

ACLU: Wisconsin judge dismisses case aiming to out transgender and nonbinary students without their consent

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MADISON — The Dane County Circuit Court last Wednesday dismissed a challenge to Madison Metropolitan School District (MMSD) guidance that protects students' ability to use different names or pronouns at school without being forcibly outed by school employees.

The national American Civil Liberties Union (ACLU) and the ACLU of Wisconsin, with pro bono assistance from Quarles & Brady, defended the school's guidance on behalf of three Gender and Sexuality Alliances (GSAs) in the MMSD. The guidance, which advises school officials not to disclose a student's change in pronouns or names without the student's consent, was challenged in 2020 by several anonymous parents. The one remaining plaintiff in the case, represented by conservative legal groups Wisconsin Institute for Law & Liberty and Alliance Defending Freedom, admitted she had no reason to think her child was likely to change their name or pronouns.

On November 23, a judge dismissed the case, ruling that the plaintiff does not have standing because the child's hypothetical chances of changing their name and pronouns without informing the plaintiff were too remote to justify any judicial intervention.

According to an amicus brief previously filed in the case by a group of psychologists who support the district's policy, approximately one-third of transgender youth are rejected by their families after disclosing their identity. Youth rejected by their

families face higher risks of verbal and physical abuse, homelessness, and suicide.

The plaintiff has filed a notice of appeal.

“The ACLU is pleased that the court has dismissed the case brought by the Wisconsin Institute for Law Liberty and Alliance Defending Freedom seeking to impose their values on Madison Schools by forcing staff to out students who use different names and pronouns at school,” said Larry Dupuis, legal director of the ACLU of Wisconsin. “Wednesday’s ruling recognizes that this case was never about the religious or parental rights of the parents recruited to be plaintiffs by WILL and ADF. It was manufactured by those who play on fear and ignorance about gender identity and who would risk the safety of transgender students to advance their ideology. MMSD’s guidance protects the safety and emotional well-being of transgender and gender-expansive students by respecting their decision to not immediately share their use of different names or pronouns with parents who may be hostile toward the LGBTQ+ community. Given the disturbing rise in animosity and bigotry explicitly directed at transgender and other LGBTQIA+ youth, preserving MMSD’s guidance against forced outings is more vital than ever.”

Dupuis continued: “Students should be allowed to explore and disclose their identities on their own terms, in a setting, and in a way that is safe for them. Young people have various reasons for delaying sharing aspects of their identities with their parents – some are not ready yet, while others may reasonably fear rejection, being kicked out of their homes, or psychological or physical abuse, which occurs far too often.”

More information on this case can be found here:

<https://www.aclu.org/cases/does-v-madison-metropolitan-school-district>