

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

Case No. 6:22-cv-01312-WWB

WILL

LARKINS, by and through his next friend and parent, Ted Larkins;¹ DAVID DINAN; VIKRANTH REDDY GONGIDI; K.R.D. and R.R.D., by and through their next friends and parents David Dinan and Vikranth Reddy Gongidi; and CENTERLINK, INC., on behalf of itself and its members,

Plaintiffs,

vs.

THOMAS R. GRADY, BEN GIBSON, MONESIA BROWN, ESTHER BYRD, GRAZIE P. CHRISTIE, RYAN PETTY, and JOE YORK, in their official capacities as members of the State Board of Education; THE SCHOOL BOARD OF ORANGE COUCOUNTY, FLORIDA

,

Defendants,

and

ASHLEY MOODY, Attorney General,

Defendant-Intervenor.

**Challenge to the Constitutionality of
Florida Statute § 1001.42(8)(c)
(2022)**

**Preliminary and Permanent Injunctive
Relief Requested**

Declaratory Relief Requested

Demand for a Jury Trial

¹ Pursuant to Fed. R. Civ. P. 5.2(h), Plaintiff Will Larkins, a minor, waives the privacy protections afforded by Fed. R. Civ. P. 5.2(a) as to his name only.

SECOND AMENDED COMPLAINT FOR DECLARATORY, INJUNCTIVE AND OTHER RELIEF

Plaintiffs Jennifer (“Jen”) and Matthew (“Matt”) Cousins, individually and as next friends and parents of P.C., M.C., S.C., and N.C., minor children; Will Larkins, a minor, by and through his next friend and parent, Ted Larkins; David Dinan and Vikranth Reddy Gongidi (“Vik Gongidi”), individually and as next friends and parents of K.R.D. and R.R.D., minor children; and Plaintiff CenterLink, Inc., by and through their undersigned counsel, bring this challenge to Florida Statute § 1001.42(8)(c) (2022) seeking a declaratory judgment as well as preliminary and permanent injunctive relief against all Defendants, and nominal and compensatory damages against only the following Florida district school boards: The School Board of Orange County, The School Board of Indian River County, The School Board of Duval County, and The School Board of Palm Beach County.

INTRODUCTION

1. Florida enacted Fla. Stat. § 1001.42(8)(c) (“the Law”) to silence and erase lesbian, gay, bisexual, transgender, queer, and questioning (“LGBTQ+”) young people and families. The Law is profoundly vague and requires schools to ban undefined broad categories of speech based on undefined standards such as “appropriateness.” The Law demands that school districts implement its terms, and it empowers any parent to directly sue the school district if they are dissatisfied with its implementation of the law. And it simultaneously saddles school districts with the cost of litigation and the risk of paying plaintiffs’ attorney fees. This ve

schools acting aggressively to silence students, parents, and school personnel. The Law, by design, chills speech and expression that have any connection, however remote, to sexual orientation or gender identity.

2.

believe. Will knows that sharing knowledge about LGBTQ+ history can empower young people who are struggling, and he wants to choose class presentation topics that teach about LGBTQ+ history. However, after he shared a presentation about the Stonewall riots with his history class just after

support for LGBTQ+ youth. As a result of the Law, at

by the U.S. Constitution and laws, and seeks to secure equitable relief under an Act of Congress, specifically 42 U.S.C. § 1983, which provides a cause of action for the protection of civil rights.

9. The Court has personal jurisdiction over Defendants because Defendants are domiciled in Florida and the deprivation of Plaintiffs' rights arises out of and relates to Defendants' official duties in Florida.

10. Venue lies in this District under 28 U.S.C. § 1391(b)(1) because Defendants School Board of Orange County, Florida, and School Board of Duval County, Florida, reside in this District and all Defendants are residents of Florida. Venue also lies in this District under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in this District.

11. Venue lies in this Division under Local Rule 1.04(b) because this action is most directly connected to and most conveniently advanced in this Division.

12. The Court has the authority to enter a declaratory judgment and to provide preliminary and permanent injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Rules 57 and 65 of the Federal Rules of Civil Procedure.

PARTIES

I. Plaintiffs

13. Plaintiffs Jen and Matt Cousins, a married different-sex couple of 15 years, reside in Orange County, Florida, with their four children, Plaintiffs P.C., M.C., S.C., and N.C.. Each of the children attends Orange County Public Schools ("**OCPS**"). Plaintiffs P.C., M.C., S.C., and N.C., minor children, sue pursuant to Federal Rule of Civil Procedure 17(c) by and through their next friends Plaintiffs Jen and Matt Cousins. As students enrolled in OCPS and their parents, Plaintiffs Jen Cousins, Matt Cousins, P.C.,

M.C., S.C., and N.C. are subject to Defendant School Board of Orange County's implementation and enforcement of the Law.

14. Plaintiff Will Larkins resides in Orange County, Florida. He sues pursuant to Federal Rule of Civil Procedure 17(c) by and through his next friend Ted Larkins. As a student at OCPS, Plaintiff Will Larkins

II. Defendants

17. Defendants Thomas R. Grady, Ben Gibson, Monesia Brown, Esther Byrd, Grazie P. Christie, Ryan Petty, and Joe York (collectively, "SBOE Members") are members of the Florida State Board of Education, a body corporate that serves as head of the Florida Department of Education. FLA. CONST., art. IX, § 2; Fla. Stat. § 20.15(1). The Board of Education, through official action by SBOE Members, has the authority to implement the provisions of law conferring duties upon it for the improvement of the State system of public education, including to adopt comprehensive educational objectives, approve plans for cooperation with other public agencies in the development of rules and enforcement of laws for which it and such agencies are responsible, enforce systemwide education goals and policies, and adopt and periodically review and revise the Next Generation Sunshine State Standards, which are the core content of the curricula to be taught in the state in K-12 public schools. Fla. Stat. §§ 1001.02-.03, 1003.41. SBOE Members, acting as the Board of Education, enforce the Law, including by delegating responsibilities for enforcement to the Commissioner of Education and the Florida Department of Education. *Id.* §§ 1001.02, 1001.20, 1001.23. The Board of Education is also required to review and approve or reject any recommendation of a special magistrate as to whether a school district is in compliance with the Law, and to adopt rules necessary to implement the foregoing procedure. *Id.* § 1001.42(8)(c)(7)(b)(I). Defendants SBOE Members are each a person acting under color of state law within the meaning of 42 U.S.C. § 1983 and sued in their official capacities for prospective equitable relief to end continuing violations of federal law.

18. Defendant School Board of Orange County, Florida, is the governing body

of the OCPS, organized and operated under sections 1001.34 through 1001.453, Fla. Stat. The School Board of Orange County is charged with implementing the terms of the Law. Fla. Stat. § 1001.42 (district school boards “shall ... perform all duties listed” in the statute). As a political subdivision of the State of Florida, the School Board of Orange County is subject to civil suits pursuant to section 1001.41(4), Fla. Stat., and is a “person” acting under color of state law within the meaning of 42 U.S.C. § 1983. Plaintiffs P.C., M.C., S.C., and N.C., and Plaintiff Will Larkins attend public school in Orange County. A member center of Plaintiff CenterLink provides services to LGBTQ+ students in OCPS.

19. Defendant School Board of Indian River County, Florida, is the governing body of the SDIRC, organized and operated under sections 1001.34 through 1001.453, Fla. Stat. The School Board of Indian River County is charged with implementing the terms of the Law. Fla. Stat. § 1001.42 (district school boards “shall ... perform all duties listed” in the statute). As a political subdivision of the State of Florida, the School Board of Indian River County is subject to civil suits pursuant to section 1001.41(4), Fla. Stat., and is a “person” acting under color of state law within the meaning

§ 1983. A member center of Plaintiff CenterLink provides services to multiple schools and LGBTQ+ students in DCPS.

21. Defendant School Board of Palm Beach County, Florida, is the governing body of The School District of Palm Beach County ("**SDPBC**"), organized and operated under sections 1001.34 through 1001.453, Fla. Stat. The School Board of Palm Beach County is charged with implementing the terms of the Law. Fla. Stat. § 1001.42 (district school boards "shall ... perform all duties listed" in the statute). As a political subdivision of the State of Florida, the School Board of Palm Beach County is subject to civil suits pursuant to section 1001.41(4), Fla. Stat., and is a "person" acting under color of state law within the meaning of 42 U.S.C. § 1983.

26. The Law places the burden of paying the costs of the special magistrate process on the school district. Fla. Stat. § 1001.42(8)(c)(7)(b)(I). And it provides that, if a parent's law

historical or current public figures, regardless of whether the figures are known for

sources.”⁷ The standard suggests examples of primary sources including “photographs, birth certificates, ... and diaries.”⁸ English standards in grades 1-3 all require students demonstrate increasing awareness and use of proper pronouns.⁹ A kindergarten English standard asks students to “describe familiar people ... and, with prompting and support, provide additional detail.”¹⁰ The Law’s vague and overbroad terms chill the participation of children with same-sex parents or transgender or non-binary family members in such assignments.

36.

September 20, 2022, parents can use the state-issued form “Parental Request for Appointment of a Special Magistrate” to allege a school district’s violation of this restriction. Until then, schools are incentivized to chill and censor speech, expression, and access to information according to the standard of the parent most hostile to the

appropriate for grades 4-12, including those about which the teacher is “unsure.” A member of Defendant School Board of Palm Beach County stated that avoiding litigation from parent complaints is one of the district’s “biggest concerns” because they need “to be fiscally responsible.”¹¹ On information and belief, a SDPBC administrator who questioned the decision to remove books before standards were put in place has been transferred and demoted.

42. On August 29, 2022, SDIRC adopted Policy 5710, “Student and Parent Complaints,” implementing the Law. The District Policy sets forth the rights of parents to exercise the private right of action afforded by the Law, and details the steps for going about doing so for “[a]ny parent or legal guardian with a concern regarding the implementation of the provisions of F.S. 1001.42 (8)(c) at their child’s school.” The OCPS official district website similarly reflects a recent procedure implementing the Law, a procedure related to “alleged violations of Parental Rights in Education (HB1557) (2022).”

III. The Law was enacted to shame and silence LGBTQ+ children and families, stigmatizing them, subjecting them to adverse treatment, and barring them from full and equal participation in their school communities.

43. The Law’s purpose is to silence LGBTQ+ people and their families based on their identities and the content and viewpoint of their speech and expression. The Law’s sponsor in the Senate stated that the law addresses concerns about students “coming out” as LGBTQ+ in school, and parents’ concerns about a “departure [from] core

¹¹ See WLRN, Palm Beach County school district tells teachers to review classroom library books for references to racism, sexism and oppression, <https://www.wlrn.org/education/2022-06-09/palm-beach-county-teachers-are-being-told-to-review-classroom-library-books-for-references-to-racism-sexism-oppression> (last visited November 3, 2022).

belief systems and values.”

44. The Florida Governor’s spokesperson has called the Law an “Anti-Grooming Bill” and has stated that any person opposed to the law is “probably a groomer.” And the Florida Governor has articulated the Law’s purpose of suppressing particular viewpoints across all grade levels by stating that “things like woke gender ideology have no place in the schools, period.”

45. The Law’s imprecision exacerbates its chilling effect, pushing school districts to broadly restrict speech about LGBTQ+ students and families under threat of private lawsuits and accompanying expenses.

46. Unsuccessful amendments proposed during debate on underlying Florida House Bill 1557 show that the legislature intentionally failed to clarify the Law’s vague terms and intended to target the LGBTQ+ community. Most tellingly, proposed Amendment 973790 would have replaced “sexual orientation” and “gender identity” with “human sexuality” and “sexual activity.” Its sponsor clarified that the amendment was designed to avoid discrimination against LGBTQ+ children: “If the intent of this bill isn’t to marginalize anyone, let’s make sure we aren’t by passing this amendment.” As one colleague noted: “The other advantage to the senator’s amendment is that it takes out the words that target a minority group. . . . We do not want children and others to get the impression we think it is wrong to be gay or to be transgender.” Critically, the bill’s sponsor in the Senate stated that the amendment should not be supported because it “would significantly gut the effort of the bill.” The amendment failed.

47. Proposed Amendments 734244 and 600607 to Florida House Bill 1557 would have clarified that the Law “does not apply to any discussion between a student

who identifies as transgender, gender nonconforming, non-

Cousins, and Plaintiffs P.C., M.C., S.C., and N.C.

51. Jen and Matt Cousins are the parents of four children. The family lives in Orlando, Florida.

52. Jen and Matt's children are N.C., who is 14 years old and is in the ninth grade; S.C., who is 13 years old and is in the seventh grade; M.C. who is 8 years old and is in the third grade; and P.C., who is 7 years old and is in the first grade. Each of the children attends public school in OCPS.

53. Jen and Matt's child, S.C., came out as non-binary last year, and uses "they/them" pronouns. The family supports S.C. completely, and loves that S.C. is comfortable in their own skin and confident in who they are.

54. Jen and Matt have views that some individuals in OCPS

invited to talk with students in the classroom about their careers and other topics,
including by reading a book, sharing an educational experience topics,

include written or pictorial references to sexual orientation or gender identity.” An OCPS document titled “Instructional Materials Library Media 2022 Legislation” poses the question: “A book is used for instructional purposes to teach about families. The book includes references and pictures of a family with two moms and two dads. Since the lesson is about families and not sexual orientation or gender identity, is it okay to use that book?” It answers: “Book can be viewed as introducing sexual orientation to K-3 kids if it is used as part of instruction in K-3.”

59. N.C. wants to read books that help him understand his sibling’s experience as a non-binary adolescent, but because of the Law, OCPS is reviewing all books containing LGBTQ+ characters and they are unavailable for students to access.

60. Jen and Matt have always fostered empathy and inclusivity in their children, and they want their children to learn in school the importance of representation, especially for people from marginalized communities. They have witnessed how the Law has increased demands from members of their community to erase LGBTQ+ voices and stories from the literature currently available to young people in their schools.

61. S.C. is completely “out” at school and is an active member of their school’s GSA student club. The GSA has been a lifeline for S.C. at school, and provides a sense of belonging, community, and acceptance for S.C. and other LGBTQ+ students. S.C. wants to have the same experiences and opportunities members of the GSA have had in previous years. For example, last year GSA students were taken on a field trip to the Orlando Art Museum for a free family day, where they were able to learn about the contributions of LGBTQ+ artists to art history. This year, the students do not think this will be possible because of the Law’s operation, which intimidates participants and required

sponsors.

62. The Law attacks not only S.C. but the entire Cousins family. All members of the family are proud of S.C. and wish to be able to speak openly and with love for S.C. in school, including by explaining S.C.'s non-binary identity to friends, classmates, teachers, and others. S.C. wishes to advocate for themselves and asks to have others refer to them with they/them pronouns. The Law paints their family as abnormal. The law shames, chills, and silences such communications by threatening to label them as "inappropriate"; and it portrays S.C., a kind and thoughtful child, as someone who should be feared or ostracized. For example

“brother.” A first-grade assignment asked N.C. “Who is worth more to you than gold?”

N.C. drew

69.

classroom.

74. Will attends a public high school because he wants to learn in an environment where students and teachers bring diverse experiences to the table, and where students and teachers are free to engage in debate about different ideas and issues.

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strange fluke that needed to be fixed. It was as if a weight was lifted off his shoulders. Will then became fascinated with learning about LGBTQ+ history and culture, and the more he learned about other people's experiences, the more he came to understand himself and to love himself. Through education on these concepts, he developed a sense of self-worth, community, and belonging.

78. The Orange County School Board's enforcement of, and authority to enforce, the Law makes Will reluctant to openly express his opinions.

79. Will does not fully express himself or talk about LGBTQ+ issues in class because he fears W

on the Stonewall Riots. Ultimately, he was told that he was being moved to another history class, and that he had no choice in the matter. Given that it was close to the end of the year and moving into a new and unfamiliar class so close to finals was challenging, Will's grades suffered in the new class as a result. Will's friend also was disciplined for filming his presentation.

82. Will wants to do a presentation on the Stonewall Uprising this year, but he fears he will be disciplined and his teachers will lose their teaching certificates as a result. In October 2022, a new rule to mandate compliance with the Law was adopted, updating the code of conduct for Florida educators to include the language from the Law about sexual orientation and gender identity. The rule states that a “[v]iolation of any of these principles shall subject the individual to revocation or suspension of the individual educator’s certificate, or the other penalties as provided by law.”

83. Will's fears are also grounded in watching other Florida school districts implement the same Law. For example, in September of 2022, the Miami-Dade County School Board cited the Law as the basis for their vote against giving teachers the option to teach the landmark pivotal Supreme Court cases *Obergefell* and *Bostock* in 12th grade social studies classes.

84. Will also has witnessed an increase in anti-LGBTQ+ bullying and harassment since the Law's enactment. During a student-organized walk-out fe i ...

school year after the Law went into effect than he ever experienced previously. For example, recently a group of students chased Will and his sister, who also identifies as LGBTQ+, after a football game, hurling homophobic and transphobic slurs at them as they ran. Upon reporting this incident and others, rather than addressing the bullying itself, OCPS offered Will the option to transfer to another school. Will feels less safe at his OCPS school as a result of the Law.

85. As President of the Queer Student Union, Will has spoken to his fellow club members about how they feel in light of the Law. Many have also experienced a significant increase in bullying based on sexual orientation and gender identity. The rhetoric perpetuated by the state in support of this bill, including the Governor's Press Secretary calling it the "Anti-Grooming Bill" and stating that those opposed to the bill, like Will, support "the grooming of 4-8 year old children," is being mimicked by studenH EE \$ g

students like him will be deprived of this safety as teachers will have to actively censor themselves.

88. Will wants to be himself in school. He wants to talk about LGBTQ+ history without fear of being penalized again. As a high school senior with college prospects on the horizon, Will cannot afford to be disciplined and have his grades suffer for speaking accurately in class about relevant LGBTQ+ historical and current events. He wishes to acknowledge to other students, to teachers, and to his community that he is queer. He wants to go to school and not be shamed and silenced simply for who he is.

3. The Law has harmed and will continue to harm Plaintiffs David Dinan, Vik Gongidi, and Plaintiffs K.R.D. and R.R.D.

89. David and Vik are a married couple. The freedom to marry under Florida law was a defining moment for them in being officially recognized in the same way as other couples.

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90. In 2013, David and Vik adopted K.R.D., who is currently 10 years old. In 2014, they adopted R.R.D., who is currently 8 years old. They have had K.R.D. in their family from approximately 4 months old and R.R.D. from a few days old.

91. K.R.D. is in the fourth grade and R.R.D. is in the third grade. Both attend public school in the SDIRC.

92. David and Vik want their children to feel supported and safe at their school. David, Vik, K.R.D., and R.R.D. feel strongly that all families, including their own, should be respected and discussed equally in school. The eqP

have to debate and guess how much detail they can share as they complete future assignments, as long as SDIRC is required to enforce the Law. The Law harms their children, threatening to label them and their family as a topic too shameful or “inappropriate” for their teachers and classmates to discuss.

95. David, Vik, K.R.D., and R.R.D. now censor their appearance and speech at school and when they attend school events, avoiding reference to sexual orientation or other topic that might be deemed “inappropriate” by parents that could threaten to sue the school under the Law. For example, David now feels uncomfortable wearing LGBTQ-related shirts at school events as a result of the Law. K.R.D. and R.R.D. now steer away from wearing LGBTQ-related shirts that used to be some of their favorites on “dress down” days for charity. David is aware that he or his kids’ wearing shirts to school celebrating the LGBTQ ‘ J LGB ‘ ‘ NJ J s ‘ atenitmG

adopt a standard of complete LGBTQ+ erasure to avoid costs and liability. R.R.D.'s teacher recently reported that she had to reduce the students' reading goals because of issues with accessing libraries and reading centers this year. K.R.D. and R.R.D. deserve to be able to access books that show that other children their age also have same-sex parents and David and Vik want them to be able to access those books in school.

97. The enactment of the Law already has impacted the way in which mental health support services have been delivered to K.R.D. and R.R.D. Since the Law's passage, David has observed that school counselors are seeking additional permission from him before interacting with his children, and he worries that his children cannot access timely and appropriate services the way they have previously been able to do.

98. The Law harms David and Vik and their children for the additional reason that the Law inhibits school officials' ability to respond effectively to anti-LGBTQ+ bullying and slurs targeting their children because their dads are gay and comprise a married same-sex couple.

99. The Law prevents school officials from protecting students effectively because any reasonably supportive intervention may be characterized as violating the vague and overly broad Law, inviting lawsuits by private parties. This makes it less safe for their children to attend school. At its May 2022 meeting, as a result of the Law, Defendant School Board of Indian River County discussed proposals from at least one board member to completely rescind an LGBTQ+ Administrative Resource Guide that, since at least the 2019-2020 school year, has provided guidance to school administrators in establishing safe and inclusive schools and promoting academic success for LGBTQ+ students.fe

4. The Law has harmed and will continue to harm Plaintiff CenterLink and its member centers.

100. CenterLink's mission is to strengthen, support, and connect LGBTQ+ community centers. CenterLink works to develop strong, sustainable community centers that provide LGBTQ+ people of all ages with the building blocks of well-being that all people need to thrive, such as healthy social connections, safe places to live and work, support to do well in school and prepare for careers, enriching cultural experiences, and timely health and mental health services. With over 300 member LGBTQ+ community centers across the country and internationally, including 27 in Florida, CenterLink assists newly forming community centers and helps strengthen existing centers through networking opportunities for leaders, peer-based technical assistance and training, and a variety of capacity-building services. CenterLink's efforts are based on the belief that LGBTQ+ community centers lay the foundation for a national movement working to ensure that all LGBTQ+ people can live happy and healthy lives in communities that honor and support them.

101. LGBTQ+ community centers work very closely with their LGBTQ+ constituency and engage community leaders and decision-makers. These centers are often the only staffed non-profit LGBTQ+ presence in a given

membership fee. Once a center becomes a member, it has access to services such as the CenterLink resour

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self-esteem and higher rates of depression. These problems can be lessened by practices that foster an affirming learning environment. Youth who have a supportive school environment created by staff and administrators report fewer homophobic or transphobic comments, are more likely to report that school personnel intervene when issues arise, feel a greater sense of community, and are more likely to graduate high school.

109. Research specifically links the presence of GSAs to greater feelings of school connectedness, positive youth development, and increasing sense of purpose, self-esteem, and agency among LGBTQ+ youth. GSAs also have been linked to improved public health outcomes for school-aged young people, including reduced risk across health outcomes related to HIV and other sexually transmitted infections, violence, illicit drug use and prescription drug misuse, and suicidal ideation. Prevention benefits from the presence of GSAs have been documented for non-LGBTQ+ youth as well as LGBTQ+ youth.

110. The Law already has interfered with, and obstructed work performed by, CenterLink and several of its Florida member centers, frustratingx iP tiv L

and procedures for student support and anti-bullying; communicates with and provides support to GSAs and their advisors; and supports individual students directly referred from staff at DCPS. This center is subcontracted by Defendant School Board of Duval County to perform these services under a federal collaborative grant, and private donors and foundations provide additional funding support for its work.

112. Over the course of a long-standing relationship for at least the last five years, JASMYN received multiple referrals of students from DCPS. Within the first few weeks after the Law was passed, however, DCPS blocked at least one youth referral to JASMYN because the DCPS staff feared the referral might run afoul of the Law. Consequently, the center's staff were unable to follow up with this student, provide information, answer questions, and offer resources and assistance. Indeed, since passage of the Law, JASMYN has not received any referrals from any DCPS school. JASMYN expects this issue to continue as long as the Law is enforceable.

113. Over the course of the last nine years, employees of DCPS held regular meetings that enabled CenterLink's Duval County member center to plan teacher trainings, establish and maintain referrals, coordinate the collection of data that is required under grants, and meet other requirements for the upcoming school year ("LGBTQ Leadership Committee meetings"). After the Law's passage, and in anticipation of the law being in effect this school year, DCPS cancelled those standing meetings. Absent the Law, as in years past, the member center would have used those DCPS-led meetings to plan summer teacher training, identify prospective GSA teacher sponsors, and plan for a student leadership retreat, as it has done in prior summers. Because of the Law, the collaboration has been stalled and that work has been put on hold.

114. JASMYN's ability to plan and meet with DCPS staff continues to be hindered since the Law took full effect. Since July 1, 2022, the LGBTQ Leadership Committee has met only once. A meeting was planned for July to develop training under the new Law, but—unlike past meetings—no member of JASMYN staff was informed of the meeting time and date or invited to attend. No LGBTQ Leadership Committee meeting was held in August. A meeting was convened on September 22, 2022, by the Office of Equity and Inclusion, but few of the regular LGBTQ Leadership Committee members were present, especially those from DCPS that have historically represented seven DCPS departments, and the f ° ly

LGBTQ+ students and GSAs.

119. As a result of the Law, JASMYN has had to reallocate staff and program resources to increase online support and develop satellite locations for student support services. This diversion of resources has continued and will continue unless the Law is enjoined and not enforced.

120. If the Law is enjoined, JASMYN could return to its traditional work in DCPS schools, resume direct communication with school employees, and connect with GSA groups. JASMYN would be able to rebuild communications and referrals, receive calls from schools regarding LGBTQ+ bullying, and provide supportive resources to students. Based on its long relationship and current agreement with DCPS, JASMYN is confident it would be able to resume its collaborative work absent the Law.

b. CenterLink member center in Orange County

121. Orlando Youth Alliance (“OYA”) is a CenterLink member center in Orange County that also has experienced harm as a result of the Law.

the Law

increase in demand for its mental health services, resources, and support for local young people and families. The Law has exacerbated a mental health crisis for LGBTQ+ youth, who—even before passage of the Law—were already four times more likely to attempt suicide or think about suicide than their non-LGBTQ+ peers. Compass staff have spent an inordinate amount of time and resources on mitigating the impacts of the Law on students' mental health and quelling the anxiety of youth and families. The increased demand from LGBTQ+ youth and their families for direct services, driven by the Law, has exceeded the capacity of the center's staffing and funding. Given Compass's limited resources, directing a large percentage of the staff to address concerns raised by the Law has hindered Compass's ability to perform other program work, frustrated its mission, and hindered its ability to meet the needs of the LGBTQ+ community more generally.

126. Compass has diverted resources from other core programmatic areas and services in order to meet the additional demand for youth mental health services since the Law went into effect. Compass spent significantly more money this year on youth mental health, forcing them to go over budget and use unrestricted funds on these services, which required them to divert resources from other areas such as events like Equality Prom, the Lavender Graduation ceremony, holiday dinners for youth and families, community events, and assisting families experiencing food insecurity. Compass expects this diversion of resources to continue.

127. At least some teachers in SDPBC who previously would refer students and their families to Compass or direct them to resources provided by the center are no longer comfortable doing so in light of the Law's vague language, including the Law's parental notification requirements, interfering

who are not otherwise aware of the center. Since the start of the new school year after the effective date of the Law, these teachers have been warned by SDPBC that they will lose their license if they fail to comply with the Law. This fear among teachers has been exacerbated by the new rule promulgated by the Department of Education in October of 2022 reinforcing the Law's prohibitions regarding sexual orientation and gender identity in classrooms through the threat of "revocation or suspension of the individual educator's certificate, or the other penalties as provided by law."

128. SDPBC has cancelled several long-standing diversity and inclusion trainings for teachers on LGBTQ+ history and curriculum inclusion, removed inclusive materials in high school courses from the curriculum and several books with LGBTQ+ content from all classrooms, and is revising affirming policies for LGBTQ+ students in response to the Law. For example, a teaching tool titled the "Genderbread Person," which is a component of the Human Growth and Development curriculum for high school students, was removed from curriculum materials in response to the Law. Further, teachers were instructed to restrict access to the books *Call Me Max*, *I am Jazz*, and *Flamer*, a list that has only grown since the effective date of the Law. Additionally, the "LGBTQ+ Critical Support Guide," for which Compass is one of the lead contributors, and which has long served as a vital resource for LGBTQ+ students in Palm Beach County's public schools, was removed from the website and revised in response to the Law's enactment, and since the Law went into effect it has again been removed from public access and revised to further ensure compliance with the Law. Finally, Compass has provided trainings in the past, and

action against Defendant School Board of Indian River County, and re-allege and incorporate by reference paragraphs 1-12, 15, 17, 19, 22-50, 66, 68, 83, and 89-99 as if fully stated herein.

135. Plaintiff CenterLink, on behalf of itself and its members, states this cause of action against Defendants School Board of Orange County, School Board of Duval County, and School Board of Palm Beach County, and re-alleges and incorporates by reference paragraphs 1-12, 16-18, 20-50, 66, 68, 83, and 100-130 as if fully stated herein.

136. All Plaintiffs seek preliminary and permanent injunctions, and challenge the Law, and any action by Defendants or their agents seeking to implement it both facially and as applied to them.

137. In addition to the affirmative implementation efforts referenced in paragraphs 131-136 above, Defendants School Board of Orange County, School Board of Indian River County, School Board of Duval County, and School Board of Palm Beach County each have the authority to enforce the Law within their respective school districts.

138. The First Amendment, as applied to the states through the Fourteenth Amendment and enforceable pursuant to 42 U.S.C. § 1983, provides in part that the government “shall make no law . . . abridging the freedom of speech.”

139. The Law impermissibly chills the exercise of all Plaintiffs’ constitutionally protected speech, based on the content and viewpoint of their speech and is therefore unconstitutional under the First Amendment.

violation of the First Amendment. Efforts to suppress speech based on the government's opposition to the speaker's view are unconstitutional absent narrow tailoring in service of a compelling justification.

141. The purpose and effect the Law is to chill and suppress constitutionally protected First Amendment activity by targeting specific content and viewpoints for suppression. As its legislative history indicates, the Law is a façade for viewpoint-based discrimination and is therefore facially unconstitutional under the First Amendment.

142. In pre-enforcement First Amendment challenges to laws, regulations, or policies that chill or suppress speech, the injury requirement is loosely applied because of the fear that free speech will be chilled even before the law, regulation, or policy is enforced. Litigants who are being chilled from engaging in constitutional activity suffer a discrete harm independent of enforcement, and that harm creates a basis for jurisdiction. Plaintiffs assert pre-enforcement challenges to the Law, in addition to challenging actions by Defendants or their agents seeking to implement it.

143. A First Amendment plaintiff has standing when the operation or enforcement of a challenged law, regulation, or policy would cause a reasonable person to self-censor, even where the policy falls short of a direct prohibition against the exercise of First Amendment rights. Although the threat of formal discipline or punishment is relevant to the inquiry, it is not decisive. The fundamental question is whether the challenged policy objectively chills protected expression. Defendants' authority to impose sanctions on Plaintiffs for engaging in prohibited speech may be sufficient to prove the requisite chill but is not necessary because informal sanctions, such as coercion, persuasion, and intimidation can sufficiently inhibit expression to violate the First

Amendment and provides Plaintiffs with standing to sue.

144. The Law on its face, and the manner in which the Defendants are implementing the Law, censor messages of inclusion, affirmation, and support with respect to students' LGBTQ+ sexual orientation and gender identity and are therefore unconstitutional under the First Amendment.

145. Plaintiffs Jen Cousins, Matt Cousins, P.C., M.C. S.C., N.C., Will Larkins, David Dinan, Vik Gongidi, K.R.D., and R.R.D. have engaged in affirming speech and expression concerning their own or others' sexual orientation and gender identity in school contexts and with students, and wish to continue to do so. These Plaintiffs already have been chilled and/or forced to self-censor by taking care not to mention their own or a family member's sexual orientation and/or gender identity in school contexts when they otherwise would engage in such speech and expression as a result of the implementation of the Law and enforcement authority of Defendants School Board of Orange County and School Board of Indian River County. The Law impermissibly chills the exercise of these Plaintiffs' constitutionally protected speech and expression, based on content and viewpoint.

146. Plaintiff CenterLink's members have engaged and want to continue engaging in speech that affirms students' sexual orientation and gender identity in communications with school officials, parents of LGBTQ+ students, and students themselves. Plaintiff CenterLink's members wish to continue engaging in speech that affirms students' sexual orientations and gender identity and believe that their communications and the information they provide to students, parents of LGBTQ+ youth, and school staff, are critical to their mission and the well-being of students.

147. The decision by Plaintiff CenterLink’s members to communicate a message of inclusion, affirmation, and support with respect to students’ LGBTQ+ sexual orientation and gender identity—consistent with their mission—constitutes protected First Amendment activity.

148. The Law, as enforced by Defendant School Boards of Duval and Palm Beach Counties, has penalized Plaintiff CenterLink’s members by preventing their staff from engaging in affirming and inclusive speech and communications about sexual orientation and gender identity; the Law, on its face and as enforced by Defendant School Boards of Orange and Palm Beach Counties, has penalized Plaintiff CenterLink’s members by forcing them to spend additional resources on the mental health of young

paragraphs 1-13, 17-18, 22-69, and 83 as if fully stated herein.

152.

concerns, and serve no other legitimate state purpose. Instead, the Law is rooted in animus against LGBTQ+ individuals, as demonstrated by the public record and by its enforcement to bar only discussion and recognition of LGBTQ+ people and issues, while imposing no restrictions on the discussion of heterosexual and non-transgender people and issues. The Law is also the result of partisan or political decision-making.

158. As a direct and proximate result of Defendants' authority and conduct (including enforcement of the Law), Plaintiffs have suffered and will continue to suffer irreparable harm and damages.

COUNT III

Overbreadth First Amendment to the U.S. Constitution 42 U.S.C. § 1983

159. All Plaintiffs state this cause of action against SBOE Members, and reallege and incorporate by reference paragraphs 1-130 as if fully stated herein.

160. Plaintiffs Jen and Matt Cousins, P.C., M.C., N.C., and S.C. state this cause of action against Defendant School Board of Orange County, and re-allege and incorporate by reference paragraphs 1-13, 17-18, 22-69, and 83 as if fully stated herein.

161. Plaintiff Will Larkins states this cause of action against Defendant School Board of Orange County, and re-alleges and incorporates by reference paragraphs 1-12, 14, 17-18, 22-50, 58, 66, 68, and 70-88 as if fully stated herein.

162. Plaintiffs David Dinan, Vik Gongidi, K.R.D., and R.R.D. state this cause of action against Defendant School Board of Indian River County, and re-allege and incorporate by reference paragraphs 1-12, 15, 17, 19, 22-50, 66, 68, 83, and 89-99 as if fully stated herein.

163. Plaintiff CenterLink, on behalf of itself and its members, states this cause of

action against Defendants School Board of Orange County, School Board of Duval County, and School Board of Palm Beach County, and re-alleges and incorporates by reference paragraphs 1-12, 16-18, 20-50, 66, 68, 83, and 100-130 as if fully stated herein.

164. The First Amendment overbreadth doctrine is applied to the states through the Fourteenth Amendment and enforceable pursuant to 42 U.S.C. § 1983. A law may be invalidated as overbroad when a substantial number of its applications are unconstitutional, judged in relation to any permissible applications of the statute.

165. Because a substantial number of the applications of the Law are unconstitutional, judged in relation to its legitimate sweep, the Law is also overbroad, and its enforcement should be enjoined.

166. As a direct and proximate result of Defendants' authority and conduct (including enforcement of the Law), Plaintiffs have suffered and will continue to suffer irreparable harm and damages.

COUNT IV

Deprivation of Due Process of Law: Void for Vagueness Fourteenth Amendment to the U.S. Constitution 42 U.S.C. § 1983

167. All Plaintiffs state this cause of action against State Board Members, and reallege and incorporate by reference paragraphs 1-130 as if fully stated herein.

168. Plaintiffs Jen and Matt Cousins, P.C., M.C., N.C., and S.C. state this cause of action against Defendant School Board of Orange County, and re-allege and incorporate by reference paragraphs 1-13, 17-18, 22-69, and 83 as if fully stated herein.

169. Plaintiff Will Larkins states this cause of action against Defendant School

Board of Orange County, and re-alleges and incorporates by reference paragraphs 1-12,

17-18, 22-50, 58, 66, 68, and 70-88 as if fully stated herein, et al.

170. Plaintiffs David Dinan, Vik Gongidi, K.R.D., and R.R.D. state this cause of action against Defendant School Board of Indian River County, and re-allege and incorporate by reference paragraphs 1-12, 15, 17, 19, 22-50, 66, 68, 83, and 89-99 as if fully stated herein.

171. Plaintiff CenterLink, on behalf of itself and its members, states this cause of action against Defendants School Board of Orange County, School Board of Duval County, and School Board of Palm Beach County, and re-alleges and incorporates by reference paragraphs 1-12, 16-18, 20-50, 66, 68, 83, and 100-130 as if fully stated herein.

172. All Plaintiffs seek preliminary and permanent injunctions, and challenge the Law, and any action by Defendants seeking to implement it both facially and as applied to them.

173. The Due Process Clause of the Fourteenth Amendment, enforceable pursuant to 42 U.S.C. § 1983, provides that “[no] state shall . . . deprive any person of life, liberty, or property, without due process of law.” A law is void for vagueness if its prohibitions are not clearly defined.

174. A governmental enactment like the Law is unconstitutionally vague if it either fails to provide a person of ordinary intelligence fair H offwH pohibit or

175.

**Fourteenth Amendment to the U.S. Constitution
42 U.S.C. § 1983**

180. All Plaintiffs state this cause of action against SBOE Members, and reallege and incorporate by reference paragraphs 1-130 as if fully stated herein.

181. Plaintiffs Jen and Matt Cousins, P.C., M.C., N.C., and S.C. state this cause of action against Defendant School Board of Orange County, and re-allege and incorporate by reference paragraphs 1-13, 17-18, 22-69, and 83 as if fully stated herein.

182. Plaintiff Will Larkins states this cause of action against Defendant School Board of Orange County, and re-alleges and incorporates by reference paragraphs 1-12, 14, 17-18, 22-50, 58, 66, 68, and 70-88 as if fully stated herein.

183. Plaintiffs David Dinan, Vik Gongidi, K.R.D., and R.R.D. state this cause of action against Defendant School Board of Indian River County, and re-allege and incorporate by reference paragraphs 1-12, 15, 17, 19, 22-50, 66, 68, 83, and 89-99 as if fully stated herein.

184. Plaintiff CenterLink, on behalf of itself and its members, states this cause of action against Defendants School Board of Orange County, School Board of Duval County, and School Board of Palm Beach County, and re-alleges and incorporates by reference paragraphs 1-12, 16-18, 20-50, 66, 68, 83, and 100-130 as if ;

187. The Law and its enforcement violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution by discriminating against students and parents based on sex, sexual orientation, gender identity, and transgender status, both facially and as applied.

188. The Law was enacted with the purpose to discriminate and has the effect of discriminating against students who have LGBTQ+ parents and family members, LGBTQ+ students, and LGBTQ+ parents, subjecting them to differential and adverse

and their families are as worthy as any other family, and (3) from protecting Plaintiffs P.C., M.C., S.C., N.C., Will Larkins, K.R.D., and R.R.D. from stigma and bullying as a result of their sexual orientation and gender identity or the sexual orientation and gender identity of their family members. The Law harms these Plaintiffs, sending a message that they

agents, servants, employees, attorneys, and successors, as well as all other persons who are in active concert or participation with any of the Defendants or under any of the Defendants' supervision, direction, or control;

C. Award nominal and compensatory damages, in an amount to be determined at trial for garden variety emotional distress, including humiliation, embarrassment, shame, loss of opportunity to speak, and other damages that flow naturally from events that are an affront to dignity, against Defendant School Board of Orange County (for Plaintiffs Jen and Matt Cousins, P.C., M.C., N.C., and S.C., and Plaintiff Will Larkins) and Defendant School Board of Indian River County (for Plaintiffs David Dinan, Vik Gongidi, K.R.D., and R.R.D.) for injury caused by such defendants' respective conduct and for the violation of the rights of the Plaintiffs specified herein under the First and Fourteenth Amendment to the U.S. Constitution.

D. Award nominal and compensatory damages in an amount to be determined at trial for loss of opportunity to speak, mission frustration and loss of funding opportunities, and any other damages as permitted by law to Plaintiff CenterLink, on behalf of itself and its members, against each of the Defendants, the School Board of

F l a G f

DEMAND FOR A JURY TRIAL

Plaintiffs demand a jury trial on all issues triable of right by a jury.

Respectfully submitted this 3rd day of November 2022.

By: /s/ Debra Dandeneau

Debra Dandeneau, Esq. (FBN 978360)

L Andrew S. Riccio, Esq. (FBN 91978)

Baker McKenzie LLP

452 Fifth Avenue

New York, NY 10018

(212) 626-4100

debra.dandeneau@bakermckenzie.com

andrew.riccio@bakermckenzie.com

By: /s/ Angela Vigil

Angela Vigil, Esq. (FBN 38627)

Baker McKenzie LLP

1111 Brickell Avenue

Suite 1700

2 Biscayne Boulevard, Suite 3750
Miami, Florida 33131
bacardi.jackson@splcenter.org
scott.mccoy@splcenter.org
sam.boyd@splcenter.org

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 3, 2022, I electronically served the foregoing document through the Court's CM/ECF filing system for counsel who have filed an electronic notice of appearance and will serve the parties below pursuant to the pertinent rules.

By: /s/ Debra A. Dandeneau
Debra A. Dandeneau

Monesia Brown
Esther Byrd
Grazie Christie
Ben Gibson
Ryan Petty
Joe York
Thomas Grady
Members of the State Board of Education
Turlington Building
325 West Gaines Street
Tallahassee, FL 32399