FILED
09-28-2020
CIRCUIT COURT
DANE COUNTY, WI
2020CV000454

DATE SIGNED: September 28, 2020

Electronically signed by Frank D Remington
Circuit Court Judge

STATE OF WISCONSIN CIRCUIT COURT BRANCH 8 DANE COUNTY

JOHN and JANE DOE 1, et al.,

Plaintiffs,

v. Case No. 20-CV-454

MADISON METROPOLITAN SCHOOL DISTRICT,

Defendant,

and

GENDER EQUITY ASSOCIATION OF JAMES MADISON MEMORIAL HIGH SCHOOL, et al.,

Defendant-Intervenors.

ORDER GRANTING AND DENYING PLAINTIFFS' MOTION FOR AN INJUNCTION PENDING APPEAL

On June 25th, 2020, Plaintiffs filed a motion for an injunction pending their appeal of this Court's denial of their request to proceed anonymously in this action. The Court heard arguments on this motion on September 21, 2020. Having considered the parties filings and oral arguments, and for the reasons stated on the record, the Court, pursuant to Wis. Stat. § 808.07(2)(a)(1), hereby partially grants and partially denies Plaintiffs' motion for an injunction pending appeal.

As for that part GRANTING Plaintiffs' motion,

NOW, THEREFORE, Defendant Madison Metropolitan School District is hereby enjoined, pending Plaintiffs' appeal, from applying or enforcing any policy, guideline, or practice reflected or recommended in its document entitled "Guidance & Policies to Support Transgender, Non-binary & Gender-Expansive Students" in any manner that allows or requires District staff to conceal information or to answer untruthfully in response to any question that parents ask about their child at school, including information about the name and pronouns being used to address their child at school. This injunction does not create an affirmative obligation to disclose information if that obligation does not already exist at law and shall not require or allow District staff to disclose any information that they are otherwise prohibited from disclosing to parents by any state or federal law or regulation.

As for that part DENYING the remainder of Plaintiffs' motion, (in addition to what was orally stated by the court from the bench[1]),

NOW, THEREFORE, in consideration of the applicable legal standard for obtaining an injunction pending appeal, as to the other relief Plaintiffs' demand, the court finds that Plaintiffs have not demonstrated that they are likely to succeed on appeal. The question on appeal is whether they can prosecute this case anonymously. The court incorporates by reference its earlier ruling denying the motion in the circuit court. Plaintiffs offer nothing new and not much more needs to be said.

Furthermore, the inescapable effect of being anonymous, the court additionally finds that the Plaintiffs have not adequately demonstrated irreparable harm to them. The Plaintiffs demand

[1] Plaintiffs filed a motion for "clarification". This order is given to reflect the court's oral ruling and to clarify why it denied parts of plaintiffs' requested relief.

preliminary relief that would otherwise convert the case to a *de facto* class action, rather than a plea for relief by particular, albeit anonymous, parents. By not identifying themselves, Plaintiffs have not provided facts sufficient for this court to find irreparable harm or to find that they do not have an adequate remedy as to themselves.

Although the court understand why Plaintiffs desire to remain anonymous, anonymous plaintiffs effectively deny the Defendants and the Intervenors the ability to engage in discovery or to otherwise respond to the facts presented by the Plaintiffs in their motion as to the Plaintiffs themselves. By remaining anonymous and by asking this court to make evidentiary findings regarding irreparable harm or an adequate remedy unfairly deprives the Defendants a meaningful opportunity to challenge Plaintiffs' factual assertions. By denying the motion in part, the court concludes that it is preserving the status quo whilst this case winds its way through the appellate court system. By preserving the status quo, rather than by giving Plaintiffs preliminary relief, temporarily denying Defendants' knowledge of the Plaintiffs' identities, does not harm their defense nor does it unnecessarily intrude into the legitimate ability to develop its curriculum and operate its schools.

SO ORDERED.