

**BEFORE THE MARYLAND STATE BOARD OF EDUCATION**

CITIZENS FOR A RESPONSIBLE CURRICULUM,	)
PARENTS AND FRIENDS OF EX-GAYS AND	)
GAYS, and	)
FAMILY LEADER NETWORK	)
	)
Appellants	)
	)
v.	)
	)
MONTGOMERY COUNTY PUBLIC SCHOOLS,	)
MONTGOMERY COUNTY BOARD OF EDUCATION,	)
and JERRY WEAST,	)
in his official capacity as Superintendent,	)
	)
Appellees	)

**APPELLANT MEMORANDUM IN SUPPORT OF REQUEST FOR STAY**

Citizens for a Responsible Curriculum, Parents and Friends of Ex-Gays and Gays, and Family Leader Network submit this Memorandum in support of their Request for Stay. Code of Maryland Administrative Regulations (COMAR) 13A.01.02.01 provides the State Superintendent of Schools the authority to order a stay of any action taken by any local board of education. The regulation does not provide the legal criteria used in determining issuance of a stay. Yet the March 7, 2007 Order of the Superintendent in this proceeding specifically states that the appeal of the Montgomery County Board of Education’s curriculum “can move forward for a State Board decision on the merits prior to the start of a new school year,” preferably “no later than the July 2007 [State] Board meeting.”<sup>1</sup> Appellees’ action of June 12, 2007 in voting for final adoption of the curriculum at issue before the State Board renders its decision on the legality of that curriculum clearly violates the Superintendent’s Order, usurps the authority of the State

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<sup>1</sup> Order of the Superintendent, pp. 3 & 4.

Board, and tramples on the rights of parents to have their cases adjudicated by the State Board.<sup>2</sup> Accordingly, Appellants request that the State Board of Education grant their request for stay of the action of the Montgomery County Board of Education in approving the final adoption of revised health education curriculum on appeal in this case.

In the Superintendent's Order, State Superintendent Nancy S. Grasmick held that "Appellants arguments are equally matched by the local board's response" in its appeal of the curriculum."<sup>3</sup> Appellee's action in adopting a final curriculum without waiting for the State Board's decision as to the validity of the curriculum contradicts the findings of the Superintendent that Appellants arguments are equally valid and deserving of a decision on the merits. As detailed in Appellants' briefs, Appellants have raised legitimate issues which deserve full hearing before an administrative law judge of the State Board.

Further, Appellants have demonstrated violations of federal, state, and administrative law and policy by Appellees in its curriculum's Additional Lessons to the 8<sup>th</sup> grade and 10<sup>th</sup> grade health education in Montgomery County Public Schools (MCPS), which includes lessons on "Respect for Differences in Human Sexuality" in Grade 8 and Grade 10 and a lesson on "Condom Use Demonstration" in Grade 10. Appellants hereby incorporate their briefs submitted in this case detailing the numerous violations of law and procedure by Appellees. It is premature for Appellees to adopt a

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<sup>2</sup> See Montgomery County Board of Education email of June 13, 2007, attached as Exhibit A, announcing to the public that "[t]he lessons will now become part of the health education curriculum in all 38 middle schools and 25 high schools beginning in the fall of 2007."

<sup>3</sup> Order of the Superintendent, p. 3.

final curriculum when the State Board has yet to render its decision on the appeal of that curriculum.

In addition, genuine disputes of material facts exist in this case, as detailed in Appellants' briefs submitted in this proceeding and incorporated herein, which prohibit Appellees from adopting a revised health education curriculum. Until these issues of material facts are resolved by the State Board, the County Board cannot adopt and implement a final curriculum. Yet according to Betsy Brown, Director of MCPS Curriculum and Instruction, mandatory training for teachers of the final curriculum begins this month. By blatantly ignoring the Order of the Superintendent, the County Board renders the office of the Superintendent and State Board of Education to a meaningless entity and disrespects the judicial review process of the state of Maryland.

In the Order of the Superintendent, the State Superintendent cites the proposed curriculum's attempt to address harassment problems relating to sexual orientation and gender identity.<sup>4</sup> In subsequent submissions filed before this Board, Appellants have documented how the curriculum fails to provide instruction on tolerance and acceptance of the only sexual orientation/gender identity group that is actually the object of derision and rejection by the Montgomery County public school system staff and students, which Appellees do not deny. Appellants attach as exhibits further documentation of this failure of the curriculum. Attached are even more correspondence from another Montgomery County school teacher that misrepresents the mission of Appellants, stereotypes former homosexuals, compares ex-gays to the KKK, and warns the ex-gay community to stay

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<sup>4</sup> See Order of the Superintendent, p. 5.

out of Montgomery County public schools.<sup>5</sup> Hence, the proposed curriculum fails to satisfy the concerns of the Order of the Superintendent and should not have been approved as a final curriculum by the Montgomery County Board of Education.

WHEREFORE, Appellants ask that the State Board of Education, through its State Superintendent of Schools, immediately grant this request for stay.

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(301) 340-8200  
Attorney for Appellants

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<sup>5</sup> See emails of May 3, 2007 and June 1, 2007 from Montgomery County public school teacher, attached as Exhibit B.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, that on this \_\_\_ day of June, 2007 a copy of the foregoing was mailed first class, postage prepaid to:

Dr. Nancy S. Grasmick, Superintendent of State Schools  
Maryland State Department of Education  
200 West Baltimore Street  
7<sup>th</sup> Floor Board Room  
Baltimore MD 21201-2595  
*By Hand Delivery*

Nancy Navarro  
President, Montgomery County Board of Education  
Carver Educational Services Center, Room 123  
850 Hungerford Drive  
Rockville MD 20850  
*Certified Mail Return Receipt*

Jerry D. Weast, Superintendent  
Office of the Superintendent of Schools  
Carver Educational Services Center  
850 Hungerford Drive, Room 122  
Rockville MD 20850  
*Certified Mail Return Receipt*

Attorney Deputy Jacqueline La Fiandra  
Maryland State Department of Education  
Office of the State Superintendent  
Office of Legal Counsel  
200 St Paul Place, 19th FL  
Baltimore MD 21202  
*By Hand Delivery*

Judith Bresler, Esq.  
Reese and Carney, LLP  
10715 Charter Drive  
Columbia MD 21044  
*Via Overnight Mail*

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John R. Garza, Esq.