

ACLU of Virginia

530 East Main Street, Suite 310 Richmond, Virginia 23219 (804) 644-8022

May 21, 2012

Sent Via Fax and Regular Mail

Angela C. Lewis, Clerk of the School Board
Richmond Public Schools
301 North Ninth Street
Richmond, VA 23219

Re: Single-Sex Programming at Henderson Middle School

Dear Ms. Lewis:

Thank you for your prior response to our Freedom of Information Act request seeking records relating to single-sex education programs and activities. Based on our subsequent correspondence, I have been informed that Henderson Middle School is not currently operating single-sex education programs and activities,¹ but I was not informed if it did so in prior years. We would appreciate it if you could provide additional written confirmation that single-sex education programs and activities have not previously operated at the school at any time within the past 5 years, from the 2006-07 through the 2011-12 school years. If they did operate in the past 5 years but have since been discontinued, we request that you confirm the beginning and end dates of any such programs that have operated there.

As we outlined in our initial request for records, single-sex education programs and activities may run afoul of numerous legal provisions under state and federal law, including Title IX of the Education Amendments of 1972 and the United States Constitution. We were therefore pleased to learn that such programs and activities are not operating at Henderson Middle School. If single-sex education programs and activities did operate in the past 5 years but have since been discontinued, you are still obligated to provide the records requested, even now that the programs in question are no longer in operation. We therefore request that you send those records within five working days after receiving this letter, per the Virginia Freedom of Information Act, and further supplement our request with a request for documents and records reflecting the reasons for discontinuation, so that we might continue to evaluate and the evaluate chances that the program, or another like it, will be reinstated in the future and assess our legal options going forward.

As an alternative to pursuing our right to obtain these records, we seek your commitment that you will refrain from engaging in unlawful sex segregation in the future. We therefore ask that you enter into an agreement with the ACLU of Virginia, a draft of which is enclosed, to refrain from engaging in any and all single-sex (and gender-specific) programs or activities for

¹ Cu" wugf" vjtqwi jquw" vjku" ngwgt. "öukp ing-ugz" gfwecvkqp" rtqitc o" qt" cevxxkv {ö" fqgu" pqv" kpenwfg" *3+ "ugrctcvkqp" qh"

the next five years,² effective at the start of the next school year. Pursuant to the terms of this proposed agreement, the ACLU of Virginia will agree to waive its rights to pursue any further records or to take any future legal action relating to any past single-sex programs, for a period of five years.

I look forward to your reply. In order to provide you with sufficient time to consider our offer, I am prepared to offer you an extension of your statutory time to respond until June 4, 2012. Do not hesitate to contact me with questions. I can be reached at the contact information below.

Sincerely,

Katherine Greenier, Director
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American Civil Liberties Union of Virginia
530 East Main Street, Suite 310
Richmond, VA 23219
Email: kgreenier@acluva.org
Phone: 804-644-8080

AGREEMENT

This Agreement is entered into this _____ day of _____, 2012, by and between the American Civil Liberties Union Foundation of Virginia and Henderson Middle School.

In prior school years, the Henderson Middle School may have operated single-sex classes. The ACLU has alleged that these programs are likely to have constituted sex discrimination in violation of federal law. Because the Parties desire to resolve potential disputes between them regarding the legality of such programs, on the terms and conditions set forth below, and in consideration of the mutual promises and releases contained herein, the Parties agree as follows:

1. Beginning in the 2012-2013 school year and for five years thereafter, the Henderson Middle School shall not provide any Single-Sex Activity. With the exceptions set out in paragraph (2) below,

5. The Henderson Middle School further agrees that any time during the school years 2012-2013 through 2016-2017, representatives of the ACLU may conduct noticed or unnoticed visits to the Henderson Middle School for the sole purpose of verifying that no Single-Sex Activity is occurring in such school in violation of this Agreement.
6. As consideration for these commitments by the Henderson Middle School, the ACLU releases the Henderson Middle School from any and all claims arising on their own behalf from sex-segregated/single-sex classes, programs, or activities in Henderson Middle School during the 2011-2012 school year or prior school years, including administrative claims with the Office of Civil Rights of any federal executive agency, with the exception of any claims arising out of the breach of any provision in this agreement, as set out in paragraph (8) below.
7. Notwithstanding paragraph (6), the ACLU does not release the Henderson Middle School from any claims that may arise from sex-segregated schools, classes, programs, or activities during the 2012-2013 school year or at any time thereafter.
8. Notwithstanding paragraph (6), the Parties do not release each other from any of their obligations under this Agreement. This Agreement shall be deemed breached and a cause of action accrued upon the commencement of any act, action, or conduct contrary to this Agreement, and in any such action, this Agreement may be pleaded by any of the Parties, including as a defense or as a counter-claim or cross-claim in such action.
9. It is understood that this Agreement is not to be construed as an admis4 TJ,ec9t.55 Ta und194(d

Katherine Greenier
American Civil Liberties Union Foundation of Virginia
Patricia M. Arnold Y q o gpøu"Tk i j vu"Rtqlgev
530 East Main Street, Suite 310
Richmond, VA 23223

Henderson Middle School
Date