SAN FRANCISCO (March 2, 2017) — City Attorney Dennis Herrera announced today that San Francisco, together with 30 other cities, counties, and mayors, filed an amicus brief this morning with the U.S. Supreme Court in support of transgender students’ right to be free from discrimination at school, including the right to use restrooms and other sex-segregated facilities consistent with their gender identity.

The friend-of-the-court brief was prepared by San Francisco and New York City. It was joined by Los Angeles, Chicago, Philadelphia, Seattle, Salt Lake City and two dozen other cities, counties and mayors.

The brief, filed in the case of Gloucester County Bd v. G.G., argues that Title IX — a federal law forbidding discrimination in schools on the basis of sex — protects transgender students from discrimination. The brief also notes that for decades over 200 cities, counties, and other municipalities have been adopting and enforcing local laws prohibiting discrimination against transgender people, which promote public safety and protect everyone’s privacy. In fact, one of the signatories to the brief, Minneapolis, Minn., adopted transgender protections in 1975 — more than forty years ago.

The case at hand was filed by the American Civil Liberties Union on behalf of 17-year-old transgender boy Gavin Grimm after the Gloucester County, Virginia, School Board passed a discriminatory policy that treats him differently from all other boys by preventing him from using
the boys’ restrooms. Transgender students like Gavin are instead forced to use separate single-stall restrooms. The brief argues that forcing transgender students to use these separate restrooms is a form of “separate but equal” treatment that imposes significant burdens on those students. It visibly marks them as different from their peers and exposes them to a risk of violence and harassment. It also prevents them from receiving an equal education by requiring them to miss valuable class and activity time to visit restrooms that may not be conveniently located.

“This is not a case about bathrooms — it is a case about fundamental civil rights,” San Francisco City Attorney Dennis Herrera said. “Separate but equal is not equal. We know that from our history, and we know that from our hearts. Stigmatizing an already vulnerable group is not an American value. Equality, compassion and being true to yourself — those are qualities we all embrace. For decades San Francisco has recognized the importance of adopting laws and policies that protect transgender individuals from discrimination so that they may live with the dignity and respect that everyone is entitled to. The policy passed by Gloucester County is based on unfounded fears and discriminates against transgender students. It denies them the equal access to education that Title IX guarantees. Passing laws in our cities that guarantee the protection of transgender people has only enhanced public safety and led to communities that are more inclusive. Wrapping discrimination in a cloak of unfounded fear doesn’t protect anyone. It weakens us all.”

The brief also refutes Gloucester County’s argument that allowing transgender students access to facilities consistent with their gender identity will lead to various negative consequences, such as compromising the privacy interests of other students and threatening public safety. The brief counters this speculation by pointing to the decades of success of laws prohibiting discrimination against transgender people that cities like San Francisco and New York have enacted. None of these laws led to these imagined consequences. Instead, these antidiscrimination laws have enhanced public safety by reducing the threat of violence transgender people face when they are forced to use facilities that do not match their public presentation of gender.

Antidiscrimination laws are also necessary to guarantee transgender people the ability to fully participate in public life. Without them, transgender people can suffer serious barriers to obtaining education and working, including health consequences. According to the National Center for Transgender Equality, in 2015 alone, 59 percent of transgender individuals reported avoiding bathrooms at work, at school, and in public places for fear of confrontation. Without bathroom access, many transgender people avoid eating and drinking, or avoid using bathrooms when they need to, which can cause them to contract infections.

The U.S. Supreme Court is scheduled to hear arguments on March 28. The case is Gloucester County School Board v. G.G., By His Next Friend And Mother, Deirdre Grimm, No. 16-273.