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ACLU OF MASSACHUSETTS SAYS LEXINGTON PARENTS' LAWSUIT CHALLENGING SCHOOL CURRICULUM IS FRIVOLOUS

BOSTON – The ACLU of Massachusetts today condemned the filing of a lawsuit against Lexington school officials as a baseless, discriminatory effort by a few parents to frighten teachers, interfere with public education, and censor discussions and programs to suit individual religious doctrine.

“The ACLU steadfastly defends freedom of religion,” said Carol Rose, ACLU of Massachusetts Executive Director, “but that right has never meant that individual parents could demand prior notice of discussions in the public schools that might be at odds with one group’s religious views.”

The plaintiffs in the case are parents who claim that their right to religious freedom is violated when the Lexington schools teach about diversity and tolerance, including recognition of equality under state law for gay men and lesbians. The parents object to any teacher-initiated discussion that mentions same sex couples, alleging that such speech violates the parents’ views which are governed by the “laws of the God of Abraham.”

Nor is there any merit, Rose said, to the plaintiffs’ claim that Lexington school officials violated state law by not giving the parents prior notice of the use of two children’s books, one about two men who marry and one about the diversity of families, including one family headed by a same sex couple. Massachusetts law requires prior parental notice and the right to opt out when a school will use a curriculum that primarily involves human sexual education or human sexuality issues.

“Most people can see that a book about different kinds of families is not sex education,” said Rose. “Imagine if parents who objected to interracial marriage had filed a lawsuit against a school using a book about a black person marrying a white person. No one would say that book was about sex or sexuality issues simply because it portrays two people as being married.”

Sarah Wunsch, ACLU of Massachusetts staff attorney, said that the federal civil rights claims in the lawsuit are meritless because courts have uniformly held that parental rights are not violated by mere exposure of public school students to ideas that certain parents find offensive or objectionable.

The U.S. Court of Appeals for the First Circuit has already rejected claims like these, cautioning “If all parents had a fundamental constitutional right to dictate individually what the schools teach their children, the schools would be forced to cater a curriculum for each student whose parents had genuine moral disagreements with the school’s choice of subject matter. We cannot see that the Constitution imposes such a burden on state educational systems, and accordingly find that the rights of parents . . . do not encompass a broad-based right to restrict the flow of information in the public schools.” Brown v. Hot Sexy and Safer, Inc., 68 F.3d 525, 534 (1st Cir. 1995). The ACLU of Massachusetts was co-counsel in Brown, representing a parent and a physician who had been sued for helping to bring an AIDS education assembly to Chelmsford High School. That lawsuit was thrown out.

Rose noted that parents have many ways to control the upbringing of their children, including talking to them about what they are learning in school, giving them alternative materials, and conveying their values and beliefs. “Ultimately, if parents object to public education, they do have a constitutional right to send their children to private schools or home school them, but they cannot demand prior notice of everything that will be discussed in the classroom. Otherwise, public education would grind to a halt,” said Rose.

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