



AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF GEORGIA
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April 7, 2008

Via Facsimile and Regular Mail

Superintendent Shawn A. McCullough
Greene County School District
Corry-Boston-Jackson Education Complex
101 East Third Street
Greensboro, GA 30642

Dear Superintendent McCullough:

In the past two months, we received reports from concerned students, parents, and community members, confirmed by media coverage, that Greene County School District intended to assign all public school students to single-gender classrooms and/or single gender schools in the 2008-2009 school year. While we are pleased to hear that the District has recently abandoned this unlawful proposal, both the District's website and media reports indicate that it may nevertheless soon initiate some form of sex segregation in its schools. We are writing to alert you to our concerns regarding such an arrangement and to seek additional information regarding the District's plans.

Ensuring equal educational opportunity should be a core principle for every community, and schools must be given the tools necessary to allow all students to succeed, regardless of their gender, race, or background. The ACLU is committed to promoting such equal opportunity. But sex segregation is not the way to achieve these shared goals. Rather sex segregation, and the litigation likely to follow institution of unlawful programs, represents a wasteful diversion of energy and resources that would be better invested in proven methods such as improved teacher training, smaller class sizes, and greater parental involvement. This is why organizations as diverse as the national NAACP, the National Education Association, and the American Association of University Women have adopted policies opposing the type of segregation previously proposed by Greene County. We hope that upon further consideration the District will choose to refocus its energies on those strategies that have demonstrated benefits for student achievement and away from misguided experiments with segregation.

Moreover, any sex segregation plan would appear to raise significant concerns under the United States Constitution. In *United States v. Virginia*, a case challenging the all-male admission policy at the Virginia Military Institute (VMI), the United States Supreme Court made clear that to comply with the Equal Protection Clause, a governmental actor must demonstrate an "exceedingly persuasive justification" for instituting single-sex education. *Virginia*, 518 U.S. 515, 540-42 (1996). The materials posted on the Greene County Board of Education's website suggest that the District believes sex segregation addresses supposed learning differences between boys and girls. But the Supreme Court has held that single-sex education cannot be justified by reliance on "gender-based developmental differences" or evidence of male and female "tendencies." *Id.* at 516-17. As the Court explained in response to VMI's argument that single-sex education was necessary because of "important differences between men and women in learning and developmental needs[,] . . . generalizations about the 'way women are,' estimates of what is appropriate for *most women*, no longer justify denying opportunity to women whose talent and capacity place them outside the average

generalizations about the ‘way women are,’ estimates of what is appropriate for *most women*, no longer justify denying opportunity to women whose talent and capacity place them outside the average description.” 518 U.S. at 550. The promise of the Equal Protection Clause is that individual men and women, and individual boys and girls, will not be forced to conform to generalized understandings of what is essentially “male” or essentially “female,” whether those generalizations are accurate on average or not.

Because of our concerns regarding such sex segregation proposals, pursuant to the Georgia Open Record Act, Ga. Code Ann. § 50-18-70, we are requesting on behalf of the American Civil Liberties Union of Georgia materials relating to sex segregation in Greene County schools. Specifically we seek all policies, memoranda, letters, emails, directives, minutes, handbooks, and all other documents within your possession from the past two years addressing sex segregation including--

- a) Any and all documents reflecting the classes or schools within Greene County School District that the Greene County Board of Education and/or Greene County Superintendent plans or proposes to operate as single-sex;
- b) Any and all documents concerning the analysis of and/or implementation of sex-segregated classes or schools in any school in Greene County School District, including but not limited to both materials provided to and materials prepared by the Greene County School District;
- c) Any and all documents setting forth the basis or rationale for any anticipated or proposed single-sex schools or classes, including previously proposed single-sex schools or classes;
- d) Any and all documents setting forth the methods by which students will be assigned or by which students or parents will choose to participate in any sex-segregated schools or classes;
- e) Any and all correspondence by or to any member, committee or subcommittee of the Greene County School Board and all correspondence by or to any representative of the Greene County School District regarding the planning, implementation, or assessment of sex-segregated classes or schools, including but not limited to:
 1. Any and all correspondence between representatives of the Greene County School Board or the Greene County School District and the Georgia Department of Education regarding the planning, implementation or assessment of sex-segregated classes or schools;
 2. Any and all correspondence between representatives of the Greene County School Board or the Greene County School District and the United States Department of Education regarding the planning, implementation, or assessment of sex-segregated classes or schools;
 3. Any and all correspondence between representatives of the Greene County School Board or the Greene County School District or any school within that district and any Greene County School District student, parent, or community member regarding the planning, implementation, or assessment of sex-segregated classes or schools;

4. Any and all correspondence between representatives of the Greene County School Board or the Greene County School District and any experts or authorities on single-sex education or gender and education;

- f) Any and all documents reflecting the debate and discussion regarding sex-segregated education in Greene County;
- g) Any and all documents explaining or containing the decision of the Greene County School District to institute sex-segregated education;
- h) Any and all documents setting out feedback from parents, students, teachers, or others addressing sex segregation, including any and all surveys completed by parents, students, teachers, or others;
- i) Any and all complaints regarding proposals to implement sex segregation, whether from parents, students, teachers, or any other individual;
- j) Any and all documents setting out the data and studies relied on in considering sex segregation for Greene County schools;
- k) Any and all documents setting out the method by which teachers will be assigned to sex-segregated classrooms or schools;
- l) Any and all documents reflecting teaching methods proposed for all-girls programs;
- m) Any and all documents reflecting teaching methods proposed for all-boys programs;
- n) Any and all documents reflecting any differences in teaching methods proposed for sex-segregated programs in comparison to methods used in coeducational programs;
- o) Any and all documents reflecting curricula proposed for all-girls programs;
- p) Any and all documents reflecting curricula proposed for all-boys programs;
- q) Any and all documents reflecting curricula proposed for coeducational programs;
- r) Any and all documents that explain the method or methods that will or may be used to evaluate the success or failure of sex segregated classes/schools;
- s) Any and all educator training materials addressing sex segregated classes/schools;
- t) Any and all notes from any trainings addressing sex-segregated classes/schools;
- u) Any and all documents prepared for and any and all notes from community presentations addressing sex segregation in Greene County schools.

If the cost of copies does not exceed \$250, you may proceed without further approval and send us an invoice with the records; otherwise, call to advise and gain approval to proceed. As you are aware, failure to abide by the Open Records Act may result in certain penalties and the award of attorney's fees. We trust that you will comply without the necessity of any further action on our part and look forward to your response within three (3) business days, as required under Ga. Code Ann. § 50-18-70.

If this request is denied in whole or part, the ACLU asks that you justify all denials or deletions by reference to specific exemptions of the Open Records Act. We expect you to release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any requested information.

Thank you for your attention to this matter and please feel free to contact us if you have questions or concerns. We look forward to hearing from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read "Chara Fisher Jackson", with a long, sweeping underline.

Chara Fisher Jackson
Legal Director