VIA EMAIL August 28, 2025

Dr. John Marschhausen, Superintendent
Dublin City Schools
5175 Emerald Parkway
Dublin, OH 43017
marschhausen_john@dublinschools.net

Dublin City School District Board of Education
5175 Emerald Parkway
Dublin, OH 43017
boe@dublinschools.net

ACLU
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
Ohio

4506 Chester Avenue
Cleveland, OH 44103
P: (614) 586-1959
F: (216) 763-9580

1108 City Park Avenue
Suite 203
Columbus, OH 43206
P: (614) 586-1959
F: (216) 763-9580

acluohio.org
contact@acluohio.org

J. Bennett Guess
Executive Director

Dear Dr. Marschhausen and Members of the Dublin City Schools Board of Education,

We write this letter to raise concerns regarding Dublin City School District's (the "District") policies and guidelines regarding student speech, and the implementation of those policies at Dublin Jerome High School. As you are likely aware, during this past spring semester Corinne Embi, a senior at Dublin Jerome High School (the "School"), was prohibited from presenting her final project concerning transgender activism as a part of her Women's Studies course. Although couched as adherence to school policies, the School's actions raise serious First Amendment concerns. *See Tinker v. Des Moines*, 393 U.S. 503 (1969).

We urge you to take all necessary steps to ensure that both your policies and schools provide for the full extent of student expression consistent with the U.S. Constitution.

Corinne Embi's Final Project on Transgender Activism and the School's Response

As a final project in Corinne's Women's Studies course, students were to create an action plan to support an "existing campaign . . . that addresses a current social, political, and/or economic issue facing women in the United States or abroad." Corinne's teacher approved her project, which was based on transgender activism, where Corinne hoped to examine the current rise in legislation in Ohio targeting transgender people, show solidarity with the transgender community, and educate those who wished to learn more. In furtherance of this project Corinne decided to organize a peaceful show of support where students, faculty, and staff could come to school dressed in pink, white, and blue (the colors on the transgender pride flag) and bring transgender flags to show solidarity with the transgender community. She also endeavored to hold a teach-in after school one day to talk about legislation in Ohio targeting

the transgender community and actions people could take in response.

On or about April 30, 2025, Corinne received administrative approval to post flyers she made regarding the protest and teach-in, both set to occur on May 9, 2025.[1] But on or around May 1, 2025, administrators took down the "unapproved" flyers and informed Corinne that she could not hold the protest at school, "explaining the District's policy for limiting disruption through demonstration (po5520)." Email from Jennifer Schwanke, Dpty. Supt., to Bd. of Educ. Members (May 6, 2025, 5:33PM). Corinne was also told that she could not hold the teach-in on school grounds. *See* Email from Julie Schoeler, Dean of Educ., to Colleen Embi (May 2, 2025, 6:10AM).

Corinne thereafter requested to "distribute transgender wristbands to fellow Jerome students," Schwanke email *supra*, a request that was also denied. In affirming the denial, the School cited Administrative Guideline 9700A, which required the materials to be approved seven days prior to the desired distribution and contained "specific content-related criteria" for such materials. *Id.* Although one such criteria includes materials that are "related to a current course of study offered by the school," the School found Corinne's materials not to meet the criteria. *See* Admin. Guideline 9700A.

Corinne was also told that she could not present her transgender activism project to the class. Then, on or about May 9, 2025, school officials indicated that *no* student could present their activism project to the class and that this component had been "removed from the project rubric for all students." *See* Email from Cassie Dietrich, Pub. Info. Officer, to Key Communicators (May 13, 2025, 9:03PM).

The School Restricted Corinne Embi's Speech Based on Viewpoint

Students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." *Tinker v. Des Moines*, 393 U.S. 503, 506 (1969). Schools may therefore prescribe and control student expression only within "fundamental constitutional safeguards." *Id.* at 513. Beyond the narrow bounds of lewd, harassing, or drug-promoting speech, none of which are at issue here, schools can prohibit only speech that school officials reasonably forecast would create "a substantial disruption or material interference with school activities." *Id.* at 513–14. But schools may not restrict student expression merely because they disagree with it or find the message controversial. *Id.* at 509 (a school "must be able to show that its action was caused by more than a mere desire to avoid the discomfort . . . that always accompan[ies] an unpopular viewpoint").

School officials cited District Policy 5520 – "Disorder and Demonstration" – to prohibit Corinne from carrying out her planned day of protest. But District Policy 5520 only prohibits "any deliberate activity . . . which interferes with the normal operation of the school." As indicated in the flyers, Corinne's "protest" involved asking people to come to school on May 9th dressed in

[1] *See* Kyle Beachy, *Student Presents Project on Trans-youth Issues after Presentation was Cancelled at Dublin*, NBC4 (May 15, 2025), https://www.nbc4i.com/news/local-news/dublin/student-presents-project-on-trans-youth-issues-after-presentation-was-canceled-at-dublin-jerome-high-school/.

blue, pink, and white, the colors of the transgender pride flag, to "show that we will not stand for transphobia in our school, our state, or our country." *See* Screenshot of text message from Mike Aurin to "Primary" (May 1, 2025, 4:08PM). There was no indication that wearing certain colors to school would in any way "interfere with the normal operation of the school." PO5520. Tellingly, students *did* come to school on May 9th dressed in blue, pink, and white, and no disruption ensued, much less a "substantial" one.

Additionally, school officials prohibited Corinne from handing out colored wristbands on school property, claiming the materials failed to meet the criteria in Administrative Guideline 9700A relating to the distribution of materials. Although schools typically may constitutionally regulate the time, place, and manner of student speech, any such policy must be viewpoint and content neutral. *See M.A.L. ex rel. M.L. v. Kinsland*, 543 F.3d 841, 848 (6th Cir. 2008). Here, the School claims Corinne did not comply with the timing requirement in the policy which Corinne disputes. Regardless, however, the District's criteria for approving the distribution of materials on school property is a content-based restriction that faces *Tinker*. Absent any showing that the distribution of the wristbands "would cause a substantial disruption of or material interference with the normal operation of the school," the School exceeded its constitutional authority in prohibiting Corinne from distributing the wristbands on school property altogether. *See id.* at 848 n. 3.

Lastly, by prohibiting Corinne from presenting her transgender activism project to the class, the School further violated her constitutional rights. Although the School removed "the presentation component of the project . . . from the project rubric for all students," Dietrich email *supra*, the School's motive in doing so was clearly in response to an anticipation of potential discomfort or controversy over Corinne's transgender activism project. If the purpose of an official's act is to effect viewpoint discrimination, it is subject to strict scrutiny even if the act is facially neutral. *E.g., Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 155–56, 165 (2015).

For the above reasons, we urge you to take all necessary steps, including reviewing District policies governing student expression, to ensure both the policies and your school officials respect the constitutional rights of all students. Do not hesitate to contact me if you have any questions.

Sincerely,

Amy Gilbert
Senior Staff Attorney
ACLU of Ohio
216-770-6704
agilbert@acluohio.org