

JOHN and JANE DOE 1, JOHN and JANE DOE 2, JANE  
DOE 3, JANE DOE 4, JOHN and JANE DOE 5, JOHN  
and JANE DOE 6, JOHN and JANE DOE 7, JOHN and  
JANE DOE 8,<sup>1</sup>

Plaintiffs,

Declaratory Judgment

Case Code: 30701

Case No. 20-CV-

v.

MADISON METROPOLITAN SCHOOL DISTRICT  
545 West Dayton Street  
Madison, WI 53703,

Defendant.

**COMPLAINT**

Plaintiffs John and Jane Doe 1, John and Jane Doe 2, Jane Doe 3, Jane Doe 4, John and  
Jane Doe 5, John and Jane Doe 6, John and Jane Doe 7, and John and Jane Doe 8, by their  
undersigned attorneys at the Wisconsin Institute for Law & Liberty, hereby allege as follows:

**INTRODUCTION**

1. This action seeks to vindicate parents’ fundamental and constitutional right to direct  
the upbringing of their children. The Madison Metropolitan School District has violated this  
important right by adopting a policy designed to circumvent parental involvement in a pivotal  
decision affecting their children’s health and future. The policy enables children, of *any age*, to  
socially transition to a different gender identity at school without parental notice or consent,

<sup>1</sup> Plaintiffs file this case anonymously, using pseudonyms, as other plaintiffs have done in similar sensitive  
cases. As soon as this Court assigns a case number, Plaintiffs will be filing a motion to proceed using pseudonyms.

requires all teachers to enable this transition, and then prohibits teachers from communicating with parents about this potentially life-altering choice without the child's consent. Even more, the Madison School District directs its teachers and staff to deceive parents by reverting to the child's birth name and corresponding pronouns whenever the child's parents are nearby. These policies violate Plaintiffs' rights as parents.

### **PARTIES**

2. Plaintiffs John and Jane Doe 1 are the parents of three children who attend schools in the Madison Metropolitan School District, two at Frank Allis Elementary School and one at La Follette High School.

3. Plaintiffs John and Jane Doe 2 are the parents of two children who attend Lindbergh Elementary School in the Madison Metropolitan School District.

4. Plaintiff Jane Doe 3 is the mother of three children who attend schools in the Madison Metropolitan School District, one at Lowell Elementary, one at Georgia O'Keeffe Middle School, and one at East High School.

5. Plaintiff Jane Doe 4 is the mother of a child who attends Emerson Elementary School in the Madison Metropolitan School District.

6. Plaintiffs John and Jane Doe 5 are the parents of a child who attends James Madison Memorial High School in the Madison Metropolitan School District.

7. Plaintiffs John and Jane Doe 6 are the parents of a child who attends Thoreau Elementary School in the Madison Metropolitan School District.

8. Plaintiffs John and Jane Doe 7 are the parents of two children who attend Crestwood Elementary School in the Madison Metropolitan School District.

9. Plaintiffs John and Jane Doe 8 are the parents of two children who attend Midvale Elementary School in the Madison Metropolitan School District.

10. Plaintiffs are using pseudonyms to protect their privacy and the privacy of their minor children, and to prevent retaliation against them for raising this sensitive issue.

11. The identities of Plaintiffs and their children are not relevant to the legal issues in this case, so anonymity will not prejudice the Defendant in any way.

12. Defendant Madison Metropolitan School District (“Madison School District” or “District”) is a school district as that term is used in Chapters 115 through 121 of the Wisconsin Statutes. The District adopted the Policy challenged in this case and is training its teachers in accordance with the Policy. The District’s offices and principal place of business are located at 545 West Dayton Street, Madison, WI 53703.

### **JURISDICTION AND VENUE**

13. This is an action for declaratory and injunctive relief under Wis. Stat. §§ 806.04 and 813.01.

14. Venue in this Court is proper pursuant to Wis. Stat § 801.50(2).

### **STATEMENT OF FACTS**

#### **Background on Gender Dysphoria and Treating Children with Dysphoria**

15. “Transgender” individuals believe they have a “gender identity” that does not match their biological sex.

16. “Gender dysphoria” refers to the psychological distress often associated with the mismatch between a person’s biological sex and his or her perceived gender identity. *See* World Professional Association for Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People* at 2 (version 7, 2012), available at [https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care\\_V7%20Full%20Book\\_English.pdf](https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care_V7%20Full%20Book_English.pdf) (“WPATH Guidelines”).

17. Gender dysphoria can be a serious mental-health condition that requires professional help.

18. The causes of transgenderism and gender dysphoria are still largely unknown.

19. Some medical and psychiatric professionals believe that gender dysphoria is driven primarily by social and environmental factors. *See, e.g.,* Kenneth J. Zucker, PhD, Hayley Wood, PhD, Devita Singh, MA, and Susan J. Bradley, MD, *A Developmental, Biopsychosocial Model for the Treatment of Children with Gender Identity Disorder*, 59 *Journal of Homosexuality* 369, 375 (2012), available at [https://www.researchgate.net/publication/223135175\\_A\\_Developmental\\_Biopsychosocial\\_Model\\_for\\_the\\_Treatment\\_of\\_Children\\_with\\_Gender\\_Identity\\_Disorder](https://www.researchgate.net/publication/223135175_A_Developmental_Biopsychosocial_Model_for_the_Treatment_of_Children_with_Gender_Identity_Disorder).

20. Other medical and psychiatric professionals believe that “gender identity” has a biological basis, such that a person can be born with a gender identity different from his or her biological sex.

21. Regardless of who is correct about the underlying causes, multiples studies have found that the vast majority of children (roughly 80–90%) who experience gender dysphoria ultimately find comfort with their biological sex and cease experiencing gender dysphoria as they age (assuming they do not transition). *See* WPATH Guidelines at 11 (listing studies).

22. Given this evidence, and the uncertainty surrounding the underlying causes, there is significant disagreement within the medical and psychiatric community over how to treat gender dysphoria in children. *See, e.g.,* Jesse Singal, *How the Fight Over Transgender Kids Got a Leading Sex Researcher Fired*, *The Cut* (Feb. 7, 2016), <https://www.thecut.com/2016/02/fight-over-trans-kids-got-a-researcher-fired.html>.

23. Many medical and psychiatric professionals believe that children experiencing gender dysphoria can learn to embrace their biological sex and therefore support psychotherapy to help identify and address the underlying causes of the dysphoria.

24. Other medical and psychiatric professionals believe that the best response is to “affirm” a child’s perceived gender identity. *E.g.*, WPATH Guidelines at 16.

25. Some professionals believe that “affirming” a child’s alternate gender identity too quickly can “reinforce” and “solidify” gender dysphoria that otherwise might resolve itself. *Singal, supra.*

26. These professionals further believe that social transitions in particular run the risk of “becom[ing] self-reinforcing,” because “messages from family, peers, and society do a huge amount of the work of helping form” a child’s gender identity. *Singal, supra*; Kenneth J. Zucker, *The Myth of Persistence: Response to “A Critical Commentary on Follow-Up Studies & ‘Desistance’ Theories about Transgender & Gender Non-Conforming Children” by Temple Newhook et al.*, 19:2 Int’l J. of Transgenderism 231 (2018) (“I would argue that parents who support, implement, or encourage a gender social transition (and clinicians who recommend one) are implementing a psychosocial treatment that will increase the odds of long-term persistence.”), available at <https://www.researchgate.net/publication/325443416>.

27. Even among those in the “affirming” camp, there is no consensus on whether children should be allowed or encouraged to transition socially to a different gender.

28. The World Professional Association for Transgender Health (“WPATH”), a transgender advocacy organization that has produced a set of guidelines for transgender care, notes that “[s]ocial transitions in early childhood” are “a controversial issue,” that “health professionals”

have “divergent views” on this issue, and that “[f]amilies vary in the extent to which they allow their young children to make a social transition to another gender role.” WPATH Guidelines at 17.

29. WPATH also notes that there is insufficient evidence at this point “to predict the long-term outcomes of completing a gender role transition during early childhood.” WPATH Guidelines at 17.

30. Given the lack of evidence and divergent views on this sensitive issue, WPATH recommends that health professionals “counsel and support [*parents*],” even if the parents ultimately decide “not [to] allow their young child to make a gender-role transition.” WPATH Guidelines at 17 (emphasis added).

31. While the questions in this area are far from settled, there is significant consensus on one issue—that children with gender dysphoria and their parents can substantially benefit from professional assistance and counseling “as they work through the options and implications.” *See* WPATH Guidelines at 13–17.

### **The Madison School District’s Transgender Policy**

32. In April 2018, the Madison School District adopted a document entitled “Guidance & Policies to Support Transgender, Non-binary & Gender-Expansive Students” (“Policy”). A true and accurate copy of this document is attached as Exhibit 1. The Policy is available online at <https://studentservices.madison.k12.wi.us/files/stusvc/uploads/guidancebooklet.pdf>.

33. The Policy sets forth the Madison School District’s official position on the nature of sex and gender. In a section entitled “Gender 101,” the Policy explains the District’s view that each person has a “gender identity” distinct from his or her biological sex, which “can be the same as or different from their sex assigned at birth.” Policy at 13. According to the Policy, a person’s gender identity can be “male, female, a blend of both or neither” and is determined entirely by “a person’s internal sense of self.” Policy at 13.

34. The Policy repeatedly emphasizes that the Madison School District is committed to “affirm[ing]” each student’s self-designated gender identity, Policy at 1, 13, effectively choosing a side in the debate among medical and psychiatric professionals described above.

35. Furthermore, the Policy declares that the Madison School District “will strive to ... disrupt[ ] the gender binary,” and will pursue this “disruption” through “books and lessons,” “limit[ing] gendered and binary language,” and interrupting and correcting “misconceptions about gender or language that reinforce[ ] the gender binary.” Policy at 24.

36. The District has posted online a list of books and lessons that it recommends for classroom use. *See Books and Lessons*, MMSD Welcoming Schools, <https://sites.google.com/madison.k12.wi.us/mmsd-welcoming-schools/home/for-educators/books-lessons?authuser=0>. One of the books recommended for grades K–5 is “I am Jazz,” a book that teaches children that some people are “born with” “a girl brain, but a boy body.” *Id.*

37. Two recent examples illustrate how the District intends to “disrupt” the “gender binary.” Last May, a Madison elementary school played a teacher’s gender transition video to the entire school, kindergarten through fifth grade. *See Caleb Parke, Wisconsin parents outraged after teacher gives transgender lesson to K-5th grade without permission*, Fox News (June 4, 2019), <https://www.foxnews.com/us/wisconsin-teacher-transgender-parents-lesson>.<sup>2</sup> The teacher in the video reads a book to the children that contains statements like: “Are you a boy or a girl? How can you be both? Some days I am both. Some days I am neither. Most days, I am everything in between,” and “Many people understand that my gender is something for only me to decide.” *Id.*

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<sup>2</sup> The video is available at <https://www.dropbox.com/s/jbj2qi7nmsjd36g/facebook%20vic%20steel%207%20video.mp4?dl=0> (last visited February 10, 2020).

38. On information and belief, between February 3 and February 7, 2020, as part of its “Black Lives Matter week,”<sup>3</sup> the District provided teachers, including kindergarten teachers, with a “Black Lives Matter” coloring book to distribute to their students.<sup>4</sup> One of the pages of that coloring book, a true and accurate copy of which is attached as Exhibit 6, teaches children that “Everyone has the right to choose their own gender by listening to their own heart and mind. Everyone gets to choose if they are a girl or a boy or both or neither or something else, and no one else gets to choose for them.”

39. In addition to setting forth the District’s views on the nature of gender, the Policy also contains a number of specific provisions that interfere with the rights of parents to be fully involved in addressing these issues with their children.

40. Consistent with federal law, 34 CFR §§ 99.3; 99.4; 99.20(a), the Madison School District requires parental consent before students may change their name or gender in the District’s *official* systems. Policy at 18.

41. Nevertheless, the Policy allows students to change gender identity and select a new “affirmed name and pronouns” to be used at school—without updating the official records—“regardless of parent/guardian permission to change their name and gender in [the District’s] systems.” Policy at 18.

42. The Policy requires all teachers and district staff to “refer to students by their affirmed names and pronouns” (as opposed to their actual legal names) and considers “[r]efusal to

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<sup>3</sup> See Negassi Tesfamichael, *Madison teachers prepare to bring Black Lives Matter into the classroom*, (Jan. 28, 2019), [https://madison.com/ct/news/local/education/madison-teachers-prepare-to-bring-black-lives-matter-into-the/article\\_7feb3e61-1c03-5773-8bf9-9a68dd62161b.html](https://madison.com/ct/news/local/education/madison-teachers-prepare-to-bring-black-lives-matter-into-the/article_7feb3e61-1c03-5773-8bf9-9a68dd62161b.html); *Black Lives Matters*, Madison Metropolitan School District, <https://studentservices.madison.k12.wi.us/black-lives-matter>.

<sup>4</sup> The full coloring book is available at <https://blacklivesmatteratschool.com/2019/01/25/the-black-lives-matter-at-school-coloring-book-make-this-years-week-of-action-beautiful/>.



respect a student’s name and pronouns” to be “a violation of the [District’s] non-discrimination policy.” Policy at 18.

43. The Policy then prohibits teachers and other staff from “reveal[ing] a student’s gender identity”—including the student’s new “affirmed name and pronouns” being used at school—“to ... *parents or guardians* ... unless legally required to do so or unless the student has authorized such disclosure.” Policy at 9 (emphasis added); *see also* Policy at 11 (instructing staff “not to ‘out’ students while communicating with *family*[ ]” (emphasis added)).

44. Further, to deceive parents, the Policy directs staff to “us[e] the student’s affirmed name and pronouns in the school setting, and their legal name and pronouns with family.” Policy at 16.

45. The District provides teachers with a form, entitled “Gender Support Plan,” to use if a student expresses a desire to change gender identity at school. Exhibit 2 is a true and accurate copy of this form.

46. The first two questions on the form are “What affirmed name and pronouns will the student use?” and “Is the student using a different name / different pronouns at home?” Exhibit 2 at 1.

47. The form notes that parental consent is required to change name or gender in the *official* records and directs teachers to a different form for that purpose, but then states that “[s]tudents can still use their affirmed name and pronouns in MMSD without parent/legal guardian permission.” Exhibit 2 at 1.

48. Then, in a section entitled “family support,” the form asks, “Will the family be included in developing a gender support plan?” with a blank space for teachers to fill in after making this critical decision. Exhibit 2 at 1.

49. The only guidance for teachers in deciding whether to include parents in developing the “gender support plan” is the question, “Does this student have family support around their gender identity? Is the student supported by some adults in their home life, but not all?” Exhibit 2 at 1.

50. The form does not contain any definition of what qualifies as “support,” but leaves to teachers, District staff, and/or the student to decide whether families are “supportive” and will be consulted.

51. Finally, to evade the state law that gives parents access to all education records, Wis. Stat. § 118.125, the form directs teachers to “keep this interview in your confidential files, not in student records.” Exhibit 2 at 1.

52. The Madison School District has trained its teachers consistent with these policies.

53. Between August and November 2018, the District conducted all-staff training sessions at most schools throughout the District, including most elementary schools. Exhibit 3 is true and accurate copy of the District’s spreadsheet tracking these trainings.

54. Exhibit 4 is a true and accurate copy of the slides shown to District staff in the training video.

55. Exhibit 5 is a true and accurate copy of the script of the training video shown to District staff.

56. The training walks teachers through a hypothetical scenario in which a student named “Jadyn” informs a teacher that he or she would like to change gender identity at school. Exhibit 4 at 10.

57. After the training participants discuss this scenario, the training video informs teachers that “Jadyn has the right to use their affirmed name and pronouns in school, even without

changes in Infinite Campus [the official records] *or family permission.*” Exhibit 5 at 3 (emphasis added); Exhibit 4 at 11.

58. A section on the next slide entitled “Involving Families” explains that teachers in this situation should “[f]ind out from Jadyn if family is supportive of their [Jadyn’s] gender identity” and “*if so*, then involve them [the parents] in the gender support planning process.” Exhibit 4 at 12 (emphasis added).

59. But if the family is not “supportive” of a gender transition (as determined by the District’s, teacher’s, or child’s view of what counts as “supportive”), the training emphasizes that teachers must “[m]ake sure not to disclose information about Jadyn’s gender identity without their [Jadyn’s] permission.” Exhibit 4 at 12. The same slide also states that “school staff shall not disclose *any information* that may reveal a student’s gender identity to others, *including parents or guardians* ... unless the student has authorized such disclosure.” Exhibit 4 at 12 (emphases added). Similarly, the narration reiterates the point: “It is crucial not to disclose any information about Jadyn’s gender identity *to family* without their [Jadyn’s] permission.” Exhibit 5 at 4 (emphasis added).

60. The training video also shows that the District will allow students *of any age* to transition to a different gender at school without parental involvement. Early in the video, the narrator explains that “[m]ore and more students from *elementary* through high school are transitioning, and we should assume that we have students who are transgender in *every classroom.*” Exhibit 5 at 2 (emphases added).

61. The District’s Policy was not adopted in a transparent manner with a full opportunity for all parents to provide feedback and with a public vote by the School Board.

62. Instead, the Policy was developed internally within the Madison School District staff working with preferred groups that agreed with the direction being pursued by the staff.

### **Plaintiffs' Approach to These Issues**

63. Plaintiffs do not share the District's views about how to properly respond if their children experience gender dysphoria.

64. If Plaintiffs' children ever begin to experience gender dysphoria, Plaintiffs would not immediately "affirm" their children's beliefs about their gender identity and allow them to transition to a different gender role, but would instead pursue a treatment approach to help them identify and address the underlying causes of the dysphoria and learn to embrace their biological sex.<sup>5</sup>

65. These issues are of fundamental importance and their improper handling could have long-lasting negative ramifications on a child's physical, mental, and spiritual well-being.

66. Furthermore, many children with gender dysphoria need professional assistance that only the parents can provide. The Madison School District is not offering to provide professional assistance for children with gender dysphoria who need it.

67. Plaintiffs have no way to know in advance whether their children will experience gender dysphoria.

68. Plaintiffs fear that if their children begin to wrestle with this issue, the Madison School District will, consistent with its Policy, enable their children to change gender identity at school without their consent and prevent teachers from notifying Plaintiffs about it.

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<sup>5</sup> Plaintiffs John and Jane Doe 6 may or may not allow their child to transition, depending on the circumstances and the recommendations of mental health professionals, but, like the other Plaintiffs, they want to be involved in the process so they can carefully evaluate the options and make the best treatment decision for their child.

69. Since the Madison School District may successfully keep this information secret from them, Plaintiffs cannot wait to challenge this Policy until one of their children experiences gender dysphoria. By the time Plaintiffs learn the truth, the District may have already enabled their child to transition socially to a different gender identity without their consent, and that transition may become self-reinforcing, reducing the chances that their child will resolve the dysphoria in favor of his or her biological sex, as the vast majority of children do.

### CAUSES OF ACTION

#### **CLAIM ONE: Violation of Article 1, § 1 of the Wisconsin Constitution**

70. The Plaintiffs reallege and incorporate by reference all previous allegations in the Complaint.

71. Article 1, Section 1 of the Wisconsin Constitution provides: “All people are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness.”

72. The Wisconsin Supreme Court has interpreted Article 1, Section 1 as providing “the same equal protection and due process rights afforded by the Fourteenth Amendment to the United States Constitution.” *See Mayo v. Wisconsin Injured Patients & Families Comp. Fund*, 2018 WI 78, ¶ 35, 383 Wis. 2d 1, 914 N.W.2d 678.

73. One of the oldest and most fundamental liberty interests protected by both Article 1, Section 1 and the Fourteenth Amendment is the right of parents to direct the upbringing and care of their children. *See, e.g., Matter of Visitation of A. A. L.*, 2019 WI 57, ¶ 15, 387 Wis. 2d 1, 927 N.W.2d 486; *Barstad v. Frazier*, 118 Wis. 2d 549, 567, 348 N.W.2d 479 (1984); *In Interest of D.L.S.*, 112 Wis. 2d 180, 184, 332 N.W.2d 293 (1983); *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality op.); *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925).

74. The U.S. Supreme Court has described this right as “essential,” *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923), “commanding,” *Santosky v. Kramer*, 455 U.S. 745, 759 (1982), a “basic civil right[ ] of man,” *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942), “far more precious . . . than property rights,” *May v. Anderson*, 345 U.S. 528, 533 (1953), and “established beyond debate as an enduring American tradition,” *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972).

75. Likewise, the Wisconsin Supreme Court has “long [ ] recognized” the rights of parents “to rear their children according to their own system of beliefs,” *City of Milwaukee v. K.F.*, 145 Wis. 2d 24, 43, 426 N.W.2d 329 (1988), describing parents’ rights as “substantial,” *In Interest of D.L.S.*, 112 Wis. 2d 180, 184, 332 N.W.2d 293 (1983), and “of constitutional magnitude.” *K.F.*, 145 Wis. 2d at 43; *see also Jackson v. Benson*, 218 Wis. 2d 835, 879, 578 N.W.2d 602 (1998).

76. Importantly, these cases establish that parents have the *primary* role in raising their children and that government attempts to usurp that primacy violate parents’ rights. *Yoder*, 406 U.S. at 232; *Jackson*, 218 Wis. 2d at 879.

77. Given the importance of parents’ right to parent, any governmental action that “directly and substantially implicates a fit parent’s fundamental liberty interest in the care and upbringing of his or her child” is “subject to strict scrutiny review.” *A. A. L.*, 2019 WI 57, ¶ 22.

78. The Madison School District’s Policy directly and substantially interferes with Plaintiffs’ rights as parents, and is therefore subject to strict scrutiny, in multiple ways.

79. First, the District’s policy enabling children to transition to a different gender identity at school without parental notice and consent directly interferes with parents’ rights to make significant health-related decisions involving their children. *Parham v. J. R.*, 442 U.S. 584, 587 (1979). In particular, the Policy prevents parents from selecting a treatment approach for children with gender dysphoria that does not involve an immediate transition.

80. Second, the District's policies prohibiting teachers and other staff from communicating with parents about this issue, and even encouraging teachers to actively deceive parents, directly interfere with Plaintiffs' rights to guide their children through difficult and potentially life altering decisions because parents cannot adequately address issues of which they are unaware. *See, e.g., H. L. v. Matheson*, 450 U.S. 398, 410 (1981) (parents' rights "presumptively include[ ] counseling [their children] on important decisions")

81. Third, by hiding from parents that their children may be dealing with gender dysphoria, the Policy interferes with parents' ability to provide professional assistance their children may urgently need.

82. Fourth, the Policy conflicts with multiple state and federal laws designed to protect the parental role, including informed-consent requirements, *In re Sheila W.*, 2013 WI 63, ¶¶ 16–24, 348 Wis. 2d 674, 835 N.W.2d 148 (Prosser, J., concurring), laws requiring parental consent for name changes, Wis. Stat. § 786.36; 34 CFR §§ 99.3; 99.4; 99.20(a), and laws giving parents access to their children's education records, Wis. Stat. § 118.125(2)(a), (b); 20 U.S.C. § 1232g(a)(1)(A).

83. The Policy fails both halves of strict scrutiny: there is no compelling government interest in keeping secret from parents that their child is dealing with gender dysphoria, and even if there were a compelling need for secrecy from parents in some rare situations, the Policy is not narrowly tailored to those situations.

84. Given that the Policy "directly and substantially" interferes with parents' fundamental right to raise their children and flunks strict scrutiny, the Policy is unconstitutional under Article 1, Section 1 of the Wisconsin Constitution.

**CLAIM TWO: Violation of Article 1, § 18 of the Wisconsin Constitution**

85. Plaintiffs reallege and incorporate by reference all of the previous allegations in the Complaint.

86. In addition to the health-related issues involved, for some Plaintiffs, gender identity issues also have deep religious significance.

87. Plaintiffs John and Jane Doe 1, John and Jane Doe 2, Jane Doe 3, John and Jane Doe 5, John and Jane Doe 7, and John and Jane Doe 8 are active Christians who seek to apply their beliefs to everything they teach their children, including about their sex.

88. These Plaintiffs believe that the two sexes are a core part of God’s intended design for humanity and that the sex each of us is born with is a gift, not an arbitrary imposition, *see* Genesis 1:27 (“male and female he created them”); Matthew 19:4 (“the Creator made them male and female”); Mark 10:6.

89. As a direct result of their religious beliefs, if these Plaintiffs’ children ever experience gender dysphoria, they would not immediately “affirm” whatever beliefs their children might have about their gender, but would instead remind them that they were “fearfully and wonderfully made,” *see* Psalm 139:14, and seek to help them identify and address the underlying causes of the dysphoria and learn to accept and embrace their God-given sex.

90. At the same time, Plaintiffs will never stop loving their children, or love them any less, no matter what they believe about their gender.

91. Article 1, Section 18 of the Wisconsin Constitution provides: “The right of every person to worship Almighty God according to the dictates of conscience shall never be infringed; ... nor shall any control of, or interference with, the rights of conscience be permitted.”

92. The Wisconsin Supreme Court has held that Article I, Section 18 provides even “broader protections for religious liberty than the First Amendment.” *Coulee Catholic Sch. v.*



*Labor & Indus. Review Comm'n, Dep't of Workforce Dev.*, 2009 WI 88, ¶ 66, 320 Wis. 2d 275, 768 N.W.2d 868; *DeBruin v. St. Patrick Congregation*, 2012 WI 94, ¶ 37, 343 Wis. 2d 83, 816 N.W.2d 878 (plurality op.).

93. Parents have a fundamental right under Article 1, Section 18 to raise their children in accordance with their religious beliefs. *See, e.g., City of Milwaukee v. K.F.*, 145 Wis. 2d 24, 42–43, 426 N.W.2d 329 (1988); *State v. Yoder*, 49 Wis. 2d 430, 438, 182 N.W.2d 539 (1971); *State v. Kasuboski*, 87 Wis. 2d 407, 416, 275 N.W.2d 101 (Ct. App. 1978); *see also Wisconsin v. Yoder*, 406 U.S. 205, 213–14, 230–34 (1972); *Prince v. Massachusetts*, 321 U.S. 158, 165–66 (1944); *Pierce*, 268 U.S. 510.

94. As with an infringement of parents' rights under Article 1, Section 1, any “interference with” religious freedom rights protected by Article 1, Section 18 is subject to strict scrutiny. *See, e.g., Wis. Const. art. 1, § 18; Coulee Catholic Schools*, 2009 WI 88, ¶ 61; *Yoder*, 49 Wis. 2d at 434.

95. The District's Policy directly interferes with Plaintiffs' right to choose a treatment approach for their children that, consistent with their religious beliefs, does not involve a social transition.

96. The District's Policy of hiding from parents their child's struggles with gender dysphoria also directly interferes with these Plaintiffs' right to teach and guide their children through this issue in accordance with their religious beliefs.

97. The Policy fails strict scrutiny for the same reasons described in Claim 1 above—there is no compelling government interest in keeping secret from parents that their child is dealing with gender dysphoria, and even if there were a compelling need for secrecy from parents in some rare situations, the Policy is not narrowly tailored to those situations.

WHEREFORE, Plaintiffs request the following relief:

1. A declaration that the Madison School District's Policy violates Plaintiffs' fundamental rights as parents, under both Article 1, Section 1 and Article 1, Section 18 of the Wisconsin Constitution, to the extent that it: (a) enables their child to change gender identity at school by selecting a new "affirmed name and pronouns" without parental consent; (b) prohibits teachers and other staff from communicating with Plaintiffs about their child's gender dysphoria, including any desired change in name and pronouns, without first obtaining the child's consent; and (c) instructs or permits teachers and other staff to deceive parents by, among other things, using different names and pronouns around parents than in school;

2. A declaration that, notwithstanding the Madison School District's Policy, teachers and staff: (a) may not facilitate a child's social transition to a different gender identity at school without parental consent; (b) may communicate with parents if they have reason to believe their child may be dealing with gender dysphoria without first obtaining the child's consent; and (c) may not attempt to deceive parents by, among other things, using different names and pronouns around parents than in school;

3. An injunction prohibiting the Madison School District from enabling children to socially transition to a different gender identity at school by selecting a new "affirmed name and pronouns" without parental notice or consent;

4. An injunction prohibiting the Madison School District from preventing teachers and other staff from communicating with parents that their child may be dealing with gender dysphoria, or that their child has or wants to change gender identity, without first obtaining the child's consent, and from training teachers and other staff to follow such a policy;

5. An injunction prohibiting District staff from actively deceiving parents by, among other things, using different names for their child around parents than in the school setting;

6. An injunction requiring the District to retrain staff in accordance with this Court's holding in this case; and

7. Such other relief as the Court deems proper.

Dated: February 18, 2020.

Respectfully submitted,

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