



February 1, 2023

***Via E-mail & U.S. Mail***

Chairman Samuel Belknap  
Great Salt Bay Consolidated School District  
559 Main Street  
Damariscotta, Maine 04543  
sbelknap@aos93.org

Subj: Improper Interference with Parental Rights

Dear Chairman Belknap,

We represent Amber Lavigne, mother of a 13-year-old girl and a former student at the Great Salt Bay Community School. We understand that in October Samuel Roy, a social worker employed by the School, gave this former student two chest binders in his office during a conversation relating to “gender identity,” and further told her that he would not inform her mother about this and that she need not do so either. We understand that school officials also assisted in the “social transitioning” of the same girl (by calling her a different name and referring to her with male pronouns) without notice, consent, or involvement of Ms. Lavigne. When Ms. Lavigne discovered these facts she expressed her concerns about these actions with the principal of the School, Kim Shaff, and the Superintendent of AOS 93, Lynsey Johnston. But Ms. Lavigne’s concerns were dismissed without any action being taken with respect to Mr. Roy. Nor has any action been taken to change school policy as it relates to the “social transitioning” of children without notice to, or consent from, the parents of a given child.

After speaking with Ms. Lavigne and reviewing the relevant laws, we believe that these decisions violated Ms. Lavigne’s fundamental constitutional right to control and direct the education, upbringing, and healthcare decisions of her daughter, as protected by the Fourteenth Amendment to the U.S. Constitution.

The Supreme Court has long recognized that parents have a fundamental right to direct and control the upbringing, education, and healthcare decisions of their children. It first recognized this right a century ago, holding in *Meyer v. Nebraska*, 262 U.S. 390 (1923), that a state ban on teaching certain languages violated parental rights. Two years later, it held that Oregon’s prohibition on private schools violated the “liberty of parents” to “direct the upbringing and education of children under their control.” *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925). Two decades after that, the Court used even stronger language, stating “it is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary

function and freedom include preparation for obligations the state can neither supply nor hinder.” *Prince v. Massachusetts*, 321 U.S. 151, 166 (1944). More recently, the Court once again confirmed that “it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.” *Troxel v. Granville*, 530 U.S. 57, 66 (2000).

It appears that these fundamental rights are actively ignored, not only by Mr. Roy, but by the School and the Great Salt Bay Consolidated School District, and not as a consequence of any type of error, but as a direct consequence of the patterns, practices, and—perhaps—the policies of the District and its employees.

The District has released two statements, the first on December 19, 2022 (attached as Exhibit 1), and the second on January 14, 2023 (attached as Exhibit 2). Each offers support to the School and School employees, while implicitly critiquing parents who have questioned the school’s practices, including Ms. Lavigne.

The first statement declared that it was the District’s goal to “provide a safe, welcoming and inclusive educational environment for all students and staff.” It further asserted that the School had complied with all relevant policies and procedures, and that all policies “comply with Maine law, which protects the rights of all students and staff, regardless of gender/gender identity, to have equal access to education, the supports and services available in our public schools, and the student’s right to privacy *regardless of age*.” (Emphasis added).

But this statement offered no explanation regarding the District’s policies for informing parents about fundamental decisions affecting the health and welfare of their children. Nor did it provide any explanation regarding the School’s specific decision to decline to inform Ms. Lavigne regarding the School’s and Mr. Roy’s actions, or why such actions might be necessary to ensure nondiscrimination *by the School*. Further, the notion that *all* students at Great Salt Bay Community School—which includes kindergartners—have a “right to privacy” *from their parents* is troubling.

The assertion that all relevant policies were followed is, at best, misleading. In fact, it is likely that the school officials violated their own policy by excluding Ms. Lavigne from conversations regarding her daughter’s transitioning. The Great Salt Bay Community School: Transgender Students Guidelines, Adopted Mar. 13 2019, anticipate and contemplate the *inclusion* of parents in *all* decisions about creating a plan for a transgender child. As Ms. Lavigne was not involved in any of such conversations, the School cannot claim to have followed its own publicly available policy.

The January 2023 statement demonstrates a fundamental misunderstanding of the Constitution and Maine law. It cites two separate statutory provisions that require the giving of a chest binder without parental notice or consent, and the “social transitioning” of a minor without parental notice or consent. First, the District alleges that Chapter 260 of Title 22 mandates their actions. This is an incorrect interpretation of the law. Chapter 260 of Title 22 allows minors to consent to certain treatment for specific reasons—for example, a minor can consent to treatment

for “substance use disorder or for emotional or psychological problems.” But while this statute does give minors certain confidentiality rights, it includes important exceptions. First, Maine law recognizes that other laws may override the entitlement to confidentiality. Me. Rev. Stat. tit. 22, § 1505(a). Second, the statute allows the provider to break confidentiality to inform a minor’s parent of the facts when “in the judgment of the practitioner or provider, failure to inform the parent or guardian would seriously jeopardize the health of the minor or would seriously limit the practitioner’s or provider’s ability to provide treatment.” *Id.*

This law does *not* command the blanket exclusion of parents as the January 2023 statement suggests.

The second statute cited by that statement provides that school counselors or social workers cannot be required “*except as provided by this section*, to divulge or release information gathered during a counseling relation with a client or with the parent, guardian or a person or agency having legal custody of a minor client.” Me. Rev. Stat. tit. 20-A, § 4008(2) (emphasis added). One of the exceptions, however, is when a “client’s condition requires others to assume responsibility for the client.” *Id.* § 4008(3)(B)(1). Chest binders could lead to a host of physical and other problems, which would be Ms. Lavigne’s responsibility to address.

Further, the “social transitioning” of Ms. Lavigne’s daughter is not protected by statutory confidentiality. The “social transitioning” of Ms. Lavigne’s daughter without her notice, consent, or involvement in the process alone violated her constitutional rights.

But even if secrecy were required by Maine law, such secrecy would *still* violate Ms. Lavigne’s constitutional rights. Ms. Lavigne has a clearly established constitutional right to control and direct the education, upbringing, and healthcare decisions of her child. The actions of the School, school employees, and the District have violated that right.

In order to prevent ongoing and future violations of parents’ fundamental rights and the possibility of a lawsuit seeking to enforce those rights, we respectfully request that the School and the District clarify its policy to **mandate** the involvement of parents in **all** decisions by school officials that affect the mental or physical health or well-being of their students. We also request a full investigation into Mr. Roy’s decision to give a 13-year-old girl an undergarment without notice, consent, or involvement of her mother. This should include a determination of who paid for the chest binders.

Our staff is available at any time to discuss the constitutional issues raised by the decision to aid transitioning Ms. Lavigne’s daughter without informing or involving Ms. Lavigne.

We appreciate your prompt and thoughtful consideration of these matters and look forward to receiving confirmation that the Great Salt Bay Community School has taken actions to bring its policies into compliance with the U.S. Constitution.

Should you have any questions regarding this matter, please do not hesitate to contact me directly.

Chairman Sam Belknap  
February 1, 2023  
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Regards,

A handwritten signature in cursive script that reads "Adam Shelton".

Adam Shelton  
Staff Attorney  
Scharf-Norton Center for Constitutional Litigation  
at the Goldwater Institute

cc via email only:

Lynsey Johnston  
Superintendent of Schools of AOS 93  
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Kim Shaff  
Principal of Great Salt Bay Community School  
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**Lynsey Johnston, Superintendent of School**

**Samuel Belknap III, GSB Board Chair**

December 19, 2022

The Great Salt Bay CSD School Board would like to take a moment to address recent concerns that have been brought to the attention of the administration and Board. While the Board is not able to discuss confidential student and staff information in public, the Board's first priority is always to provide a safe, welcoming and inclusive educational environment for all students and staff. When administrators receive concerns from parents and/or students about potential issues in school, the Board has specific policies and procedures in place that must be followed when addressing those concerns. Those policies comply with Maine law, which protects the right of all students and staff, regardless of gender/gender identity, to have equal access to education, the supports and services available in our public schools, and the student's right to privacy regardless of age.

The Board is aware that rumors and allegations have been published and republished on various social media platforms relating to this issue. While it is unfortunate that some individuals have sought to use this issue to try and divide our community, as a Board, we are committed not only to following Maine law but also honoring our school's core values, and focusing on treating each other with dignity and respect. The Board and administrators remain committed to working in partnership with parents, staff, and local law enforcement to ensure that all students and staff continue to have access to a safe educational and working environment.

**Samuel Belknap III, GSB Board Chair**

**Exhibit 1**

Coming Soon!

(<https://greatsaltbayschool.org/2>)

**Great Salt Bay Consolidated School District**

Bremen / Damariscotta / Newcastle

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Damariscotta, Maine 04543

Telephone: (207) 563-3044



Lynsey Johnston, Superintendent of School

Samuel Belknap III, GSB Board Chair

January 14, 2023

Dear Members of the GSB Community,

As you are aware, Great Salt Bay was the target of another bomb threat on Friday January 13, as were specific administrators and staff. Fortunately, no children were yet at school, and we were able to safely evacuate all staff members and immediately redirect buses to bring those students already en route safely back home. This was once again expertly handled by Damariscotta Police Department, Damariscotta Fire Department, Lincoln County Sheriff's Office, and Maine State Police. We thank them all, as well as the YMCA, for their continued efforts to assess safety and to support our community. Based on law enforcement's investigation, this was not a credible threat, and it appears to be a clone of the threat we received on December 21, 2022. Local, state, and federal law enforcement agencies continue to investigate the origins of the threat(s), and are working diligently to find and hold accountable all responsible individuals.

As you may or may not be aware, certain parties are spreading a grossly inaccurate and one-sided story to which the Board cannot specifically respond, given our obligation to maintain the confidentiality of student and employee information, as required by Maine law. Unfortunately, that false narrative has directly given rise to the bomb threats that have disrupted our students' education over the past several weeks. Those promoting this false narrative are apparently disturbed by our school's ongoing and steadfast commitment to providing all students with safe and equal access to educational opportunities without discrimination because of, among other things, sex, sexual orientation or gender identity, as the Maine Human Rights Act requires.

Federal and state law both provide certain rights for parents and students with respect to education. While parents generally have a right to access the educational records of their children, the Board must balance this right with the right of students in Maine who, regardless of age, have the right to access mental health services without parental consent (*22 MRSA Section 1502- Consent of Minors for Health Services*), and the right to establish their own confidential counseling relationship with a school based mental health services provider (*20-A MRSA §4008- Privileged Communications*). All of the Board's policies comply with Maine law, and neither the Board nor school administration are aware of any violation of policy or law which requires further action at this time.

Our Board is united in our support of students, families, staff, and administration and remains committed to upholding the laws of the State of Maine.

Samuel Belknap, III - Chair  
August Avantaggio - Treasurer  
Amy Krawiec  
Meridith Verney

Jesse Butler - Vice Chair  
Dennis Anderson  
Christa Thorpe