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LDF Files Amicus Brief in Support of School’s Prohibition Against Student Speech That Contributes to Hostile Environment of Transgender and Nonbinary Students

On Nov. 29, 2023, the [Legal Defense Fund](#) (LDF) filed an [amicus brief](#) in support of defendants in *L.M. v. Town of Middleborough, Massachusetts, et. al.*, a case concerning a middle school’s right to prohibit clothing with discriminatory text that contributes to a hostile environment for transgender and nonbinary students. School officials took this action after having prior notice of concerns about LGBTQ+ students experiencing bullying and hostility at the school.

In the brief, LDF advocates for the First Circuit Court of Appeals to affirm a lower court order, holding that a Massachusetts middle school did not violate the student-Appellant’s First Amendment free speech rights when it prohibited a t-shirt with the text “there are only two genders.” This language effectively questioned the existence of transgender and nonbinary people, including those attending his school.

“Ensuring educational equity for all students is contingent on a school district’s ability to ensure that all students learn in an environment free from discrimination and harassment,” said Alexis Johnson, LDF Assistant Counsel. “Here, the school district took appropriate action when it banned a discriminatory message that threatened to exacerbate the preexisting hostility felt by its LGBTQ+ middle school students. The court’s ruling in this case will have consequences for LGBTQ+ students beyond this particular middle school, including Black LGBTQ+ students who are disproportionately targeted by in-school bullying and harassment.”

LDF’s brief explains that, under Supreme Court precedent, the First Amendment does not convey a right to infringe upon the rights of others—in this case, the right to attend school in a learning environment free from discrimination and harassment. The brief also makes clear that, irrespective of students’ First Amendment rights, school administrators have the ability to forbid speech at school that demeans and harasses students because of their membership in a protected class, thereby disrupting the educational process.

“Discrimination and harassment have no place inside our schools, and the First Amendment does not provide an exception to that fundamental principle,” said Avatara Smith-Carrington, LDF Strategic Initiatives Law and Policy Fellow. “No student should

have to learn in a hostile environment that poses a threat to their identity and well-being.”

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Founded in 1940, the Legal Defense Fund (LDF) is the nation’s first civil rights law organization. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the Legal Defense Fund or LDF. Please note that LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights.