

Students, Educators, Counselors, and Psychologists Challenge Law Intended to Erase Inclusive Instruction from Public Schools: “It just makes our lives harder and our schools worse.”

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HELENA, MT — Earlier today, the ACLU of Montana, Nixon Peabody, LLP and Kasting, Kauffman & Mersen, P.C.— representing Empower MT, the Montana School Counselors Association, the Montana Association of School Psychologists, Daniel Johnson, Libby Threadgoode, and Student Plaintiffs Eva Stahl and R.S. —filed a lawsuit challenging SB 99 (2021) and urging the court to strike down the law.

SB 99 requires public school educators, counselors, and other school staff to provide parental notification prior to any discussion of gender or sexuality in the classroom; as written, the law would not only apply to topics related to LGBTQ identities, but also to books like *The Great Gatsby* (which depicts heterosexual relationships) or historical figures like George and Martha Washington (who were in a heterosexual relationship). By threatening to punish educators and counselors who seek to introduce inclusive and compassionate curricula to their students, the law is already harming both the general student population and 2S-LGBTQIA+ students who already face stigma, bullying, and marginalization.

“It really feels like the goal of SB 99 is to silence people,” **said Eva Stahl, a Montana student and member of the 2S-LGBTQIA+ community.** “Teachers are changing how they teach and making it harder for students to access books. I even had one teacher say they were worried about the possible ‘employment consequences’ of openly supporting 2S-LGBTQIA+ students. This law doesn’t protect students, it just makes our lives harder and our schools worse.”

“After SB 99 was passed, we had a meeting with one of our administrators and he was unable to answer many of our questions about the law. We were advised that answers were coming soon, but they never came,” **said Libby Threadgoode, a teacher-librarian at Billings West High School who also has a child in Montana public schools.** “In all this uncertainty, I know staff who are removing books and resources from their classrooms. Students attending a school’s Genders and Sexualities Alliance are no longer allowed to have spontaneous, free flowing conversations. 2S-

LGBTQIA+ students know they're being targeted. It's all a textbook example of a chilling effect, and I have to believe it's intentional."

"School psychologists are often called upon to work with students in distress, and we need to be available for students and staff to do so at any time," **said Brittany Lewno-Dumdie, President of the Montana Association of School Psychologists (MASP)**. "SB 99 poses challenges to providing immediate response to support students in distress, which goes against best practices and puts our students at risk."

"Our members work with 2S-LGBTQIA+ students in nearly every public school in Montana," **said Erica Parrish, Advocacy Chair for the Montana School Counselors Association (MSCA)**. "Many of those conversations are, by necessity, confidential. SB 99 places school counselors between the proverbial rock and a hard place: we can either follow our professional and ethical obligations to our students, or we can follow SB 99's parental notification requirement. It's impossible to do both."

"EmpowerMT has been a resource to Montana youth and educators for 25 years, and since the passing of SB 99, our access to schools has been extremely limited. School administrators have explicitly told us that this law is why," **said Heidi Wallace, Executive Director of EmpowerMT**. "We know firsthand how damaging SB 99 has been for the culture and climate of our schools. For students to succeed academically, socially, and emotionally, it is imperative that our schools respect and value the diverse identities and experiences of Montana youth. SB 99 silences the voices and erases the identities of Montana's future. "

"SB 99 is fostering damaging self-censorship within Montana's schools and making it harder than ever for school staff to support students," **said Marthe VanSickle, Staff Attorney at the ACLU of Montana**. "Without clear guidance on the issues that fall under the scope of SB 99, teachers, librarians, and others are at risk of discipline if they unknowingly violate this legislation. SB 99 has left Montana schools navigating uncertainty and vulnerability which stifles learning opportunities for students and threatens free exchange of ideas."

In this lawsuit, the Plaintiffs assert that SB 99 violates numerous provisions of the Montana Constitution, including the right to due process of law, free speech, privacy and educational opportunity. SB 99 is emblematic of a wave of anti-2S-LGBTQIA+ laws that have proliferated across the country and in Montana. Many of those laws are the subjects of legal actions like the one here. The Plaintiffs seek a declaration from the District Court that SB 99 is unconstitutional and a permanent injunction preventing it from being enforced in the future. A case schedule has not yet been set by the District Court.

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