN SUPPORT OF RESPONDENT**

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INTEREST OF AMICI¹

Amici are transgender individuals who live and work throughout the United States in a variety of fields including education, medicine, law, science and the arts. Amici have a vested interest in the ability of transgender boys to use the boys' restroom and transgender girls to use the girls' restroom at school, and they are uniquely positioned to address and rebut certain arguments made by Petitioner. In particular, amici have firsthand knowledge of how restrictions on the ability of transgender individuals to use the restroom corresponding to their gender would negatively impact their wellbeing, their careers and their ability to positively contribute to their communities and lead an "ordinary civic life in a free society," *Romer v. Evans*, 517 U.S. 620, 631 (1996). The 101 amici come from many different walks of life and are diverse in age, race and socioeconomic status; however, they are united in their strongly held belief that resolutions like the one adopted by the Gloucester County School Board (the "Board") are discriminatory and inhibit transgender individuals from realizing their full potential in their personal and professional lives.

¹ Pursuant to Supreme Court Rule 37.3, amici curiae certify that counsel of record of all parties have consented to the filing of this brief. Pursuant to Rule 37.6, amici also certify that no counsel for a party authored this brief in whole or in part and that no person or entity, other than amici or their counsel, has made a monetary contribution to its preparation or submission. A complete list of amici is included as the Appendix.

SUMMARY OF ARGUMENT

Bathroom restrictions are proxy battles for who is considered fully human. If you can't use a public facility safely, how can you be an active member of the community? How can you be a citizen if the message of your own government is that you don't belong? And what are you without community or citizenship? – ***Ms. Jen Richards, 40, Writer, Actress and Producer***

Amici respectfully submit that the decision of the Fourth Circuit Court of Appeals should be affirmed for the reasons set forth in the Brief for Respondent. Amici further submit this brief to highlight for the Court the perspectives and experiences of transgender individuals who are vulnerable to the pernicious effects of Petitioner's proposed interpretation of Title IX. Amici offer their personal stories to illustrate that they, like other Americans, strive to contribute to their communities, raise healthy, loving families and succeed professionally. Amici also detail the support that they have received from their families, friends, schools and employers, which has helped them to achieve their full potential. Amici believe that their ability to contribute to society and lead lives of "equal dignity in the eyes of the law," *Obergefell v. Hodges*, 135 S. Ct. 2584, 2608 (2015), would be upended by Petitioner's interpretation of Title IX, which would humiliate and discriminate against them on the basis of sex.

ARGUMENT**I. TITLE IX REQUIRES THAT TRANSGENDER STUDENTS BE AFFORDED THE SAME EDUCATIONAL OPPORTUNITIES AS THEIR PEERS.**

Title IX provides that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681(a). The Board’s resolution preventing transgender boys from using the boys’ restroom and transgender girls from using the girls’ restroom at school violates Title IX’s plain language because it fails the “simple test” this Court has employed to identify sex discrimination: whether a person is treated “in a manner which but for that person’s sex would be different.” *City of L.A., Dep’t of Water & Power v. Manhart*, 435 U.S. 702, 711 (1978) (citations omitted). There is no question that under the resolution, transgender boys would be able to use the boys’ restroom and transgender girls would be able to use the girls’ restroom but for the sex assigned to them at birth—what the Board terms “biological gender.” J.A. at 69. The Board’s resolution therefore impermissibly “denie[s] equal access to an institution’s resources and opportunities” on the basis of sex in clear violation of Title IX. *Davis ex rel. LaShonda D. v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629, 651 (1999).

The Board’s differential treatment on the basis of sex is discriminatory. Denying transgender boys access to the boys’ restroom and transgender girls access to the girls’ restroom stigmatizes these students. As the

personal stories and experiences of amici set forth below demonstrate, transgender individuals make myriad positive contributions to American society; they are, among other occupations, teachers, medical professionals, lawyers and artists. Their ability to succeed and flourish is enhanced when society and the law treat them with the dignity and respect accorded to other Americans. The Board’s “biological gender” policy, by contrast, singles out transgender individuals for unequal and humiliating treatment. This is particularly harmful because this policy targets transgender children, causing early isolation and “generat[ing] a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” *Brown v. Bd. of Educ.*, 347 U.S. 483, 494 (1954). Transgender individuals are entitled to the “protections against exclusion from . . . transactions and endeavors that constitute ordinary civic life in a free society” that are “taken for granted by most people either because they already have them or do not need them.” *Romer*, 517 U.S. at 631.

The Board’s resolution independently violates the law because it would lead to “disparate treatment of men and women resulting from sex stereotypes.” *Price Waterhouse v. Hopkins*, 490 U.S. 228, 251 (1989) (plurality opinion) (citation omitted).² The resolution

² All parties agree that discrimination based on sex stereotypes violates Title IX. See Br. for Pet’r at 31 n.11, 39; Br. for Resp’t at 23 & n.21, 36–37; accord *Franklin v. Gwinnett Cty. Pub. Sch.*, 503 U.S. 60, 75 (1992) (interpreting discrimination under Title IX in accordance with earlier Title VII decision); *Lipsett v. Univ. of P.R.*, 864 F.2d 881, 897 (1st Cir. 1988) (“[T]he Title VII standard for

—providing that students with “gender identity issues” must either use a bathroom that does not match their gender or use “an alternative appropriate private [restroom] facility,” J.A. at 69—is based on outmoded stereotypes regarding gender identity and discriminates against transgender individuals because they do not conform to the Board’s preconceived notions. *See Price Waterhouse*, 490 U.S. at 251 (plurality opinion) (“[W]e are beyond the day when an employer could evaluate employees by assuming or insisting that they matched the stereotype associated with their group.”); *see also Davis*, 526 U.S. at 650 (Title IX “makes clear that, whatever else it prohibits, students must not be denied access to educational benefits and opportunities on the basis of gender.”).

The Board’s attempt to confine “sex” in Title IX to a narrow, static definition based on what the Board contends were 1970s-era conceptions of “sex,” Br. for Pet’r at 26–36, is misguided. Nothing in Title IX limits the meaning of the word “sex” to characteristics that “subserve biparental reproduction,” Br. for Pet’r at 29, 32. A person’s sex is commonly understood to encompass his or her “gender identity,” as reflected in the opinions of numerous circuit and district courts that already interpret prohibitions on sex discrimination to protect transgender individuals in similar contexts, such as under Title VII. *See, e.g., Glenn v. Brumby*, 663 F.3d 1312, 1316–21 (11th Cir. 2011) (citing cases from three other circuits and numerous district courts holding that gender identity discrimination is sex discrimination for purposes of

proving discriminatory treatment should apply to claims of sex discrimination arising under Title IX.”).

Title VII and the Equal Protection Clause). And even if, as the Board argues, the members of Congress who passed Title IX were focused on preventing discrimination against women, Br. for Pet'r at 6, this Court has long recognized that "statutory prohibitions often go beyond the principal evil to cover reasonably comparable evils, and it is ultimately provisions of our laws rather than the principal concerns of our legislators by which we are governed," *Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 79–80 (1998) (Scalia, J.).

It is no answer that Title IX's implementing regulation, 34 C.F.R. § 106.33, allows for a system of sex-segregated restrooms. The regulation cannot allow what the statute forbids: discrimination "on the basis of sex." *Talk Am., Inc. v. Mich. Bell Tel. Co.*, 564 U.S. 50, 62 (2011) (a regulation cannot be interpreted so as to "directly conflict with the statutory language"). The Board's proposed reading of this regulation, however would do just that. Further, the Board's argument that allowing transgender boys to use the boys' restroom and transgender girls to use the girls' restroom would undermine the system of sex-segregated restrooms permitted by 34 C.F.R. § 106.33, Br. for Pet'r at 36–41, is belied by the numerous states and local governments across the country that have already implemented this transgender-inclusive system through legislation, regulations, city ordinances or court decisions, all while maintaining sex-segregated restrooms.³ Similarly, an

³ See, e.g., *Dodds v. U.S. Dep't of Educ.*, No. 16-4117, 2016 WL 7241402 (6th Cir. Dec. 15, 2016); *Students & Parents for Privacy v. U.S. Dep't of Educ.*, No. 16-cv-4945, 2016 WL 6134121, at *18 (N.D. Ill. Oct. 18, 2016); *Whitaker v. Kenosha Unified Sch. Dist.*

increasing number of private businesses and educational institutions have implemented transgender-inclusive nondiscrimination policies, including transgender-inclusive restroom policies.⁴ Such policies do not conflict with the notion of sex-segregated restrooms, but rather support that notion by affording transgender individuals a right all other Americans already have—the right to use the restroom that matches their gender identity.

The increasing number of governments, communities and organizations adopting transgender-inclusive policies demonstrates a growing recognition that transgender individuals play vital roles in American society and must be protected against discrimination. The stories of amici set forth below further illustrate the many distinct ways in which transgender individuals enrich both their immediate communities and the country at large. In discussing

No. 1 Bd. of Educ., Case No. 16-CV-943-PP, 2016 WL 5239829, at *3–4 (E.D. Wis. Sept. 22, 2016); *Doe v. Reg'l Sch. Unit 26*, 86 A.3d 600 (Me. 2014); Wash. Admin. Code § 162-32-060(1) (2015); Cleveland, Ohio, Codified Ordinances § 667.01 (1976) (Amended July 22, 2016); *Transgender Student Guidelines*, N.Y.C. Dep't of Educ., <http://schools.nyc.gov/RulesPolicies/TransgenderStudentGuidelines/default.htm> (last visited Feb. 17, 2017).

⁴ See, e.g., Krystin Arneson, *These 70 Companies You Use Every Day Are Among Those Taking a Stand for Transgender Rights*, *Glamour* (Apr. 26, 2016, 12:00 PM), <http://www.glamour.com/story/these-70-companies-you-use-every-day-are-among-those-taking-a-stand-for-transgender-rights>; *Colleges and Universities with Nondiscrimination Policies that Include Gender Identity/Expression*, *Campus Pride*, <https://www.campuspride.org/tpc/nondiscrimination> (last visited Feb. 17, 2017).

their abilities to make such positive societal contributions, amici emphasize the essential role that supportive, inclusive environments played, especially in their youth, in helping them thrive and give back to society. Conversely, amici's experiences demonstrate that environments such as those fostered by the Board's resolution create obstacles for transgender individuals in reaching their full potential, and amici explain why the issue at the heart of this case has broad significance in their lives. The Court should ensure that Title IX protects amici and all transgender individuals, affording them "equal dignity in the eyes of the law." *Obergefell*, 135 S. Ct. at 2608.

II. TRANSGENDER INDIVIDUALS ARE VIBRANT, IMPORTANT MEMBERS OF AMERICAN SOCIETY AND ENRICH THE LIVES OF THOSE IN THEIR IMMEDIATE AND GREATER COMMUNITIES.

Amici, all transgender Americans, represent a wide variety of professions; they are dedicated public servants, doctors, lawyers and educators serving their communities around the country. When asked to reflect on their achievements, amici measured their success not by their own accolades, though there are many, but by their ability to give back to their communities. In the same way that all individuals are shaped, but not strictly defined, by many aspects of their identity, amici's stories show that while being transgender affects who they are, it is not all that they are. Amici work, volunteer and advocate for the transgender community, but they also contribute to their broader communities and to society at large.

Many amici are teachers from across the country, devoting their lives to enriching the minds and hearts of young people, and having a far reaching impact on their development. One amicus recounts:

In the seven years I've taught high school, I've taught between 800 and 900 students from traditionally disadvantaged communities. This year's high-flying seniors, whom I've taught for three years, are being accepted at schools like the University of Chicago, University of Pennsylvania, NYU, Georgetown and Brown University. They will pursue degrees and careers in constitutional law, medicine, foreign policy and other fields that will position them to give back to their communities but also to literally lead this country. – ***Mr. Benjamin Breault, 34, Teacher, Texas***

In helping students of all backgrounds, amici explain how being transgender has proven to be an asset in developing their students' potential for critical thought, open-mindedness and compassion:

I was told my gender identity would be my greatest enemy as a teacher when I first entered the classroom. Now, ten years later, I know it is my greatest asset. The students in my New York City public high school, from all over the globe, showed a desire to understand and embrace diversity. Being myself in front of my students allowed me to become a more attuned teacher and enabled my students to practice critical thinking skills, allowing them to reach

authentic conclusions about who they were as individuals living in a free and democratic society. – ***Mr. Ei Meeker, 49, Teacher, New York***

Amici also serve as powerful examples to our youth, demonstrating that success and happiness are possible, even in the face of obstacles:

I believe that my greatest contribution is being an example of dreams realized. Nothing I can say or teach will ever come close to having the same meaningful impact on a young person who is questioning their worth or holding fear for their future than the simple reality that I, as a transgender woman of color, have navigated my way through institutions and systems that were not designed to benefit me, and I have found success and unconditional love despite every obstacle. – ***Ms. Precious Brady-Davis, 31, Assistant Director of Diversity Recruitment, Illinois***

Amici are also well-represented in the legal field and have contributed to the profession of law as compelling advocates and trusted advisors:

I am, to the best of my knowledge, the only transgender person to ever argue before the Arizona Supreme Court. Transitioning reminded me that I became an attorney to help people and freed me to be a better advocate for my clients. That work has brought satisfaction to my life that I never experienced before. – ***Ms. Abigail Louise Jensen, 63, Attorney, Arizona***

One amicus recounts her professional journey and the satisfaction she feels from advocating for marginalized individuals:

When I was called to the podium in the Eleventh Circuit before a panel of three judges, as a transgender attorney arguing on behalf of a transgender client in a case involving sex discrimination against a transgender person, I felt a sense of history and kinship with a distinguished and dedicated group of members of the bar. How far I had come from my days immediately post-transition, when I had no job, no money, housing insecurity and no supportive family or friends, and worked to support myself as a secretary despite my successful years of law practice. –***Dr. Jillian T. Weiss, 55, Executive Director of a Non-profit, New York***

Amici also include intellectual leaders in scientific fields of study. Some amici note that their gender identity, while an important part of who they are, is secondary to the quality of their work and research:

My scientific work is what I am proudest of and really is my primary identity: I am a tenured full professor of astrophysics who has published over two hundred articles, many book chapters, numerous white papers, and I hold three patents. I am just a woman who is also a scientist. –***Dr. Rebecca Oppenheimer, PhD, 44, Professor of Astrophysics, New York***

Others explain that being transgender has contributed to their professional success:

I am a neurobiologist and professor at Stanford University studying and developing new treatments for Alzheimer's disease and other neurodegenerative disorders. I have been elected to the National Academies of Sciences and awarded the highest honor that the Society of Neuroscience bestows. I do think that my differences have played a role in my success. Innovation arises when different people with different perspectives see the same old facts in new and different ways. – ***Dr. Ben Barres, MD, PhD, 62, Neurobiologist and Professor, California***

Amici stress the positive impact that comes from recognition of their identity as well as their achievements:

Standing on stage during my graduation ceremony, receiving my PhD and hearing myself referred to using masculine pronouns felt like such a rite of passage. Not only was I being recognized for my work, but the contributions of a transgender person were being openly and affirmingly recognized. – ***Dr. MacKenzie Warren, PhD, 27, Postdoctoral Research Associate in Astrophysics, Michigan***

Relatedly, amici find themselves in the foreground of medicine and health care policy, where their own experiences allow them to help disadvantaged and underserved communities:

My identity as a transgender person has definitely been a salient aspect of my professional life. For one, it has helped me be more attuned to the ways our services and our systems can improve in order to provide truly comprehensive and equitable healthcare to LGBTQ veterans. – ***Dr. Avy Skolnik, PhD, 37, Psychologist, Massachusetts***

My experience as a transgender person has absolutely shaped my research interests and my worldview. Much of my work focuses on improving the health of disadvantaged and marginalized communities in partnership with community members. I have firsthand experience of how it feels when powerful doctors and policy-makers make decisions about transgender people without truly understanding our lives. As a result, I made a commitment to use my skills and the resources available to me to empower underserved communities. I consider it an honor to have gained the trust of the communities I serve. – ***Dr. Ryan Combs, 35, Assistant Professor of Public Health, Kentucky***

I am an emergency physician. I chair the Quality and Patient Safety Committee. I have volunteered at a federally qualified healthcare center for over a decade. I do pro bono expert witness consulting. I train medical professionals

and students. I don't do this work because I'm transgender; I do it because I feel these services should be provided to disenfranchised patient populations. In all of these roles, my status as a transgender person has always been accepted as a positive and my skills and experiences have been recognized and valued. – ***Dr. Nick Gorton, 46, Physician, California***

Some amici also bravely served in the military. Despite the additional obstacles they may have faced while in service, they were motivated by a genuine desire to protect their country and those who live in it. A retired Staff Sergeant recalls how his experience of overcoming the military ban on transgender service and proving his “worth” to his infantry unit only made their connection stronger:

We share some of the deepest and closest bonds to this day. Even in my alpha male circles, I bring an atmosphere of open communication. This, in turn, allows all of my friends to feel authentic and free. – ***Ret. SSG Shane Ortega, 30, Retired Veteran, California***

Other amici are accomplished athletes:

When I made the decision to come out publicly, my success as an athlete soared as I was able to focus less on my fears of what people might think about me and more on my physical performance. Since then, I have made three men's U.S. national teams and have represented our country at the World Championship Race in Spain in 2016. I think my most important contribution has been breaking down barriers as

a transgender athlete. I was the first transgender athlete to make a U.S. national team with the gender with which I identify. I was also the first to compete in a world championship. Furthermore, I have advocated for change in multiple sports leagues to improve the athletic environment for transgender athletes. – **Mr. Chris Mosier, 36, Athlete and Advocate, Illinois**

For many amici, the arts serve as both an outlet for self-expression and an avenue to enrich the experiences of others:

Art-making provides me with a space to construct a “self” outside of the constraints of my physical reality. This is a great coping mechanism for existing in an often hostile world. My work as an artist continues to circulate in museums, galleries and universities around the globe, including as part of the Whitney Biennial. Further, I am able to communicate my visions as a producer for the Amazon show “Transparent.” I find myself today with an abundance of resources and transgender solidarity that I never thought imaginable. – **Ms. Zackary Drucker, 33, Artist and Producer, California**

Since starting my magazine, I’ve gone on to collaborate and work with other transgender artists on photo series and television projects. I’ve also been invited to speak and show my work at universities, art spaces and museums around the world. The most rewarding part of my career, however, is receiving messages from

strangers or getting stopped on the street by someone who was given hope by my magazine in a time when they weren't connected to a local community or felt like nobody shared or understood their experiences. Through my magazine, they were able to see that people with similar backgrounds, issues and inner strength existed in the world. – ***Mr. Amos Mac, 36, Photographer, California***

Some amici are deeply religious, devoting their lives to preserving important values of generosity, kindness and love:

I consider my work as a chaplain my most important personal and professional success. The fact that I can be open about my transition and also be true to my values as a Christian, and thus serve others who are in need, is a contribution that I consider important. I am sure I am not sinning by being myself and I am sure that God did not make any mistakes when He created me. – ***Chaplain Andrés Herrera, 31, Hospital Chaplain, Texas***

Still other amici have embraced political causes, seeking positions in office in order to positively influence decisions that shape American life:

When I discovered there were few resources for transgender New Yorkers, I started getting involved in advocacy at the city, state and federal level. I ran for Democratic party office in 1999 and won. In 2016, I became the first

transgender delegate from New York for the Democratic National Convention and the first transgender member of the Electoral College.
– ***Ms. Melissa Sklarz, over 60, Development Director, New York***

My runs for local and countywide office have given me a great ability to speak on issues that affect transgender people. The local Democratic party embraced me as the woman that I am and supported me with help and friendship.
– ***Rev. Dr. Wendy Ella May, 55, President of the United States New Methodist Episcopal Orthodox Religious Order and Churches, North Carolina***

As one amicus explained, at the core of public and political participation is a desire to improve the lives of those who need it most and to spread messages of acceptance and inclusion:

My best friend and I started the organization that would become the Transgender Resource Center of New Mexico because transgender people were experiencing discrimination and violence more than any other group in our society. This is particularly true for those who are of color, lack educational attainment, are not securely housed or are undocumented or disabled. In response, we have provided almost 800 Transgender 101 trainings around our state, helped to shape policy with private and government organizations and provided direct services to more than 300 transgender people per year, including name changes, support groups, counseling and even direct medical care.

My journey as a transgender person is what led to these contributions. – *Mr. Adrien Lawyer, 46, Co-Director, Transgender Resource Center, New Mexico*

III. TRANSGENDER INDIVIDUALS' ABILITY TO PARTICIPATE IN AND CONTRIBUTE TO AMERICAN LIFE IS SHAPED BY THEIR EARLY EXPERIENCES AND EDUCATIONAL ENVIRONMENTS.

Amici stress the indispensable role that supportive environments played in helping them develop into individuals able to succeed and give back in their professional and personal lives. Amici recount how formative periods in their youth were often times of confusion and isolation. For this reason, amici explain how inclusive educational experiences are particularly transformative, allowing transgender individuals to come to terms with their identities, develop a sense of belonging and harness their distinct strengths for the greater good.

A. Transgender Youth Often Struggle With Feelings of Confusion About Their Place in Society.

Many transgender individuals face and overcome numerous challenges very early in their lives. While some transgender children are met with unwavering love and support, many are regularly confronted with the message that their feelings and experiences are wrong or harmful. Amici explain that the struggle is both an external and internal one; it is external in that they must grapple with the expectations of others, but also internal in that amici often feel different in a way

that they cannot even fully articulate or appreciate as children. As one amicus remembers:

One day when I was about three, I saw my mother ironing my father's white shirt—a sprinkle of water from her blue plastic bottle, a short spurt of steam as it sizzled beneath the iron. "Someday you'll wear shirts like this," said Mom. I just listened to her strange words, as if they were a language other than English. I didn't understand what she was getting at. She never wore shirts like that. Why would I ever be wearing shirts like my father's? Since then, the awareness that I was in the wrong body, living the wrong life, was never out of my conscious mind. – *Ms. Jennifer Finney Boylan, 58, Professor and Author, Maine*

Some amici fondly recall rare moments from their childhood where, for hours or days, they were able to escape the judgments and beliefs of others and inhabit the identity in which they felt truly at home. One amicus describes growing up in a military family in Colorado Springs and the delight he felt on family ski trips. He recalls:

On the slopes I would often ride the chair lift up with adult men and women who always perceived me to be a boy, regardless of my shoulder-length hair. I remember distinctly the thrill at this affirmation of something I knew to be true in my heart but didn't yet have the words to articulate. This was the norm as we traveled each winter to Monarch Ski Resort and

I made it a point to stay as masculine in my presentation as possible, longing for recognition from others of my male gender. – ***Mr. Carl Charles, 32, Attorney, New York***

Another amicus similarly describes the joy he felt at first being recognized as a boy when in elementary school:

In sixth grade we had a substitute teacher for a week. As often happened before I transitioned, the substitute teacher assumed I was a boy and my classmates didn't blink an eye. I was thrilled—I was allowed to be a boy at school for a whole week. When our teacher returned she learned what took place in her absence. She called my mom quite alarmed to report my duplicity. I did not know about this phone call until years later, when I learned that my mom told my teacher that her only job was to prepare me for junior high and my parents would worry about everything else, including my gender. – ***Mr. G. Micah Wissinger, 40, Attorney, New York***

Another amicus explains how exhilarating it felt to quite literally step into the shoes of someone she could identify with:

One of my most significant childhood memories involved the immaculate, high-styled women of my Pentecostal church and the beauty of my elementary school teachers, in their flowing dresses and high heel shoes, clicking down the halls every day with such poise, beauty and authority. I remember the first time I slipped

into a pair of high heels, my sister's custom-dyed ivory shoes for her wedding. Of course, my clumsy stomping around made noticeable creases in the shoes and I was caught and heavily chastised, but that exhilarating moment of embodying the grandeur of a woman in a powerful pair of shoes remained with me.
– ***Ms. Precious Brady-Davis, 31, Assistant Director of Diversity Recruitment, Illinois***

However, many amici agree that it was not until they were much older that they were able to give voice to who they truly were and embrace their unique experiences and identities. Without the support, information or even the vocabulary to understand their feelings, they had to wait years to fully be themselves:

I was raised to be a polite young lady deep in the Bible Belt of Southeast Texas. For years I knew that I was different, that my gender did not fit the very defined female mold I was given, but I did not have the language to describe my experience and so I carried it silently for 18 years. It was not until I got to college that I learned the term “transgender,” and knew immediately that it described me. The term really set me free. I cannot help but wish that I had known it sooner, been able to identify as transgender from a much younger age, and gotten to experience my youth and adolescence as the polite young man I truly was inside.
– ***Mr. Milo Primeaux, 32, Attorney, New York***

As a young child living in Georgia and growing up in Philadelphia in the 80s and 90s, I didn't have the language or the information to communicate or understand that transgender experiences were valid, not wrong, and a part of human existence. I wondered how the world would take a grown-up version of myself, because I didn't see or know of anyone like me to ever become an adult. I didn't know what a grown-up me would even look like. – *Mr. Amos Mac, 36, Photographer, California*

B. Supportive Environments Help to Affirm Transgender Individuals' Identities and Assure Them That They are Valued and Accepted.

In pursuing their diverse paths, amici have benefited from the positive environments in their lives. Like most Americans, amici herald the love and support of their families as key to their successes. They explain that the acceptance and understanding of their loved ones as they transitioned allowed them to feel fulfilled, safe and free, and enriched the bonds that bind their families together. Through their stories, amici illustrate the basic truth that they are no different from anybody else in their desire for security, community and respect:

My most important personal success story has been the acceptance of my wife and children. My wife, Stacey, and I have been married for 10 years and together for 15. The acceptance of my wife, children and amazing friends have made me feel encouraged to express my true gender.

This acceptance has been paramount in finally leading the happy, fulfilled life I have always wanted and deserved. Everyone I know tells me that I am happier and I smile more. Work associates tell me I am better to work with and easier to be around. My children tell me I am better. My four-year-old is known to say, “Mom used to be mean when she was a boy, but now she smiles all the time.” – ***Ms. Danielle Wilcox, 36, Engineering Technician, South Dakota***

My family’s acceptance of my gender journey has made a tremendous difference in my confidence and comfort. I had begun discussing my transition with my parents in 2013. Shortly thereafter, my mom suddenly died and I have always regretted that she passed away without having known the real me. However, she was thrilled when I told her that I wanted to take her mother’s maiden name as my first name, and I think of her often when I introduce myself. My father’s journey to accepting my transition has been longer, but now he says simply, “You know, when people ask, I just tell them that I used to have a daughter, and now I have a son.” That is so affirming. – ***Mr. Ames Simmons, 46, Attorney, North Carolina***

With my family in Greensboro, North Carolina, when it comes to guns, government, immigration, crime or media, there are many strong feelings, but very little agreement. There is no debate, however, about my womanhood, either at home or in church. The pastor didn’t

know any transgender people before me, but he accepts that I'm a member of the congregation and a beloved child of God. – ***Ms. Jen Richards, 40, Writer, Actress and Producer, California***

One amicus recounts how invaluable the acceptance of his grandmother was in finding courage and peace in his transition:

Perhaps one of my biggest family advocates was my grandmother, a devout Catholic. It took me some time to finally tell her I am transgender, and she accepted me without question, affirming my gender identity since the day I came out to her. Coming from a large Irish Catholic family, my other family members looked to her lead and, with time, have embraced and accepted my gender identity as well. Knowing that she supports me and loves me unconditionally was a turning point in my transition and has been a source of healing and comfort. – ***Mr. Owen Daniel-McCarter, 34, Attorney, Illinois***

Another amicus reflects on how frightened he was to share his gender identity with his brother, and how transformative his brother's accepting, loving response was:

I was terrified to reveal that I am transgender to my brother. We lost our parents over 15 years ago, and he is my only remaining immediate family. I was worried he would feel he didn't know me, creating distance in our relationship, or at worst reject me. I am very close to his children—my niece and nephew—and I didn't

want to lose my relationships with them either. I will never forget his words to me when I told him that after ten years of consideration I had decided to live as the man I have always known myself to be. He said, “Kasey, I don’t care what pronouns you use and what name you want to be called. I love you and will always support you. What I care about is how I can just be hearing this now if you’ve been struggling with it for ten years. I thought we were close.” This moment changed my life because, in that moment, I knew I was on the right path and everything was going to be all right. – ***Mr. Kasey Declan Suffredini, 41, Attorney, California***

Reflecting on their personal experiences, amici further discuss how they strive to create warm, supportive families. Indeed, one amicus, Blake Liggio, explains that his family is the “center of [his] world” and has “helped [him] succeed every single day.” Another amicus shares that sentiment and further explains that being accepted for who he is allowed him to forge deeper and more profound bonds than ever before:

Having positive support from my wife, my family, my employer and my co-workers has truly helped me succeed. In fact, had that not happened, I can guarantee that I would not be married and would not have contributed two more change agents (my sons) to the world. – ***Mr. Jacob Reilly, 40, City Planner, Minnesota***

In some cases, amici recount that even though the road to acceptance was long, their families were much stronger when they came out as transgender:

When I came out as a man, it was difficult for my parents at first. But over time they saw how happy I was with how I looked and how people treated me. Our conversations about how important my transition was to me allowed my parents and me to share a closeness we may not have had if I had never transitioned. – *Mr. Ian Norwood, 29, Attorney, New York*

C. Supportive Educational Environments, In Particular, Are Critical to Unlocking Transgender Individuals' True Potential.

During the difficult periods when transgender youth seek to understand their place in the world and struggle to feel a sense of belonging, educational institutions serve an indispensable role. Educational cultures of inclusivity, tolerance and support aid transgender students who struggle with confusion and pain. Inclusive cultures affirm to all students that every person matters and that every person is worthy of dignity and respect. Amici stress how much that confirmation has meant to them:

My experiences in schooling illuminated for me the crucial role that educational institutions play in shaping the personal development of young people and in shaping society as a whole.

Schools can be places that tell young people there is something wrong with them, that they don't exist or that the world is not equipped to admit their identities, experiences or bodies. Or schools can be places that affirm young people precisely because they bring something new to the world. They can be places that tell young people they have something distinct to contribute and, because of that, they are both valuable and valued. – ***Dr. Abram J. Lewis, 32, Professor, Illinois***

One amicus remembers how vital it was to be reminded that his experiences and identity were as valid and important as those of anybody else:

I was on the verge of dropping out of school when someone reminded me that I matter. I want all transgender students to know those same things. You matter. You matter to me; you matter to each other; you matter to the world. I stayed in college and eventually graduated and pursued a career in education. My hope is that through my efforts and those of my colleagues, increasing numbers of students will be able to better access their right to an education, free from harassment and fear, aspiring untethered, rather than settling for something less. – ***Mr. Luca Maurer, 52, Student Affairs Professional and College Educator, New York***

Another amicus shares how his life was changed by positive, inclusive environments:

In my work in teacher education and professional development, I have mentored and taught more than 500 teachers, each of whom has gone on to careers where they impact hundreds of children. None of these successes would have been possible if I had not attended a high school where my gender was respected and supported. I have gone from being a depressed and disengaged student to becoming an accomplished and respected educator and the most educated person in my family. I believe that schools can be incredible, transformative places. When children are supported and cared for, they become more engaged and productive members of society. This has certainly been true for me. – *Mr. Harper Keenan, 31, Teacher and Doctoral Candidate in Education, California*

IV. BARRING TRANSGENDER INDIVIDUALS FROM USING THE APPROPRIATE RESTROOM DEMORALIZES AND HUMILIATES THESE INDIVIDUALS, IMPEDEING THEIR ABILITY TO LIVE FULL, SUCCESSFUL LIVES.

Just as supportive environments and experiences can positively shape the lives of transgender individuals, policies that single out and stigmatize transgender individuals and restrict their rights can have a devastating impact. Specifically, amici explain the debilitating burdens that restrictive bathroom policies would impose on every aspect of their lives.

Moreover, amici are unequivocal that had they been faced with such discriminatory policies earlier in their lives, or had they not found a supportive environment to counteract their painful past experiences, they would not be who they are today:

Transitioning has meant freedom—freedom from the insecurity and anxiety of living in a way which did not align with who I am. To ask me—muscled, 175 lb., deep-voiced, hairy, broad shouldered me—to not use men’s facilities would be to take away my freedom. We can say that this is about bathrooms, but it is not; it is about participation. It is about showing up for life. It is about dignity. It is about whether or not I can go to work and feel safe, go to the gym, play on sports teams and do what I do day in and day out without feeling the pressing anxiety of uncertainty as to where I can relieve myself. It is about whether or not I can live the full and robust life that my family members, friends and colleagues can every single day. – **Mr. Liam Cutler, 25, State Policy Specialist, New York**

Many amici note that they have been using restrooms that conform to their gender identity for decades without problems, and that to be required to use restrooms that do not match their gender identity would be jarring, stressful, dangerous and ultimately unworkable. Further, requiring amici to use the restroom that does not match their gender identity would create the very situation that proponents of restrictive restroom bills claim to want to avoid:

At this point, it is hard for me to even imagine using the men's restroom; it would be so ridiculous. In appearance I look like any other young, skinny, feminine white woman. Ironically, I imagine that I would be politely informed that I was in the wrong restroom.
– ***Ms. Emma Caterine, 26, Law Student, New York***

We've been using the restrooms that match our gender identity for years without it causing a problem for anyone. We all just want to quietly and privately attend to matters of hygiene, just like everyone else. – ***Mr. Nixi Cat Chesnavich, 38, Registered Nurse and Medical School Student, Pennsylvania***

Amici also worry about the discomfort that would be caused to others were they forced to use an incongruous bathroom:

I am the father of two young daughters. A guy who looks like me—a forty year old, often wearing a suit and tie, with a goatee and receding hairline—would probably be tackled for trying to use the same restroom as my girls.
– ***Mr. G. Micah Wissinger, 40, Attorney, New York***

I have a very masculine appearance despite my “female” birth certificate. I am less concerned about the disruption to my own life if I were legally required to use the women's room than I

am concerned about the disruption to the mothers and daughters who I would undoubtedly encounter there. – **Mr. Daniel G. MacNeal, 49, Truck Driver, Maryland**

Barring transgender men and women from using the bathroom that corresponds to their gender identity would disrupt their daily lives and their interactions with friends, families and colleagues. It would negatively affect their ability to go to work and school. It would harm their health and put them at risk of physical violence. Above all, these policies would interfere with their right to privacy, taking away transgender individuals' freedom to be who they are and lead normal lives:

I couldn't ever go out to eat again; my work would be regularly interrupted by needing to travel back home just to relieve myself; my health would once again be negatively impacted just like it was in college when I would hold it in all day just to avoid the bathroom. I wouldn't be able to take any long road trips to visit my family for the holidays. I wouldn't be able to travel for work, which would end my scientific career. – **Dr. Elena Long, 33, Postdoctoral Research Associate in Nuclear Physics, New Hampshire**

When I was an undergraduate student attending SUNY Buffalo, there were many days I feared wetting myself. This fear caused both emotional and mental stress. I would feel distracted in class and worry about having to use one of the restrooms that felt unsafe. I would run up seven flights of stairs to use the restroom during class.

I'd run back down them, hoping no one noticed how long I was gone or how out of breath I was after flying up and down 14 flights of stairs.
– **Mr. Devon Shanley, 35, Public School Teacher, New York**

As an adult, it's easy for me to see that my school's difficulties in accommodating my basic bodily needs sent a strong message that there was something uniquely wrong with me and that someone like me did not deserve access or support within educational institutions.
– **Dr. Abram J. Lewis, 32, Professor, Illinois**

Amici explain the distressing effects that these policies would have, not just on them, but on their families as well:

It would be devastating if I were forced to use the restroom of my sex assigned at birth, not only for me but for my family. I have a four-year-old that needs to use the restroom when we are out in public and it is not safe for him to go in a public restroom alone. My 18-month-old is also still in diapers, so what am I to do with her? There have been countless instances where I have had to change her in a grocery or department store. My children would be disrupted and put at a health risk if I were not allowed to use the restroom. – **Ms. Danielle Wilcox, 36, Engineering Technician, South Dakota**

I would not be able to deal with having my wife and daughter see me using a restroom that has never matched who I am. – **Mr. Sean Coleman, 48, Executive Director of a Non-profit, New York**

Amici reiterate how the issue of bathroom use touches on a basic human need, and that policies that inhibit their access to a restroom could have a debilitating impact on their physical health, especially for transgender individuals with disabilities:

Due to congenital urethral stricture, my left kidney has lost more than 70% of its functioning capacity. If I don't consume enough water, my left kidney flares up and I experience intense pain. Additionally, due to diminished kidney function, once I have the urge to relieve myself, I immediately need to use the bathroom and am also unable to hold myself for any significant period of time. – **Mr. Tanvi Kaushal Sheth, 30, Attorney, Illinois**

Amici stress that forcing them to use a restroom that is inconsistent with their gender identity would take the intimate choice of disclosing it completely out of their hands, undermining their dignity and violating their right to privacy:

I haven't used a men's bathroom in well over a decade. If I were required to use a men's restroom, the decision to disclose that I am transgender and handle the resulting surprise would be taken out of my hands. "Why is Professor Clark in the men's bathroom," a first-year student might reasonably ask. "I was

standing at a urinal and she startled me by coming out of a stall!” I’d much prefer to cause less consternation in the women’s room. – ***Ms. Naomi Clark, 41, Arts Professor, New York***

I’ve been using men’s restrooms for over 15 years without any problems. If I were to try to use a women’s restroom, someone would call security. And since all of my day-to-day identity documents have me listed as male, it would be an extreme violation of my privacy if I had to prove to some random security guard the sex I was assigned at birth. I don’t see this ever being workable. – ***Mr. Daniel Soltis, 40, Digital Designer, New York***

Forcing transgender people to use a bathroom that is inconsistent with their gender identity or presentation instantly “outs” us to the world when most of us just want to live in peace as who we are. – ***Mr. Anthony Mayes, 37, Customer Service Support, Oklahoma***

Amici also worry about the reality that policies such as the one advanced by the Board put them at a substantial risk of assault and physical harm. One amicus describes his experiences doing exactly what Petitioner would have him do—using the restroom of his (female) birth gender, instead of his (male) gender identity:

When I did not yet feel comfortable using the men’s restroom, I faced violence for using even single unit women’s restrooms. I had men bang on the door and demand I come out. One time a

man followed me in, grabbed me and threw me out saying, “You shouldn’t be in here!” People shamed me, told me I was in the wrong restroom and called security on me for going to the bathroom. – ***Mr. Dale Melchert, 30, Attorney, New York***

In sum, amici agree that this case extends far beyond bathrooms; it threatens to curtail amici’s basic rights to live life with the freedoms afforded to everyone else. Despite amici’s very real fears, however, they remain hopeful. In contrast to the negative experiences described above, amici recount their experiences with explicitly inclusive bathroom policies, and highlight the workability of those policies and their meaningful impact on amici’s daily lives:

Last spring, when Mayor de Blasio signed a law explicitly allowing transgender people in NYC to use the bathroom we choose, I thought I wouldn’t feel the difference. After all, it has been about 12 years since anyone confused my gender. However, knowing that if anyone ever said anything, I would be legally protected and supported has had a tremendous impact on my comfort and sense of safety—much more than I ever anticipated. – ***Mr. Ilan Harris, 32, Public School Teacher, New York***

My workplace introduced signs that state that the facilities are intended to be safe for transgender people. This was initiated because a transgender person in our building was going down the street to find a unisex restroom whenever she needed to go. This was rightly considered unacceptable by my employer. The

inclusive signage has meant that our staff and visitors from the community know immediately that they are in an environment of respect for transgender people. The signage has been up for over a year and no issues have been reported.

– Dr. Ryan Combs, 35, Assistant Professor of Public Health, Kentucky

Chicago public accommodation laws permit people to use restrooms based on their gender identity. On a recent occasion, for the first time, I used the male restroom with five male cousins. Once we got out of the restroom, one of my cousins admitted that he was feeling awkward when we entered the restroom, but by the time we got out, his entire perspective had changed because he realized that my presence in the restroom made no actual difference to him or anyone else. We all simply relieved ourselves and left. Because of the inclusive policies in Chicago, I felt secure enough to use the male restroom with my cousins, which also served as a catalyst for my cousins to become more understanding and accepting as well.

– Mr. Tanvi Kaushal Sheth, 30, Attorney, Illinois

One amicus put into words a sentiment with which all people surely can agree:

In every sense, community is key. Whether that means friends, family, neighbors, online communities, governments, faith communities, artistic communities, and so on, I see how strong

the impact of community can be. When you can be yourself, you thrive. When you can't, you won't. The conditions of cultivation so often predict the outcome. – ***Ms. Elana Redfield, 36, Attorney, New York***

Amici simply seek to be recognized as part of the American community and afforded the same rights as everyone else. They have faced obstacles throughout their daily lives, some of which continue today, but amici remain steadfast in their motivation to contribute substantially to the world around them and to enrich American life.

Amici are everyday Americans with hopes, dreams, talents, successes and the desire to live a life fully realized. They seek basic freedom, respect and dignity so that they may continue to be positive participants in their communities. The instant case presents an important fork in the road. Amici urge this Court not to accept an interpretation of Title IX that would reduce them and all transgender individuals to second-class citizens, but instead to promote the valuable contributions that transgender people make to American society.

CONCLUSION

For the foregoing reasons, the decision of the Fourth Circuit should be affirmed.

Respectfully submitted,

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APPENDIX

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