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MEMORANDUM

To: NBJC Leadership, Board, Policy Partners, and Coalition Allies

From: Dr. David J. Johns, CEO and Executive Director, National Black Justice Collective

Date: August 28, 2026

Re: The Meta Multistate Settlement—What It Does, What It Leaves Undone, and What It Can Mean for Black LGBTQ+ and Same-Gender-Loving Young People

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EXECUTIVE SUMMARY

On August 26, 2026, eight days into trial in Oakland, Meta agreed to settle claims brought by a bipartisan coalition of 51 attorneys general. It is the largest Big Tech settlement the attorneys general have announced (Georgia Office of the Attorney General, 2026). It is also not yet in force—it binds no one until Judge Yvonne Gonzalez Rogers enters the consent judgment, and she has not.

What Meta pays. A guaranteed floor of roughly $12.1 to $12.7 billion over ten years, rising to a maximum reported variously as $16.68 billion in court papers, $17.1 billion by state attorneys general, and approximately $18 billion by Meta. Those figures cannot be reconciled from anything published. Meta admits no liability.

What Meta changes. A two-hour default daily limit for users under 18, cumulative across Facebook and Instagram, that a teen cannot loosen without a parent. Night Mode from midnight to 6 a.m. School Mode muting notifications 8 a.m. to 3 p.m. on weekdays. Like counts are hidden by default. Cosmetic-procedure filters are disabled. And an age assurance framework is applied to **every user** in the settling states—not every teen, every user.

Three things most coverage has wrong. The non-algorithmic feed is an **option that parents can make permanent**, not a default setting of the platform; the personalized feed option is still what a teen gets out of the box. Direct messaging is **excluded by name** from the covered platforms, so time limits and Night Mode never reach private messages. While this ensures youth can reach their parents at night using the messaging apps, it also means predators can as well. And Florida, New Mexico, and Texas did **not** join—New Mexico tried its own case and won $942 million and protections its attorney general says are stronger than this deal.

Why NBJC is engaged. Two mechanisms in this settlement—age assurance and algorithmic gatekeeping—operate directly on how Black LGBTQ+ and same-gender-loving young people find community and information. Seventy-seven percent of LGBTQ+ young people name online spaces as supportive; 57 percent name school; 52 percent name home (Nath et al., 2026). Among Black LGBTQ+/SGL young people who experienced discrimination and received support, **7 percent named a parent or caregiver** (The Trevor Project, 2024). Nearly every protection here runs through a parent's approval. For a meaningful share of the young people we serve, that assumption fails, and unintended consequences can prove costly.

Our position. Accountability is good, and we say so without qualification—two juries found Meta liable and a judge pierced its privilege. But a settlement is not a law: it binds one company, omits three states, expires, and gives no family a remedy. And implementation is where this can go wrong, because age verification and content filtering have a documented record of erasing us—Instagram's own teen safety system classified LGBTQ+ identity terms as sexual content, and 29 percent of LGBTQ+ students report being outed by school monitoring technology (Laird & Spitler, 2022). While we believe parents should be educated and empowered to protect their children online, especially our youngest kids, settings should not exclude age appropriate LGBTQ+ affirming content.

What we are asking for. That Congress legislate a duty of care and age verification systems with a nondiscrimination limit and real appeal rights. That implementation is designed for the young person without an affirming parent while ensuring privacy protections for all. That rules written for the largest platforms are written so they scale down. And that civil rights organizations and youth hold a structural seat—not a consultation—wherever these systems are designed, audited, and reported on. Finally, we urge Congress to fund public education efforts to train youth and families regarding online safety, digital privacy, platform settings and personalization.

If your organization is working on youth online safety, digital privacy, or school climate, we want to build with you. Reach Victoria Kirby York, our Director of Public Policy and Programs, at vkynbjc@gmail.com, and join our action alerts at **nbjc.org/nbjc-action-hub**.

I. WHAT HAPPENED

The August 26 settlement

On August 26, 2026, Meta Platforms and a bipartisan coalition of state attorneys general filed a proposed settlement agreement and a joint motion asking the court to enter a consent judgment. The case is *People of the State of California, et al. v. Meta Platforms, Inc., et al.*, No. 4:23-cv-05448-YGR, coordinated within MDL No. 3047, *In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, in the U.S. District Court for the Northern District of California before Judge Yvonne Gonzalez Rogers (*People of the State of California v. Meta Platforms, Inc.*, 2026).

The trial began on August 18, 2026, in Oakland, California. Twenty-nine states were the trial plaintiffs, with California, Colorado, Kentucky, and New Jersey trying their claims first; the settlement was announced in the second week of trial by those states together with Tennessee (California Department of Justice, 2026).

California Attorney General Rob Bonta's office described the agreement as a proposed settlement that remains subject to court approval through entry of a consent judgment. The court has not entered it. Until it does, none of the obligations described below are binding.

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Who signed, and who did not

Fifty-one attorneys general joined the multistate settlement: 47 states, the District of Columbia, American Samoa, the Northern Mariana Islands, and Puerto Rico. We counted the California attorney general's published roster independently to confirm this.

Three states did not.

Texas settled separately the same day for more than $1 billion (Texas Office of the Attorney General, 2026). Meta's own materials refer to an agreement with 52 attorneys general without enumerating them; the difference is most plausibly Texas, though Meta does not say so.

Florida rejected the deal. Attorney General James Uthmeier: "Florida did not join the settlement with Meta. The payouts to the states are peanuts compared to the profound harms Meta's profit-driven addictive features have inflicted on our children. This agreement is nothing more than a slap on the wrist for a trillion-dollar corporation that has already paid more to its lawyers than it will pay the states. We'll see them at trial."

New Mexico never joined the multistate litigation at all. It brought and tried its own case, and won.

Published counts of "47 states," "48 states," "51 attorneys general," and "52 attorneys general" all appear in coverage and in official releases. They are counting different things. The claim that all 50 states signed is not accurate.

The money

This is the most conflicted fact in the public record.

Source	Figure	What it counts
Connecticut AG	$17.1B	$12.19B guaranteed plus $4.91B contingent
District of Columbia AG	$17.1B	at least $12.1B guaranteed plus approximately $5B contingent
California AG	up to $17B	"to the states over ten years"; California's share is $1.5B to $2.1B
Meta	approximately $18B	approximately $12.7B guaranteed (70%), approximately $5.3B contingent (30%)
Court papers, per Reuters	$16.68B	maximum to the states

Each of these is internally consistent. They cannot be reconciled with one another from anything published, and no source explains the gap. **One hard number is verified verbatim in the agreement: the Cambridge Analytica component is $459,293,017.80.**

Payment runs in annual installments over ten years. Meta expects to accrue approximately $10 billion in legal expenses in the third quarter of 2026 (Meta, 2026). Meta reported $60.8 billion in revenue in the second quarter of 2026 (Meta Platforms, 2026).

Recommended public formulation: "A guaranteed floor of roughly $12.1 to $12.7 billion paid to the states over ten years, with the maximum reported variously as $16.68 billion in court papers, $17.1 billion by state attorneys general, and approximately $18 billion by Meta."

Meta admits nothing

From the executed consent judgment: "Meta denies the allegations against it and that it has any liability to the Plaintiffs."

And: "This Consent Judgment and the Agreement were entered into for settlement purposes only and does not constitute an admission by Defendant of any liability, wrongdoing, or violation of any local, state, federal, or international law" (*People of the State of California v. Meta Platforms, Inc.*, 2026).

The judgment further provides that it is not admissible in other cases against Meta.

II. WHAT META AGREED TO CHANGE

*All provisions in this section are quoted or drawn from the executed settlement agreement (*People of the State of California v. Meta Platforms, Inc*., 2026).*

The threshold caveat

The agreement defines the covered platforms—"Meta SMPs"—as the existing and future web and app versions of Instagram and Facebook, any New Meta SMP, and any Meta Spin Off App, "excluding, in each case, any and all (A) direct messaging features linked to or included in those platforms, such as Instagram Direct or Messenger."

Direct messaging is carved out by name. The daily time limit, Night Mode, and School Mode do not reach private messages. This is the single most consequential caveat in the agreement, and it connects directly to New Mexico's public criticism.

Time and usage

Daily limit. "Meta SMPs shall default Teen Users to a daily limit maximum of use cumulatively across all Meta SMPs of 2 hours per day." Loosening it requires the approval of a Supervising Parent. A teen cannot turn it off alone. It is cumulative across Facebook and Instagram together.

Night Mode. A default night access mode from midnight to 6 a.m. The agreement provides that the teen default cannot be moved to a less restrictive setting without a Supervising Parent's approval.

School Mode. "During School Hours, the Meta SMP shall disable push notifications for Teen Users, unless modified by a Supervising Parent." School Hours are defined as 8 a.m. to 3 p.m., Monday through Friday. California's release adds a date range of August 15 to June 15. Note that School Mode mutes notifications by default; blocking access during school hours is a parent-activated option, not a default.

Prompts. Within four months of the effective date, productive pauses at 60 minutes and 90 minutes of cumulative daily usage, and a clear and conspicuous notice upon any 15-minute session of continuous use. These are two distinct mechanisms and should not be collapsed.

Feeds and content

The non-algorithmic feed is an option, not a default. The agreement requires Meta to "provide Teen Users with a Reasonably Accessible option to select a feed that is a Non-Personalized Feed as their default home feed." A teen can select it without a parent. A parent can also enable it, and if a parent has enabled it, reverting to a less restrictive setting requires the parent's approval.

Meta's own language: teens will be "able to choose a non-algorithmic feed" (Meta, 2026). California's release: "An option for users under 18 to have a non-personalized feed."

The phrase "as their default" describes what the setting becomes once chosen, not the out-of-the-box state. The personalized algorithmic feed remains the default. The settlement does not require Meta to abandon personalized recommendations or targeted advertising.

Autoplay is likewise framed as something teens will be "able to turn off," not something disabled by default.

Like and reaction counts are genuinely a default: "Meta SMPs will, by default, disable Teen Users from seeing numbers of likes or reactions," modifiable only with a parent's approval.

Cosmetic-procedure filters are turned off for teens outright. The agreement defines them as filters that distort, sculpt, redefine, or idealize a user's face beyond what ordinary makeup can achieve, excluding fantasy, character, and parody effects.

Contact and reporting

Instagram teen accounts default to private; Facebook to private settings. Meta frames this as maintaining current practice rather than a new commitment.

When a message thread is established between a teen and a "Potentially Suspicious Account," Meta must promptly deliver clear and conspicuous notices. This is a notice obligation, not a contact prohibition, and because direct messaging sits outside the covered platform definition, no time limit or night restriction applies to those threads.

Meta must respond to 90 percent of teen reports of potentially harmful content within six hours. Note that the agreement requires a response, not human review; New Mexico's judgment, by contrast, is reported to require human review within 48 hours.

Meta is enjoined from "making false, misleading, or deceptive representations regarding the effect or efficacy of safety features for Teen Users on Meta SMPs."

Age assurance—the provision that most concerns us

Within one year of the effective date, Meta must adopt an age assurance framework applying one or more age assurance methods "to each Meta SMP user in the Settling States."

Note the scope: each user, not each teen. Every person on Facebook and Instagram across 51 jurisdictions passes through an age-assurance system.

Technology. No single technology is mandated. The agreement lists both ID verification and facial age estimation as available methods and provides that the parties may confer on alternatives if neither meets the accuracy standards. It does not prohibit the requirement of government identification. The choice of method is Meta's.

Accuracy thresholds and testing. Commercially available methods must meet or fall below false-positive rates of 10 percent for minors aged 16 to 17 and 3 percent for minors aged 13 to 15 within one year. Meta's proprietary methods have a two-year glide path: 14 percent and 7 percent in year one, 10 percent and 5 percent in year two. "Any Age Assurance Method adopted by Meta as part of its Age Assurance Framework must be tested annually by an accredited third party."

Under-13 detection. Within six months, Meta must maintain or implement methods to detect users under 13, including "soft-matching models" to identify other accounts likely to belong to the same person. Within one year, Meta must "develop, train, and conduct initial testing of an age assurance model prototype designed to predict whether users on Meta SMPs are under the age of 13." It is a prototype requirement, not a deployed-model requirement.

The presumption clause, stated precisely. Inside Meta's under-13 enforcement process, when determining whether to checkpoint a user, the agreement directs: "In the absence of indicia concerning the user's age or age status, Meta shall presume that the user is U13, unless there is reliable evidence that the account was reported by a malicious actor."

The presumption operates within an already-triggered enforcement review. It is not a general rule applied to any user whose age cannot be determined. Accounts identified as under 13 are checkpointed, enter enforcement, and can ultimately be removed and deleted. After that, Meta must review the deleted user's friend network for additional underage accounts.

Users whose age has not been assessed. For the first fourteen days, users who state they are under 18 are treated as teens, and users who state they are 18 or older are subject to restrictions intended to deter potential adult bad actors. Fourteen days or more after account creation, users who have not had their age assessed are treated as Teen Users regardless of their stated age.

Anti-circumvention. Users may attempt an affirmative age assurance method no more than three times in 24 hours, four times in a month, and six times in two years.

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Data. Age assurance data must be “held for the minimum period required to determine a user’s age status and thereafter immediately enqueued for deletion.” Data from known under-13 users may be retained only to develop, train, and test the under-13 model, and cannot be used for advertising or algorithmic optimization.

Appeals. “Users claiming to have been mis-identified as minors must be offered a Clear and Conspicuous means to appeal the decision. Decisions on all user appeals must be made in a timely manner and communicated to the user along with a basis for the decision.”

The standard is “timely.” There is no fixed deadline and no independent reviewer named.

Duration and the industry contingency

Most obligations expire ten years after the effective date; the agreement defines the “Agreement Term” as “10 years from the Effective Date except as otherwise specified.” The night access mode and the daily time limit run for five years, extending to ten only upon “Industry-Wide Adoption.”

The agreement defines “Core Industry Members” as **Snap, TikTok, and YouTube**. Meta’s public materials name only TikTok and YouTube, dropping Snap. Industry-Wide Adoption requires all Core Industry Members and any new entrants to implement substantively equivalent obligations through a binding settlement, equivalent law, or voluntary implementation verified by an independent audit.

The contingent payment has a second condition that explains Meta’s public framing. Release of the contingent tranche requires not only Industry-Wide Adoption, but that all Core Industry Members **with annual profits above $10 billion** become subject to an equal or greater monetary obligation. That threshold is a plausible explanation for why Meta’s public call names TikTok and YouTube and omits Snap.

If triggered, the limits tighten: 60 minutes per app with a 120-minute cumulative cap, and Night Mode expanding to 10 p.m. through 7 a.m. The contingent payment is roughly $4.91 billion by Connecticut’s count and roughly $5.3 billion by Meta’s.

Oversight and enforcement

The settlement provides for independent third-party oversight of Meta’s compliance. Meta and the State Committee must jointly select an independent auditor, who will have access to relevant non-privileged information and systems to evaluate compliance with the settlement’s injunctive requirements.

The settlement requires annual reporting on Meta’s enforcement of its under-13 requirements, including an independent review of Meta’s reported U13 enforcement figures. It also requires annual third-party testing of applicable age-assurance methods.

The Independent Auditor’s term should be understood to end after its fifth final report; references to a ten-year period in some reports relate to other settlement obligations, not the auditor’s engagement. **Note the consequence: most obligations run ten years, while the audit covers roughly five. The back half of the term is unaudited.**

Enforcement authority remains with the settling states and the court. The settlement does not expressly create a private right of action for third parties. We have identified no stipulated monetary penalties that automatically apply for noncompliance with the injunctive requirements; therefore, we should not characterize the settlement as imposing such penalties. This is distinct from the monetary obligations expressly required under the settlement.

Sections IV and V address the scope of the states' release and parity/MFN provisions that may affect Meta's obligations based on qualifying subsequent settlements. Section VI establishes substantial monetary obligations, including guaranteed and contingent installment payments. These should not be characterized as automatic monetary penalties for future noncompliance. Section VIII establishes dispute-resolution procedures, while the consent judgment provides for judicial enforcement.

What it does not resolve

Roughly 3,300 personal-injury cases in the California coordinated proceeding, JCCP 5255, before Judge Carolyn B. Kuhl, with three additional bellwether trials reported for late October 2026.

Several thousand more personal-injury cases are pending in the federal MDL. Published tracker counts for the MDL range from roughly 2,900 in July 2026 to roughly 3,100 in August 2026; these come from litigation trackers we could not independently verify, and NBJC should not cite a specific MDL figure.

Roughly 1,200 school district cases, with bellwethers reported for February 2027.

Florida's action.

New Mexico's judgment is already final.

The settlement creates no consumer fund. The money goes to the states, not to families. No child gets a check, and no family gets a claim out of this.

III. THE DECISIONS THAT CAME FIRST

The settlement did not arrive out of nowhere. Three findings preceded it, and two of them were rendered by juries.

March 24, 2026—Santa Fe. A New Mexico jury found 75,000 violations of the state's Unfair Practices Act and imposed the statutory maximum of $5,000 per violation: $375 million. *State of New Mexico, ex rel. Raúl Torrez v. Meta Platforms, Inc.*, No. D-101-CV-2023-02838, First Judicial District Court, before Judge Bryan Biedscheid (New Mexico Department of Justice, 2026a). Two years earlier, on May 30, 2024, the same court had denied Meta's motion to dismiss and rejected its claim of immunity under Section 230.

March 25, 2026—Los Angeles. A jury found Meta and Google/YouTube liable for negligence and negligent failure to warn—the first case of its kind in the United States to reach a jury verdict—in the coordinated proceeding *Social Media Cases*, JCCP 5255, before Judge Carolyn B. Kuhl (*P.F. v. Meta Platforms, Inc.*, 2026). Damages totaled $6 million: $3 million compensatory and $3 million punitive, apportioned 70 percent to Meta ($4.2 million) and 30 percent to Google ($1.8 million). The jury also found the defendants acted with malice, oppression, or fraud, the California predicate for punitive damages. Snap settled out in late January 2026, and TikTok on January 29, the night before jury selection.

YouTube's trial defense was that it is not social media at all; its counsel told the jury in his opening statement, "It's not social media addiction when it's not social media and it's not an addiction." The jury rejected that. After the verdict, Google's spokesperson José Castañeda said, "We disagree with the verdict and plan to appeal. This case misunderstands YouTube, which is a responsibly built streaming platform, not a social media site." On June 9, 2026, Judge Kuhl denied both companies' post-trial motions and let the verdict stand.

August 6, 2026—Santa Fe. Judge Biedscheid entered final judgment adding a $567 million abatement fund on public nuisance grounds, bringing New Mexico's total to $942 million (New Mexico Department of Justice, 2026b). The fund allocates $420 million to treatment, $90 million to screening and assessment, $33 million to awareness and prevention, $15 million to referral and coordination, and $9 million to implementation and evaluation, over a five-year abatement period. The injunctive relief the New Mexico Department of Justice describes includes rigorous age verification for New Mexico users, an under-13 prediction model within two years, deletion of personal information collected on users under 13, a reporting portal built with schools and child safety organizations, elimination of overnight push notifications to minors, mandatory time-use limits, hidden like counts, prominent risk disclosures, funding for a statewide education campaign, law enforcement training on internet crimes against children, and semiannual public compliance reports.

Attorney General Raúl Torrez: "Meta built products it knew would fuel addiction, deepen a youth mental health crisis, and expose children to sexual exploitation, then lied to parents and policymakers about the danger."

According to reporting in the *Santa Fe New Mexican*, Meta moved on or about August 20 to stay enforcement pending appeal, proposing a $1.8 billion bond, and New Mexico did not oppose. As of that reporting, Meta had not yet filed a notice of appeal; the deadline is roughly September 5, 2026. Under the opinion's own terms, posting a supersedeas bond tolls the five-year abatement period. *(Single-sourced and paywalled; verify before public use.)*

One more finding belongs in the record. In October 2025, Judge Yvonne Williams of the Superior Court of the District of Columbia applied the crime-fraud exception to the attorney-client privilege and ordered Meta to disclose four documents created between November 2022 and July 2023, finding that Meta's lawyers had advised employees to "remove," "block," "button up," or "limit" portions of internal studies on social media's effect on adolescent mental health in order to reduce legal exposure. The ruling addressed the advice, not whether Meta followed it. Meta's response: "These were routine, appropriate lawyer-client discussions and contrary to the District's misleading claim, no research findings were deleted or destroyed."

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New Mexico's objection to the national deal

New Mexico's attorney general has said publicly that the multistate settlement is weaker than what his state won at trial.

Torrez to *Fortune*: "We had hoped a nationwide settlement might echo the full strength of the protections New Mexico secured in court—including a direct ban on romantic and sexualized AI chatbot interactions with minors and stronger safeguards against adults targeting kids in private messages. But this settlement still represents real progress and adds momentum to finish the job of protecting kids online" (Gioino, 2026).

On the case for congressional action, he added: "Parents and families are done waiting" (Gioino, 2026).

The second half of his objection is corroborated by the agreement's own text. Direct messaging is explicitly excluded from the covered platforms, and the only messaging obligation is a notice requirement rather than a ban on contact. An independent analysis of the New Mexico decree confirms it carries both protections: the judgment requires Meta to "prevent users under 18 from engaging in romantic or sexualized interactions with chatbots" and to "never recommend minors to adult users for connection" (Zweifel-Keegan, 2026). Neither appears in the settlement's published terms.

Reporting on New Mexico's injunction, including the *Santa Fe New Mexican* and an Associated Press roundup, also describes a cap of 90 hours per month on under-18 use cumulatively across Facebook and Instagram, roughly three hours a day. *(The full opinion text was not retrievable past paragraph 132; attribute these terms to the reporting rather than asserting them as the court's language.)*

IV. WHAT THIS MEANS FOR META AND FOR THE INDUSTRY

For Meta, the settlement converts an existential trial risk into a scheduled expense. A guaranteed roughly $12 billion over ten years, against a company that reported $60.8 billion in revenue in a single quarter, is material but survivable. Meta's shares rose as much as roughly 4 percent intraday on the announcement, then gave back most of the gain once the $10 billion charge registered, closing up about a point; the stock closed down the following day. Meta admits nothing, preserves its position that its platforms are not responsible for the youth mental health crisis, and keeps personalized recommendations and targeted advertising intact.

For the industry, the more significant effect is structural. Roughly 30 percent of the payment is released only if Snap, TikTok, and YouTube adopt substantively equivalent obligations, and only if those with more than $10 billion in annual profits take on an equal or greater monetary obligation. Meta now has several billion dollars of direct financial interest in its competitors, accepting a standard Meta helped write. Meta's chief legal officer, C. J. Mahoney, has said so openly: "Because teens move fluidly across dozens of apps, we need an industry-wide solution. We therefore call on our industry peers, TikTok and YouTube, to implement this new framework, right away" (Meta, 2026).

A settlement provision that pays one company for its competitors' regulatory compliance is a novel instrument, and it means the terms of this agreement can become the de facto national standard without Congress voting on any of them.

And the compliance burden is calibrated to Meta's scale. Annual accredited third-party testing of age assurance methods, a bespoke under-13 prediction prototype, and a six-hour response window on 90 percent of reports are achievable at that scale.

This settlement binds no one but Meta. Its only reach beyond Meta is the contingency aimed at Snap, TikTok, and YouTube. Unfortunately, it does not include some of the useful pre-settlement child safety features Meta has already implemented (the creation of Teen versions of Instagram and Messenger, mental health and safety hubs on Facebook that we were proud to help strengthen, existing improved parental controls we've had the chance to help strengthen without removing LGBTQ+ affirming content, violent content exclusions, sex trafficking protections, proactive self harm support, parent access to chat and kid accounts, and more) and does not reach the safety measure standards that advocates have long pushed for Congress to legislate.

The risk is not the settlement. The risk is the settlement becoming the template for the next round of state actions, and for whatever Congress finally passes. If it does, the same obligations will land on platforms with a few dozen employees to manage system wide implementation, including the LGBTQ+-specific and community-built spaces that exist precisely because the large platforms failed the people in them. That is a foreseeable consequence, and it is one NBJC should name now rather than after the fact.

For state enforcement, the effect is mixed. Forty-seven states plus the District of Columbia and three territories now have a decade of commitments they did not have to try a case to obtain. Florida, New Mexico, and Texas took different paths, and New Mexico's shows that a state willing to try its case can win terms the coalition did not.

V. WHAT THIS MEANS FOR YOUNG PEOPLE

The general case for the settlement

The design changes address real, documented harms. Compulsive use, engagement metrics that turn adolescence into a scoreboard, filters that teach children their faces need surgical correction, and adult strangers reaching minors unannounced are not abstractions. Two juries found Meta liable. A judge found that its lawyers advised employees to limit the research.

Young people did not build these systems and did not consent to them. Requiring a company to design for something other than maximum time-on-app is a defensible use of state power, and NBJC should say so.

The specific risk to the young people we serve

Two mechanisms in this settlement operate directly on how Black LGBTQ+ and same-gender-loving young people find affirming community and information.

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First, where these young people actually find affirmation.

The Trevor Project's 2025 U.S. National Survey on the Mental Health of LGBTQ+ Young People, fielded March 4 through October 15, 2025, with 16,667 respondents ages 13 to 24, asked where young people find supportive spaces (Nath et al., 2026):

Space	Share identifying it as supportive
Online	77%
School	57%
Home	52%
Work	44%
Community events	36%
Worship	5%

Online is the most commonly affirming space by twenty points over school and twenty-five over home.

The Trevor Project's September 2025 brief on online experiences found that 65 percent of LGBTQ+ young people go online to connect with people because it is difficult to find others to relate to in their daily lives. The 7 percent who did not feel safe and understood anywhere on the internet reported markedly worse outcomes than their peers: anxiety at 75 percent versus 65 percent for youth who felt safe and understood somewhere online, depression at 63 percent versus 52 percent, and past-year suicidal consideration at 47 percent versus 38 percent (The Trevor Project, 2025).

Second, the parental consent assumption.

Most of the protective defaults in this settlement can be modified only by a "Supervising Parent." Loosening the daily time limit requires a parent. Moving Night Mode to a less restrictive setting requires a parent. Changing the like-count default requires a parent. A parent can also enable a non-personalized feed and school-hours access restrictions on a teen's behalf.

The Trevor Project's February 2024 brief on discrimination among Black LGBTQ+ young people, drawing on 2023 survey data from 1,504 Black respondents, found that among those who experienced discrimination and received support, 7 percent named a parent or caregiver, and 43 percent named friends. The same brief found that 21 percent of Black transgender, nonbinary, or questioning young people reported a past-year suicide attempt, and that 83 percent of them experienced at least one form of discrimination in the past year (The Trevor Project, 2024).

The 2025 survey found Black LGBTQ+ young people reported a past-year suicide attempt at 19 percent, tied with Middle Eastern and North African young people for the highest rate measured, against 8 percent for white peers (Nath et al., 2026).

A parental-consent architecture is a good design for a young person with an affirming parent. For a young person whose parent is the source of the harm, it hands the key to the wrong person.

Third, the documentation gap.

The Electronic Frontier Foundation's December 2025 analysis of age verification found that 18 percent of Black adults do not have a driver's license, that approximately 2.6 million adult U.S. citizens lack any government-issued photo identification, and that 43 percent of transgender Americans in states with in-person voting lack identity documents that correctly reflect their name or gender. EFF also reports that facial age estimation is "less accurate for people with Black, Asian, Indigenous, and Southeast Asian backgrounds," and "often misclassif[ies] those adults as being under 18" (Alajaji, 2025).

Black transgender people sit at the intersection of both gaps. No other national organization is positioned to make that argument with NBJC's authority, and no other organization has made it.

A note on where the evidence runs out. There is no published study of facial age estimation accuracy for transgender people. NIST's authoritative 2024 age estimation evaluation does not contain the word "transgender." The vendor Meta has used for facial age estimation derives its own gender variable, in its own words, from "the subject's uploaded identity document," which means its fairness testing cannot detect a trans-specific error pattern by construction.

Fourth, this is not hypothetical. It has already happened, on this platform, in this kind of system.

In January 2025, reporting by Taylor Lorenz documented that Instagram had for months blocked LGBTQ+ search terms from teen accounts—including #lesbian, #bisexual, #gay, #trans, #queer, #nonbinary, and #pansexual—under Meta's "sensitive content" policy aimed at sexually suggestive material. Meta later characterized it as a mistake (Lorenz, 2025). *Fast Company*, *The Advocate*, and *Metro Weekly* corroborated the reporting.

The mechanism is the point. A teen-account safety system classified LGBTQ+ identity terms as sexual content and removed them from discovery.

The pattern is older than Instagram. In March 2017, YouTube's Restricted Mode hid LGBTQ+ creators' videos; YouTube acknowledged that "some videos have been incorrectly labeled and that's not right."

Fifth, verification infrastructure leaks.

In June 2024, *404 Media* reported that administrative credentials for the identity verification company AU10TIX had been exposed online for more than a year, giving access to names, dates of birth, nationalities, identification numbers, and images of identity documents. Its clients included TikTok, Uber, and X (Cox, 2024).

In October 2025, Discord disclosed that a third-party vendor handling its age-verification appeals had been breached; as many as 70,000 users may have had government identification photos exposed (Silberling, 2025).

And in the setting closest to our work, the Center for Democracy and Technology found that among LGBTQ+ students at schools that monitor student activity online, 29 percent reported that they or someone they know has been outed by that technology. CDT also found LGBTQ+

students more likely than peers to be disciplined as a result of that technology and to be contacted by law enforcement (Laird & Spitler, 2022).

That 29 percent is the empirical bridge between "age verification" and "danger to young people without affirming families." **Identity infrastructure deployed for safety outs children.**

Sixth, on algorithms, we should be careful.

Two high-quality randomized studies exist on algorithmic versus chronological feeds. Guess and colleagues found that switching Facebook and Instagram users to reverse-chronological feeds substantially decreased time on platform and increased exposure to political and untrustworthy content, without significantly changing attitudes over three months (Guess et al., 2023). Gauthier and colleagues found that switching from chronological to algorithmic feeds increased engagement and shifted political opinion, and that the effects of algorithmic exposure persisted after the algorithm was removed (Gauthier et al., 2026).

Neither study examines marginalized youth finding community. Qualitative work exists on how LGBTQ+ young people experience algorithmic curation (Chen & Taylor, 2026), but no randomized experiment has tested whether removing algorithmic recommendations helps or harms a young person's ability to find people like them. The intuitive claim—that algorithms help isolated LGBTQ+ young people find community—is currently unsupported by experimental research, and so is its opposite.

The honest position, and the stronger one, is that policymakers are legislating ahead of the evidence, and that the research to answer this question has not been done.

VI. THE CHILLING EFFECT WE HAVE ALREADY LIVED THROUGH

NBJC's caution about implementation is not speculative. It is drawn from a pattern we have documented in schools for four years.

Florida's HB 1557, enacted in 2022 and extended through twelfth grade by a 2023 State Board of Education rule, restricted classroom instruction on sexual orientation and gender identity. The challenge to it was twice dismissed on standing, and in March 2024, while the case sat on appeal at the Eleventh Circuit, the state settled and formally clarified that the law does not prohibit teachers and students from discussing LGBTQ+ identity, does not prevent anti-bullying measures, does not disallow Gay-Straight Alliance groups, and does not reach library books that are not being used for instruction (*Equality Florida v. DeSantis*, 2024). No court ever struck the law down. It remains the law in Florida and still prohibits instruction on sexual orientation and gender identity through twelfth grade.

The settlement is itself evidence of the chilling effect. Everything the state had to clarify describes conduct schools had already stopped—because they believed the law required it, and it never did.

Equality Florida documented specific instances in its own intake records, in the months after the bill was signed in 2022: Palm Beach County's superintendent, Mike Burke, circumvented the

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district's material review process to remove multiple books featuring LGBTQ characters and issued guidance to place challenged books "in a classroom closet"; Orange County administrators at implementation seminars "were advised to begin removing rainbow 'safe space' stickers from classroom windows," and educators were told to remove family photos from their desks and "avoid talking about their loved ones at work"; graduation speeches were "scrubbed of references to LGBTQ advocacy"; yearbook images of Don't Say LGBTQ walkouts were blacked out. By that summer, Equality Florida had logged more than 50 censorship complaints (Equality Florida, 2022). These are an advocacy organization's own intake records, single-sourced, and should always be attributed to Equality Florida rather than presented as independent facts.

A bill does not have to pass to empty a room. It only has to be plausible. Alabama's HB 244 stalled and never became law, and teachers there still describe books coming off shelves, displays disappearing, and lessons quietly changing while it was pending. As the educator who collected those accounts put it: "The bill failed. The fear succeeded" (Miller, 2026).

The pattern continues. The Movement Advancement Project, whose curricular-law citations were last reviewed June 25, 2026, counts 12 states with "Don't Say LGBTQ" censorship laws—Alabama, Arkansas, Florida, Idaho, Indiana, Iowa, Kentucky, Louisiana, North Carolina, Ohio, Texas, and West Virginia—and 19 states with some form of restrictive LGBTQ+ curricular law (Movement Advancement Project, 2026). Four of the twelve were enacted in 2025. This is accelerating. *(These two figures measure different things and must never be conflated.)*

PEN America counted 6,870 instances of book banning in the 2024-2025 school year across 23 states and 87 districts, affecting 3,752 unique titles, bringing the four-year total to 22,810 bans across 45 states and 451 districts (Baêta et al., 2025).

The results are visible in Glisten's 2025 National School Climate Survey, released April 1, 2026 and drawn from 2,800 LGBTQ+ students surveyed between April and October 2024—the thirteenth edition of the survey and the same instrument whose 2017 data anchored my dissertation. Sixty-seven percent of LGBTQ+ students felt unsafe at school. Sixty-two percent received no LGBTQ+ content in any class. Forty-eight percent of LGBTQ+ students of color experienced harassment based on race or ethnicity, on top of the harassment they face for who they love and how they understand their genders. Sixty-eight percent reported that their school had a GSA or similar club, and GSA presence was associated with lower absenteeism, higher grades, and a stronger sense of belonging (Glisten, 2026).

This is the connection between the school fight and the platform fight. When adults strip affirming spaces from schools, young people look elsewhere. Online is where they go. It is why 77 percent of them name online spaces as supportive and only 57 percent name school.

A safety architecture that narrows the online pathway, at the same time, the in-person pathway is being narrowed by state law, does not leave young people with a safer set of options. It can leave them with fewer.

One caveat for our own discipline: we could not locate any published research that isolates the effect of state laws on GSA availability.

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VII. THE RESEARCH FROM OUR OWN WORK

NBJC does not need to borrow this argument. We have already made it.

My dissertation, *By Any Means Necessary: Supporting the Learning & Development of Black LGBTQ+ Public School Students in the United States* (Teachers College, Columbia University; committee: Aaron Pallas, Amy Stuart Wells, and Juan Battle), analyzed GLSEN's 2017 National School Climate Survey—a full sample of 23,001 LGBTQ+ middle and high school students, with 1,534 Black respondents—alongside interviews with Black LGBTQ+ students (Johns, 2022).

Three findings bear directly on this settlement.

One. Of the roughly 1,530 Black students who answered the question about program availability, more than half—888 respondents—reported being unaware of any program or group in their area. Not that they declined to attend. That they did not know one existed.

Two. Black LGBTQ+ and same-gender-loving students benefit from participating in informal educational programs and activities, a category that expressly includes GSAs, and most do not have access to them. Participants described violent and traumatic experiences beginning as early as first grade, and did not reach an affirming program until high school, if at all.

Three, and most relevant here: digital media platforms are useful for helping Black LGBTQ+ and same-gender-loving students and their families find programs, activities, and communities (Johns, 2022).

That third finding is the whole argument. For the young people who are the subject of this research, the platform is not an alternative to the affirming program. It is how they find the affirming program. Discovery is the function at issue, and discovery is what age gates and feed restrictions act upon.

The dissertation's opening claim is also the frame for our public position: "Black queer students did not ask to be born into a society where being both Black and queer are associated with stigma and related burdens that they are not responsible for creating." And: "Children do not ask to be born. They do not have a hand in shaping the cultural, social, and political conditions associated with race, gender, sexual orientation, gender identity, and expression."

NBJC's advocacy has followed from that claim, including our long-standing work with Glisten, formerly GLSEN, which partnered with NBJC on *Erasure and Resilience: The Experiences of LGBTQ Students of Color—Black LGBTQ Youth in U.S. Schools* (Truong et al., 2020), and our work to protect GSAs and other affirming spaces from suffocation by anticipatory fear.

Finally, NBJC's Black FACTS research, conducted with HIT Strategies and released in June 2024, tested which messages move Black audiences. Messages about the mental health of Black LGBTQ+ and same-gender-loving youth were the most compelling of those tested, and a majority of Black respondents reported concern about youth suicide after being shown data on the heightened rate among Black LGBTQ+ youth (National Black Justice Collective & HIT

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Strategies, 2024). Social media platforms that remove inclusive content can increase the isolation and exclusion our young people already experience offline.

VIII. WHAT CONGRESS HAS AND HAS NOT DONE

Congress has not enacted youth online safety legislation.

The Senate passed S. 2073, the combined Kids Online Safety and Privacy Act that pairs KOSA with COPPA 2.0, by a 91-3 vote on July 30, 2024. The House declined a floor vote, and the bill died with the 118th Congress. Senator Blumenthal reintroduced KOSA as S. 1748 in May 2025. It stalled in Senate Commerce despite more than 75 cosponsors.

The situation now is more urgent than a stall. On June 29, 2026, the House passed H.R. 7757, the Kids Internet and Digital Safety Act, by a vote of 267 to 117, after the Energy and Commerce Committee advanced it on March 5. The House bill removed KOSA's duty of care. Senator Blumenthal: "The House passed a version which is basically toothless and a pale imitation of what we need in KOSA to protect children" (Hagen, 2026).

On August 5, 2026—three weeks ago—the Senate Commerce Committee approved KOSA by voice vote with the duty of care intact. A duty of care in the social media context is a legal and ethical obligation requiring tech companies to design and manage their platforms to protect users, especially minors, from foreseeable physical or psychological harm.

So the two chambers have now moved bills that differ on precisely the provision that determines whether the law has force. That is the fight waiting for the Senate floor.

COPPA 2.0 is not law. No comprehensive federal privacy statute exists.

On the LGBTQ+ movement's own record, precision matters. On February 15, 2024, seven national LGBTQ+ organizations—GLAAD, GLSEN (now Glisten), the Human Rights Campaign, PFLAG National, the National Center for Lesbian Rights, the National Center for Transgender Equality, and the Trevor Project—announced they would not oppose KOSA's passage after two amendments: narrowing the duty of care to product design features rather than content, and moving enforcement of that duty from state attorneys general to the FTC. That was a withdrawal of opposition, not an endorsement, and it took place before the current administration took an openly hostile position toward our communities. Reporting it as support would misstate the record.

Several state, local, and trans-led organizations did not shift, and their objection has aged well: a federal standard's meaning depends on who enforces it, and they had watched their own legislatures weaponize ambiguous language.

NBJC's own position on the record. On December 2, 2025, NBJC led a coalition urging Congress to reject the Senate's then-current version of the Kids Online Safety Act, warning that vague duty-of-care standards would pressure platforms into over-policing protected speech. Signatories included the Center for Black Equity, COLAGE, GLISTEN, LGBT Tech, the National LGBTQ Task Force Action Fund, and Our Family Coalition (National Black Justice

Collective, 2025). As I said then: "Protecting our babies should never be a pretext for erasing them."

That position and the one below are consistent, and the distinction is worth stating plainly. Our objection has never been to a duty of care as such. It is to a duty of care written vaguely enough that a hostile FTC could aim it at our content. The asks that follow describe what a duty of care would need to contain for us to support it.

The courts, meanwhile, have moved. In *Free Speech Coalition, Inc. v. Paxton* (2025), decided June 27, 2025, the Supreme Court upheld Texas's age-verification requirement for sites hosting material harmful to minors, applying intermediate scrutiny and holding that "adults have no First Amendment right to avoid age verification." The ACLU's Vera Eidelman noted the limit: "Today's decision does not mean that age verification can be lawfully imposed across the internet."

On July 6, 2026, the Supreme Court declined on the emergency docket to block Texas's App Store Accountability Act, SB 2420, allowing it to take effect (*Students Engaged in Advancing Texas v. Paxton*, 2026). That law gates the app ecosystem behind parental consent. This was not a merits ruling, and it should not be described as the Court upholding the law; the Fifth Circuit heard argument on the merits on August 4, 2026.

On June 18, 2026, the Sixth Circuit upheld Ohio's parental-notification law in *NetChoice, LLC v. Yost* (2026), holding that NetChoice lacked third-party standing to assert minors' First Amendment rights and that the law survives strict scrutiny.

That standing holding creates an opening. Courts are signaling that tech trade associations may not be the right plaintiffs to speak for young people's rights. Youth-serving and civil rights organizations may be.

IX. NBJC'S POSITION

We support accountability, and we say so without qualification. Two juries found Meta liable. A jury found 75,000 violations of New Mexico's Unfair Practices Act. A judge applied the crime-fraud exception to Meta's own privileged communications about internal research on adolescent harm. A company that built products it knew were harming children, and told parents otherwise, should pay and should change. This settlement is a real achievement by the attorneys general who tried it.

We say equally clearly that a settlement is not a law. It binds one company. It omits three states. It expires. It is enforceable only by its parties. It creates no rights for any family and no remedy for any child through the funds secured by the states. Congress has had four years, a 91-to-3 Senate vote, and committee approvals in both chambers, and has enacted nothing, while the bill the House did pass this June stripped out the duty of care. The absence of federal legislation is why a single company's negotiated terms are becoming the national standard for how tens of millions of young people experience the internet.

Only Congress can set a durable national floor. NBJC calls on Congress to enact youth online safety legislation that creates a meaningful duty of care and pairs it with comprehensive federal privacy protections that this country still lacks. Specifically, Congress must:

1. **Reject age-verification requirements that force every user to hand over government identification.** Require privacy-preserving alternatives, data minimization, purpose limitation, mandatory automatic deletion, and reject the usage of faulty facial recognition software.
2. **Create science-based definitions of "harmful to minors,"** tied to established child-development and medical standards, not left to the discretion of political appointees, and not vague enough to ban LGBTQ+-affirming or health education content.
3. **Incorporate a nondiscrimination limit on any duty of care, with an appeals process,** so that platforms' safety obligations cannot be applied to discriminate against protected speech or lawful health and identity content.
4. **Ensure redress and appeal rights** for users who are age-gated, demonetized, or removed, directly addressing documented harms from shadowbanning and demonetization.
5. **Include a structural seat, not merely consultation,** with formal youth, LGBTQ+, and civil rights representation on any advisory body or rulemaking process touching content moderation, data privacy, or artificial intelligence.

We ask that implementation not cut young people off from the spaces where they find themselves. Age assurance applied to every user, with an appeal process that has no fixed deadline and no independent reviewer, built on facial estimation technology that misreads Black faces, in a country where 18 percent of Black adults have no driver's license, and 43 percent of transgender people have no accurate identity documents, is a system with a predictable failure mode. We have already watched Instagram's teen safety system classify LGBTQ+ identity terms as sexual content. We have already watched 29 percent of LGBTQ+ students at monitored schools be outed by that technology. We are not raising a hypothetical.

We ask that rules written for the largest platforms be written so they scale down. This settlement binds Meta alone, and its contingency reaches only Snap, TikTok, and YouTube. But it is the most likely template for whatever Congress passes and for the next round of state enforcement. Obligations calibrated to a company at Meta's scale will not fit a platform with a few dozen employees, including the community-built platforms our communities rely on because the large platforms failed them. Obligations should be proportionate to size and resource, with safety as the standard rather than headcount.

We ask for a seat at the implementation table. This settlement will be implemented by an independent auditor, the settling attorneys general, and Meta's product teams. None of those bodies is required to include anyone accountable to the young people most likely to be harmed by getting this wrong. Civil rights organizations should be at that table, and Black LGBTQ+ and same-gender-loving young people should be consulted about systems built to govern their access to community.

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X. POSSIBLE NEXT STEPS

1. **File or join a statement of interest before Judge Gonzalez Rogers enters the consent judgment.** The court has not approved the settlement. This is the only window in which the age assurance provisions can be addressed before they bind 51 jurisdictions for a decade. Coordinate with the Lawyers' Committee for Civil Rights Under Law.

2. **Press the age assurance appeal process specifically.** Ask the settling attorneys general to commit publicly to a defined appeal deadline, independent review, and published error-rate data disaggregated by race and gender identity. Also raise the accuracy asymmetry: the proprietary false-positive floor for 13-to-15-year-olds is looser than the commercial one. These are narrow, concrete, winnable asks.

3. **Extend the August 26 Meta meeting.** Our Director of Public Policy and Programs has already met with Meta's civil rights team on the teen safety standards. Convert that into a standing implementation consultation, and continue the follow-up through Blueprint, asking whether Google and YouTube will meet or exceed these safeguards, and extend the same ask to TikTok and Snap—which the contingency structure now gives Meta its own reason to want.

4. **Move on KOSA now.** The Senate Commerce approval is three weeks old, the House has already passed a bill without a duty of care, and reconciling the two is the live fight. Frame NBJC's position for the CBC Annual Legislative Conference and OUT on the Hill in September.

5. **Fund the research that does not exist.** No published study addresses whether algorithmic or chronological feeds affect a marginalized young person's ability to find community; none isolates the effect of state curricular laws on GSA availability; and none measures facial age estimation accuracy for transgender people. NBJC, with Glisten and our research partners, is positioned to ask all three questions and should press the settling states to fund independent research as part of implementation.

XI. WORK WITH US

None of this gets fixed by one organization writing one memo.

The window before Judge Gonzalez Rogers enters this consent judgment is the only one in which the age assurance provisions can still be shaped. After that, they govern how tens of millions of young people reach the internet for the next decade, and the bodies implementing them—an independent auditor, a committee of state lawyers, and Meta's product teams—include no one accountable to the young people most likely to be harmed if this is built badly.

We are looking for partners on four fronts: organizations willing to join a statement of interest before the court; researchers who can answer the questions nobody has funded, including whether algorithmic curation helps or harms a marginalized young person's ability to find community; state and local groups tracking how age assurance lands in their communities; and platforms built by and for our people, who will feel this standard hardest if it becomes the national template.

If that is your work, we want to hear from you. **Victoria Kirby York**, NBJC's Director of Public Policy and Programs, is leading this portfolio and is the right first conversation. Reach her at vkynbjc@gmail.com.

And if you are reading this as an individual rather than an institution, the fastest way to be useful is to be reachable when the moment comes. Sign up for NBJC's action alerts at **nbjc.org/nbjc-action-hub** and we will tell you when a comment period opens, when a bill moves, and when your senator needs to hear from you.

Our young people did not consent to the worlds built around them. The least we owe them is to be in the room when the next one is designed.

Sincerely,

Dr. David J. Johns

Chief Executive Officer and Executive Director

National Black Justice Coalition

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