

COMMENTS

Anti-Gay Sex Education: A Lasting Tool for Discrimination?

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I. INTRODUCTION AND LEGAL FRAMEWORK

As conversations surrounding LGBT¹ rights become more and more the centerpiece of the American social-political table, laws surrounding state sex education have become all the more controversial. There are still several states that have anti-gay sex education policies.² These anti-gay curriculums pose a serious threat to the LGBT community, in that students are not receiving comprehensive information on safe and healthy sex that they desperately need. Furthermore, in preventing such education, states

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1. For the purposes of this Comment, “LGBT” will be used to reference the lesbian, gay, bisexual, transgender, and queer communities for lucidity purposes only. There is no intention of excluding other non-heterosexual or non-gender conforming identities from this terminology.

2. *E.g.*, ALA. CODE § 16-40A-2(c)(8) (West 2018) (stating that sex education course materials should contain “an emphasis . . . that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense under the laws of the state”); *see also* LA. STAT. ANN. § 17:281(A)(3) (West 2018) (banning any sex education materials “depicting male or female homosexual activity”).

are ostracizing LGBT students from their peers and emboldening the line between the two communities.

Since the Supreme Court deemed crimes against homosexuality unconstitutional in 2003,³ the question should follow whether these sex education policies are also unconstitutional. It is important to note that these are not simply pro-heterosexual policies, but specifically *anti*-homosexual ones. The ramifications of continued implementation of policies that isolate the LGBT community are earthshattering, and the entirety of the student population can and will be affected. LGBT students are deprived of a very vital aspect of health education; they are separated from their peers with emblematic targets painted on their backs. Non-homosexual students are also deprived of a basic understanding of alternative sexual lifestyles and preferences. Although a less obvious consequence of this gap in sex education, it is an incredibly important one, and the result is an equally problematic gap in the available allies to the LGBT community moving forward. A heterosexual-centric sex education system debilitates societal evolution regarding LGBT rights.

This Comment seeks to view these policies through a legal lens to evaluate the current climate on anti-gay sex education laws and to further explore the above consequences that lay in wait. Paramount to understanding the policies in place is an evaluation of the “no promo homo” sex education laws that are in place. These laws will be evaluated with state-by-state examples to properly frame the consequences of anti-gay curriculum policies. Moving forward, a thorough dissection of those consequences, including the deprivation of LGBT students’ legal rights, is necessary to fully grasp the gravity of this plague on the homosexual community. Finally, this Comment will look forward to pending litigation and the possibility of changing these direful laws.

Ultimately the goal of this Comment is not only to educate on the depravity of the existing laws tormenting the LGBT community but also to unveil the link between sex education and a grander common theme: a national misunderstanding of homosexuality. A failure to place emphasis on non-heterosexual sex is a failure to seriously contemplate the importance of the non-heterosexual community. In other words, when education systems purposely leave out or chastise the LGBT community under the scaffolding of sex education, they pave the way for a greater,

3. *Lawrence v. Texas*, 539 U.S. 558 (2003) (holding that the Texas statute criminalizing two same-sex individuals from engaging in sexual conduct violated the Due Process Clause of the Fourteenth Amendment as it furthered no “legitimate state interest” justifying intrusion into the personal life of an individual).

communal misunderstanding of the entire homosexual community. To leave out an entire sexual lifestyle in health education sends a very clear and potent message; LGBT is the “other,” unworthy of teaching and undeserving of understanding. This comment seeks to alter, even ever so slightly, that deplorable narrative.

II. “NO PROMO HOMO” SEX EDUCATION

A. *Anti-Gay Legislation and Its Effect on State Sex Education Policies*

Prior to the Supreme Court’s holding in *Lawrence v. Texas*,⁴ states were successfully able to prosecute sexual conduct between persons of the same sex. Ultimately, the Court determined that the Texas law prohibiting sexual intercourse between same-sex adults was unconstitutional as it violated the Equal Protection Clause of the Fourteenth Amendment.⁵ There is a substantial connection between the laws of states and their public education legislation; language used in the state educational statutes makes this clear. The now unconstitutional “Homosexual Conduct” statute⁶ is cited in the Texas public school sex education policy, which requires course materials and instruction to place emphasis “that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense under Section 21.06 Penal Code.”⁷ To be clear, this means that the state of Texas relies on an unconstitutional law as an authoritative foundation for anti-LGBT sex education laws. The very footing of the legislation, not only prohibiting LGBT sex education but explicitly demonizing the very lifestyle of homosexuality, is rooted in a law that is *blatantly* illegitimate. The result is a gap in sex education that essentially tells LGBT students “that who and what they are is not acceptable.”⁸ State-issued reports detailing the “progress” of Texas sex education make absolutely no mention of these policies or their unconstitutional basis.

The Texas legislature has proposed bills to repeal these policies as they rely on the unconstitutional foundation of outdated and frankly archaic sodomy laws.⁹ As of today there has been no successful repeal in

4. *Id.*

5. *Id.* at 585.

6. TEX. PENAL CODE ANN. § 21.06 (West 2018). This law was declared unconstitutional by *Lawrence v. Texas*, 539 U.S. 538 (2003).

7. TEX. HEALTH & SAFETY CODE ANN. § 163.002 (8) (West 2018).

8. Leora Hoshall, *Afraid of Who You Are: No Promo Homo Laws in Public School Sex Education*, 22 TEX. J. WOMEN & L. 219, 236 (2013).

9. *Id.* at 236-37.

Texas, as in many other states.¹⁰ In fact, multiple bills have been proposed, and grown stagnant, in the Texas legislature to repeal the offense of homosexual conduct.¹¹ Texas Representative Coleman has made four attempts to repeal the conduct laws, including proposals to change sex education and AIDS education legislation, all of which have failed to leave committee status.¹² The result of this failure to repeal blatantly unconstitutional laws highlights an important feature of American politics. It is shortsighted to believe that because these laws are unenforceable after *Lawrence v. Texas*, they have no real consequence. However, the ever-present Texas anti-gay sex education policies that rely on this legislation—unconstitutional as it may be—form a very authentic consequence.

Many other states follow a similar trend, including Alabama, which has a law strikingly similar to Texas's.¹³ Some states, such as Arizona, go so far as to prohibit educators from suggesting “that some methods of sex are safe methods of homosexual sex.”¹⁴ For example, if a student asks if a method of safe sex is available to him and his male partner, the school is legally barred from giving him the information he needs. This varies slightly from other sex education policies in that it specifically disallows any unity between the heterosexual and LGBT communities. Certain variations of safe sex tools can be used regardless of the gender identity of one's partner, yet Arizona laws prohibit that potentially unifying sex education from taking place. Picture the opposite scenario, one in which students are educated not only on safety regarding their own specific sexual preferences but additionally are exposed to the many amalgamating aspects of various sexual lifestyles. That policy could lead to a better mutual understanding between heteronormative communities and LGBT

10. ARIZ. REV. STAT. ANN. § 15-716(C)(3) (West 2018) (“[N]o district shall include in its course of study instruction which: 1. [p]romotes a homosexual lifestyle, 2. [p]ortrays homosexuality as a positive alternative lifestyle, 3. [s]uggests that some methods of sex are safe methods of homosexual sex.”).

11. H.B. 85, 2017 Leg., 85th Sess. (Tex. 2017); *see also* H.B. 3026, 2009 Legis., 81st Sess. (Tex. 2009).

12. Hoshall, *supra* note 8, at 236-37 (citing H.B. 2156, 2011 Leg., 82d Sess. (Tex. 2011) (with additional attempts made by Representative Coleman in the prior years of 2005, 2007, and 2009 with the same result)).

13. ALA. CODE § 16-40A-2(c)(8) (West 2018) (stating that sex education course materials should contain “an emphasis . . . that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense under the laws of the state”).

14. ARIZ. REV. STAT. ANN. § 15-716(C)(3) (West 2018) (“[N]o district shall include in its course of study instruction which: 1. [p]romotes a homosexual lifestyle, 2. [p]ortrays homosexuality as a positive alternative lifestyle, 3. [s]uggests that some methods of sex are safe methods of homosexual sex.”).

individuals and allies moving forward. The anti-gay curriculums currently in place give rise to the opposite.

As states continue to implement these anti-gay policies of sex education, they are in essence continuing to target the LGBT community with disregard for the unconstitutionality of the laws on which the policies are based. Reliance on these now unenforceable laws presents a variety of problems for LGBT students in that inherently illegal policies are still in place and actively enforced. These policies aim to “instill in each generation the belief that individuals who identify as lesbian, gay, bisexual, or transgender are inferior.”¹⁵ Additionally, these laws take many different forms but all aim to accomplish the same goal: alienating LGBT individuals.

B. The Bigger Picture: Anti-Gay Curriculum Policies Generally

Anti-gay curriculums present themselves in a multitude of ways in state legislation.¹⁶ However, they all ultimately bolster curriculum statutes with unconstitutional sodomy laws and anti-gay agendas. One such type is the “don’t say gay”¹⁷ model of academic policy, in which states like South Carolina¹⁸ and Louisiana¹⁹ prohibit discussion of any “alternate sexual lifestyles from heterosexual relationships” and ban any depictions of homosexual activity in sex education courses.²⁰

The resulting consequence of the “don’t say gay” model is multilayered. First, LGBT students are given a damaging message that their sexual behavior is not to be spoken of or acknowledged and certainly not celebrated. Second, LGBT students are robbed of an imperative aspect of their health education and are more exposed to the implications of unsafe sex. Third, heterosexual students are once again reminded that non-heterosexual behavior is unworthy of such acknowledgment. This furthers the separation of LGBT students as “other” and encourages

15. Hoshall, *supra* note 8, at 238-39.

16. Clifford Rosky, *Anti-Gay Curriculum Laws*, 117 COLUM. L. REV. 1461, 1469 (2017) (details an analysis of a “comprehensive survey of federal and state statutes” that show “anti-gay provisions exist[ing] in the curriculum laws of twenty states”).

17. *Id.* at 1469-70 (describing laws that explicitly prohibit educators from discussing homosexuality).

18. S.C. CODE ANN. § 59-32-30(A)(5) (West 2018) (“[T]he program of instruction provided for in this section may not include a discussion of alternate sexual lifestyles from heterosexual relationships including, but not limited to, homosexual relationships except in the context of instruction concerning sexually transmitted diseases.”).

19. LA. STAT. ANN. § 17:281(A)(3) (West 2018) (“[N]o sex education course . . . shall utilize any sexually explicit materials depicting male or female homosexual activity.”).

20. Rosky, *supra* note 16, at 1469-70.

discrimination, bullying, and even more isolation of non-heterosexual students. Finally, students of all sexual orientations lack the opportunity to develop a line of communication about alternate sexual preferences. With that line of communication comes substantial potential progress for the greater societal climate surrounding LGBT issues.

Another type of anti-gay curriculum in sex education is the “no promo homo” or “anti-homo”²¹ policy. Arizona is the only state that specifically prevents sex education courses from promoting homosexuality as an “alternative” sexual lifestyle.²² Alabama and Texas, as discussed above, require an emphasis that homosexuality is not an acceptable lifestyle to the general public, and both states make specific reference to the illegal nature of homosexual conduct.²³ These states therefore specifically act *against* LGBT communities in that they refuse to acknowledge homosexuality as anything more than a “crime,” which is constitutionally incorrect.²⁴ This is arguably the most problematic form of anti-gay sex education. Not only is it founded on an unconstitutional basis, but it is also actively waging war on LGBT students. Blatant, undebatably homophobic policies such as these have potential to breed a particularly dangerous generation of individuals. Non-LGBT students are continuously reminded that the “other” is criminal. The resulting mentality could pose a legitimate threat for the LGBT community in the form of misinformation and a bred hatred for non-heterosexual sexual preferences.

Other states adopt anti-gay curriculums through the promotion of heterosexual relationships and sex education. Florida, for example, emphasizes safe sex only in heterosexual marriages.²⁵ More states join Florida in adopting specifically *heterosexual*-centric sex education programs that specifically leave out any and all alternative lifestyles. The result in these states is a rather enigmatic implementation of anti-gay sex education policies. Non-heterosexual students are inherently discouraged due to the obvious absence of their community in the curriculum. As

21. *Id.* at 1470-71 (describing laws that, respectively, prohibit the “promotion” of homosexuality or require a negative portrayal of homosexuality).

22. ARIZ. REV. STAT. ANN. § 15-716(C)(3) (West 2018).

23. Rosky, *supra* note 16, at 1470-71 (citing ALA. CODE § 16-40A-2(c)(8) (West 2018), TEX. HEALTH & SAFETY CODE ANN. § 163.002 (8) (West 2018)).

24. *Lawrence v. Texas*, 539 U.S. 558 (2003).

25. FLA. STAT. § 1003.46(2) (West 2018) (“[A]bstinence from sexual activity is a certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, including acquired immune deficiency syndrome, and other associated health problems.”).

students receive their health education, they fail to see themselves in the subjects of the information they are learning.

Finally, prior to the legalization of gay marriage in *Obergefell v. Hodges*,²⁶ many states relied on a sex education policy of “abstinence until marriage,” which ultimately suggested that LGBT students were not privy to an acceptable sexual lifestyle and surely were not welcome to information about safe sex. The Obergefell decision published by the Supreme Court in 2015 was monumental to the advancement of LGBT rights. The Court eloquently wrote, “just as a couple vows to support each other, so does society pledge to support the couple, offering symbolic recognition and material benefits to protect and nourish the union.”²⁷ This call for society to participate in social evolution is not solely for the purposes of gay marriage; its arms must reach farther to encompass LGBT rights as a whole. Further, a new fallacy has the potential to propagate following Obergefell. Those states that rely on abstinence-only education now face the decision of either recognizing gay marriage as legitimate or continuing to exclude LGBT students from the narrative. Ultimately, these policies relay the message loud and clear that LGBT students will not be provided with appropriate resources for safe same-sex sexual encounters. Furthermore, many states *legally* prevent those resources from ever being available.

The problem with these various types of anti-gay sex education policies is that students are not given access to materials they realistically need. With a gap in education comes a variety of consequences: ignorance of sexually transmitted diseases, misunderstanding of the LGBT community by both straight and non-heterosexual individuals, and, most concerning, a true identity crisis and an isolation of the LGBT student from their peers.

III. CONSEQUENCES FOR LGBT STUDENTS AND EDUCATORS

These anti-gay curriculum policies in sex education pose serious consequences to students and educators alike. The Court has found that these laws specifically seek to “injure” the LGBT student population.²⁸ There are also less obvious consequences, such as the gap in sex education for students, a misunderstanding of the LGBT community by heterosexual students, and the challenge for educators to follow these laws.

26. *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

27. *Id.* at 2600.

28. *Id.* at 2602-05; *Lawrence*, 539 U.S. at 574.

A. *The Isolation of the Non-Heterosexual Student*

States who keep anti-gay policies in their code fail to give students an LGBT-inclusive sex education. This leads to further isolation of an already targeted student population. Harassment of LGBT students detrimentally affects their education and academic success and oftentimes leads to students discontinuing their education instead of dealing with the daily struggle of persecution.²⁹ It further follows that LGBT students in these states are not given access to school protections such as harassment policies or staff support.³⁰ LGBT students are pushed further away from their peers as a result, and hostile school climates continue to treat homosexuality as unacceptable.³¹

Anti-gay policies negatively affect the mental health of students through isolation and amplified bullying. According to the 2013 National School Climate Survey by GLSEN, 85% of LGBT students were verbally harassed at school, and 30% of LGBT students missed school at least once because they felt unsafe.³² School officials have used the existence of these policies to justify their failure to protect LGBT students from consistent bullying.³³ This discrimination leads to higher rates of depression, lower GPAs and educational goals for LGBT students, and a general disconnection from the greater school community.³⁴ This result is predictable: school administrators emphasize to LGBT students that non-heterosexual relationships are unacceptable or nonexistent—why would fellow students say anything different? Why should we *expect* anything different from our students?

B. *A Gap in Sex Education*

LGBT students are “five times more likely to search online for information about sexuality” should they not be given a comprehensive sex education.³⁵ GLSEN (formerly the Gay, Lesbian, & Straight Education Network) has found that inclusive sex education is of utmost

29. Tiffany Pham, *Stepping Out of the Closet: Creating More Inclusive Sexual Education Instruction for Texas Public Schools*, 17 TEX. TECH. ADMIN. L.J. 347, 357 (2016) (citing *Kowalski v. Berkley Cty. Sch.*, 652 F.3d 565 (4th Cir. 2011)).

30. *Id.*

31. *Id.*

32. GLSEN, NATIONAL SCHOOL CLIMATE SURVEY (2013).

33. Rosky, *supra* note 16, at 1521-22 (citing *Gonzalez v. Sch. Bd.*, 571 F. Supp. 2d 1270 (S.D. Fla. 2008)).

34. *Id.*

35. *Id.* at 359 (citing GAY, LESBIAN & STRAIGHT EDUC. NETWORK, OUT OUTLINE: THE EXPERIENCE OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH ON THE INTERNET (2016)).

importance with LGBT youth.³⁶ The LGBT youth community is more likely to have sex at an early age, more likely to have sex under the influence of alcohol or drugs, more likely to experience dating violence, less likely to use protective measures, and more likely to contract STIs.³⁷ Without the necessary sex education, LGBT youth must take it upon themselves to turn to alternative resources. Should they fail to do so, as many inevitably will, there will be a detrimental gap in sex education that leads to all the consequences listed above.

These physical dangers for LGBT students pose a very visceral threat and preventing them through education is the best strategy. Through a more inclusive sex education policy, education systems can do for all students what they aim to do for heterosexual ones: prevent and protect. With the necessary information, schools have the ability to thwart unhealthy sexual practices and habits, with the auxiliary benefit of improving the inclusion of LGBT students. Ultimately, it is essential to the goal of education in its entirety to adequately supply information where needed; this is a clear space in which states may act on that goal.

Heterosexual students experience a less obvious gap in that they lack a vital understanding of other sexual lifestyles. These students require this understanding in order to be viable allies to the LGBT community. With sex education focused solely on their own heterosexual lifestyles, students are left with a gap in understanding that could result in bigoted, homophobic, and ignorant views of the LGBT community. Failing to inform all students about a variety of sexual preferences and lifestyles, and how to participate in those lifestyles safely, perpetuates the systematic failure in LGBT support.

Students' initial intellectual and social development is perpetuated within the walls of education systems. They operate in a small-scale recreation of the world they will enter into, their first taste of an institutional hierarchy and societal structure. The LGBT community as a whole is directly affected with every generation of students that experiences this gap in sex education. Heterosexual students are continuously taught by example that LGBT rights are unimportant through the exclusion of "alternate" (read: non-heterosexual) sexual preferences in sex education. That example piercingly communicates to heterosexual students that they need not concern themselves with understanding the

36. Kari Hudnell, *GLSEN Calls for LGBTQ-Inclusive Sex Ed*, GLSEN.ORG (Dec. 2, 2015), <https://www.glsen.org/article/lack-comprehensive-sex-education-putting-lgbtq-youth-risk-national-organizations-issue-call>.

37. *Id.*

“other” they have been taught to ignore. The constant dehumanization, collective misunderstanding, and aggressive stereotyping experienced by LGBT individuals globally is admittedly not shocking given these circumstances.

The alternative certainly may pose a viable improvement in the culture surrounding LGBT issues. Sex education policies that are LGBT-inclusive rather than exclusive could lead to a greater understanding of the non-heterosexual community through exposure and education. The result could be a new generation of students that emerge from the education system equipped with knowledge about a variety of sexual lifestyles. Heterosexual allies to the LGBT community would be much more common should individuals be given a base level education and, further, should they be privy to the conversation surrounding sexual preferences that are not their own. This is not to suggest promoting the hero complex in which heterosexual students proverbially “save the day.” Rather it is to advocate for any possible support that heterosexual individuals can give the LGBT community, particularly support for the much more impressionable and innocuous youth population.

C. *Challenges Faced by Educators and Alternative Policies*

Educators ultimately must be the ones to implement these anti-gay sex education curriculums. There is a distinct separation between the legislature and the implementers, as state administrators and health educators inevitably encounter interactions with LGBT students in need of sex education or advice on their sexual orientation. As they are legally bound by state legislation, educators are not given a choice as to how to handle students who come to them with questions about sexual preferences that are non-heterosexual. While many educators unsurprisingly share the opinion of the state that non-heterosexual lifestyles should not be “promoted,” many no doubt seek to be able to give help to students in need of education. Sadly, there is little to be done on this level, and many administrators have taken to advising health classes to simply speak broadly when discussing sex education and not specifically refer to particular sexual preferences. Though this does not help in states such as Texas where instructors are specifically told to emphasize that homosexuality is not acceptable in society.³⁸

It is important to note the states that have attempted to lift this challenge from educators and those that have passed *pro*-gay legislation.

38. TEX. HEALTH & SAFETY CODE ANN. § 163.002 (8) (West 2018).

For example, the state of Washington passed the Healthy Youth Act in 2007 that requires sexual health education programs “be appropriate for students regardless of gender, race, disability status, or sexual orientation,” although it is important to note that this act does not require schools to provide any sexual health education at all.³⁹ New Jersey requires schools to teach about sexual orientation, specifically including “tolerance and sensitivity, harassment and name-calling, stereotyping, and the development of gender identity and its relationship to puberty and adolescence.”⁴⁰

Clearly, the solution starts with the legislature. Educators must follow policy when it comes to sex education, but a discussion about the gruesome consequences faced by LGBT students, and moreover the larger LGBT community, is a movement towards change. LGBT students are at risk of continued isolation, bullying, debilitating stigmas, and unsafe sexual practices, all due in part to the gap in sex education. Eliminating anti-gay sex education curriculums not only provides these students with the physical health education they need but additionally seeks to alter the negative narrative that has surrounded LGBT issues in education systems. Conversations surrounding sexual orientation can promote unification of student communities and understanding and at least attempt to make a step in the right direction for LGBT rights. Moreover, educating heterosexual students on non-heterosexual lifestyles better equips them to be potential allies for the LGBT community moving forward. Although sex education cannot begin to mend the horrendous persecution the LGBT community has experienced throughout history, eradicating anti-gay sex education is a step in the right direction.

IV. THE LEGAL CLIMATE: LOOKING FORWARD

Looking to current and pending litigation, it will be vital to see what states do next regarding anti-gay curriculums. In October 2017, Utah settled a lawsuit regarding their anti-gay sex education policy. As a result, Utah has removed “don’t say gay” language from its sex education and health state code.⁴¹ The original complaint filed by Equality Utah sought to enjoin Utah schools from infringing on the constitutional rights of students by “facially targeting [LGBT] persons for disparate treatment, by prohibiting positive . . . speech about ‘homosexuality,’ while permitting

39. RCW 28A.300.457(1).

40. N.J. DEP’T OF EDUC., COMPREHENSIVE HEALTH AND PHYSICAL EDUCATION (2017).

41. UTAH CODE ANN. § 53A-13-101(4)(a) (West 2018).

positive speech about . . . heterosexual persons.”⁴² The complaint went on to allege violations of Title IX, as the policies were creating a “hostile environment for LGBT student,” and further discouraged administrators from properly handling harassment and discrimination claims.⁴³ Additionally, plaintiffs claimed the laws violate the EAA in prohibiting equal treatment of student organizations that form to address topics on homosexuality as compared to those formed by heterosexual students.⁴⁴

The settlement of this case followed a letter from the Utah State Board of Education clarifying the result of removing prohibitions on the advocacy of homosexuality.⁴⁵ The statement articulated the desire of “each student in Utah public schools to receive a high quality of education free from all manner of discrimination” and calls for all school districts to align their policies to reflect the State’s intended prohibition of student discrimination.⁴⁶ The result is a state-set precedent that recognizes the problematic basis for anti-gay curriculum policies; the strongest argument in support of the elimination of anti-gay sex education is the unconstitutional foundation upon which they are created. What is needed is an army of organizations and individuals with standing in all states with anti-gay, no promo homo, “don’t say gay,” or any other type of discriminatory policy.

It is possible that many other states will follow suit; Utah chose to avoid litigation against the organizations that brought the action in exchange for an adjustment in laws reliant on outdated and unconstitutional principles. The question is whether other states will choose this route or take the gamble of litigation. Ultimately, it is possible that these laws, if tested by the Supreme Court, would be found to be unconstitutional, as they seem to specifically target the LGBT community. Similar arguments to those made in the Utah litigation are sure to arise in other lawsuits.

42. Complaint at 2, *Equality Utah v. Utah State Bd. of Educ.*, No. 2:16-CV-01081 (D. Utah 2016).

43. *Id.* at 3.

44. *Id.* The complaint furthermore accused Utah State Board of Education of violating the Equal Protection Clause of the Fourteenth Amendment and the Free Speech Clause of the First Amendment and argued the legitimacy of negative effects on LGBT students as a result of these laws and the school environment they foster. *Id.*

45. Letter from Mark Huntsman, Chair of Utah State Board of Education, and Sydnee Dickson, State Superintendent of Public Instruction, to LEA Chairs, Superintendents, and Charter School Administrators. (Sept. 18, 2017).

46. *Id.*

V. CONCLUSION

The consequences of anti-gay sex education are detrimental. They form a direct threat to the LGBT community, allow continued discrimination and dehumanization of non-heterosexual students, and further embolden the line between the heteronormative and the “other.” Anti-gay sex education policies do not only poison the educational environment our youth are cultivated in. The reaction can trickle into society—into other societal constructions such as workplaces, homes, and religious organizations. The result of these policies is a generation of students with a significant gap in their sex education and, more ominously, a looming worldview of LGBT people being unequal to heterosexual ones. A movement away from these not only deplorable but unconstitutional practices is a huge step for the LGBT community; it is the continuation of a long and arduous attempt to attain equal treatment and rights. Without this step at the most basic educational level of our societal structure, how can we consciously ask individuals to work towards equality for all? This is one in a series of many movements working towards a collective mentality shift into a more tolerable and understanding national climate for LGBT individuals.