

Wisconsin Supreme Court: Allows school policy protecting privacy of transgender and nonbinary students to remain in effect

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MADISON — The Supreme Court of Wisconsin allowed a school policy, which protects the right of students to use different names or pronouns at school without being forcibly outed by school faculty, to stay in effect while the case goes forward in the lower courts. It also rejected the unusual attempt by the plaintiff parents in the case to keep their identity secret from opposing counsel in the case.

The national American Civil Liberties Union (ACLU) and the ACLU of Wisconsin, with pro bono assistance from Quarles & Brady, defended the school policy on behalf of three Gender and Sexuality Alliances (GSAs) in the Madison Metropolitan School District. The policy, which prevents school officials from disclosing a student's change in pronouns or names without the student's consent, was challenged by anonymous parents represented by a conservative law firm.

"If parents are told that their child is using a different name or different pronouns at school without getting consent from the student, it can destabilize the students' lives and potentially put them in danger if they are raised in an environment that is hostile to LGBTQ+ people," said Larry Dupuis, the legal director for the ACLU of Wisconsin.

“Young people have various reasons for delaying sharing aspects of their identities with their parents – some are not ready, some may fear rejection, condemnation, or worse – whatever the reason may be, it should be respected,” said Chris Donahoe, staff attorney for the ACLU of Wisconsin. “The Court’s decision today allows MMSD to continue to protect youth by allowing them to be who they are without fear of being outed against their will, providing them with the freedom and safety to explore their identity on their own terms.”

According to an amicus brief filed by a group of psychologists who support the District’s voluntary disclosure policy, approximately one-third of transgender youth are rejected by their families after disclosing their identity. Youth who are rejected by their families face higher risks of verbal and physical abuse, homelessness, and suicide.

“We are glad that the Supreme Court of Wisconsin’s decision today will permit the Madison Metropolitan School District to continue to protect students by allowing them to choose when they share with their families that they are using a different name or pronouns at school than they were identified as at birth. We’ve seen waves of attacks across the country against transgender students and this is a small step in the right direction toward keeping all Wisconsin students protected, regardless of their gender identity,” said Jon Davidson, senior staff attorney at the ACLU.

More information on this case can be found here: <https://www.aclu.org/cases/-doe-v-madison-metropolitan-school-district>

This release is available online: <https://www.aclu-wi.org/en/-press-releases/supreme-court-wisconsin-upholds-school-policy-protecting-privacy--transgender-and>