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January 6, 2010

Douglas Skinner
Superintendent
Napavine School District #14
413 E. Park St.
P.O. Pox 840
Napavine, WA 98565

**Re: Exclusion of Pregnant Female Student from Physical
Education Course**

**AMERICAN CIVIL
LIBERTIES UNION
OF WASHINGTON
FOUNDATION**
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SEATTLE, WA 98104
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JESSE WING
BOARD PRESIDENT

KATHLEEN TAYLOR
EXECUTIVE DIRECTOR

Dear Mr. Skinner:

We are writing concerning the exclusion of a pregnant student from Napavine High School's Advanced Physical Education ("P.E.") course. As we understand it, at the beginning of August 2009, Brittnay Pinkerton, a junior at Napavine, was approximately eight-weeks pregnant and enrolled in an Advanced P.E. course. After initially promising to provide Brittnay with pregnancy-related accommodations to facilitate her participation in this course, Principal Tony Miles retracted this promise on or around September 23, 2009. Despite his awareness of Brittnay's continued desire to participate in P.E. and his receipt of notes from Brittnay's OB/GYN encouraging Brittnay's participation in physical activity, Principal Miles indicated that Brittnay would be required to satisfy her final P.E. credit during her senior year, instead of her junior year, and would be placed in an alternative course (i.e. a course other than and instead of Advanced P.E.) for the remainder of her junior year. We also learned that, when Brittnay protested her removal from the P.E. course, Principal Miles threatened to discipline her by marking her truant if she failed to comply with his decision.

As you know, excluding female students from P.E. simply because they are pregnant constitutes sex discrimination in violation of both federal and state law, including Title IX of the Education Amendments of 1972, the Washington Equal Rights Amendment, RCW 28A.640.010, and WAC 392-400-215. Policies that arbitrarily exclude pregnant students from classes place additional, unnecessary burdens on these students and unlawfully inhibit their academic success and progress.

Moreover, unlike its treatment of pregnant students, we are aware of instances in which Napavine High School has accommodated high school students experiencing temporary disabilities—such as students with broken arms or legs. Specifically, we understand that these students were not forced to withdraw from P.E. courses in

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which they were enrolled or denied credit, but were given different physical requirements during class time until their temporary disability was resolved.

Under the circumstances, we ask that Napavine High School correct its unlawful practice of categorically excluding pregnant students from P.E. courses. We request that Brittney be given credit for the first semester of the Advanced P.E. course that she was originally enrolled in but denied participation in—during the current semester, ending in January 2010—and be allowed to participate in the second semester of this Advanced P.E. course—during the next semester, starting in February 2010.

We ask that you let us know by January 13, 2010 what specific action Napavine High School intends to take to remedy this situation.

Please contact me if you have questions about the contents of this letter or wish to discuss the matter further.

Sincerely,

Lindsey Soffes
Ropes&Gray Fellow

cc: Tony L. Miles, Principal