MODEL POLICY #32

STUDENT GENDER IDENTITY AND PARENTAL NOTIFICATION AND CONSENT

Why Adopt This Policy?

School boards should consider adopting this policy to respect parental rights in determining how their children are referred to at school, ensuring clarity and consistency in communication. Importantly, this policy recognizes the limits of school personnel in diagnosing or treating gender confusion or gender dysphoria of minor students. This policy emphasizes parental autonomy in seeking professional support for their child. It also acknowledges the transition of rights to students who are legally adults.

Policy

Parents have the right to determine the names and pronouns that staff use to refer to their children while at school. Staff shall not refer to or address minor students by a different name or pronouns that differ from their biological sex, during school hours, without written authorization from a parent. The document authorizing the change of name and/or pronoun shall be kept on file in the administrative offices. This policy does not require parental consent for shortened versions of the legal name of a student.

The District shall not be responsible for the diagnosis and treatment of gender dysphoria. The Board acknowledges that District staff and volunteers are not experts in diagnosing or treating gender dysphoria or related mental health conditions. Parents have the right to determine whether to seek professional and medical support for their child.

If District personnel have reason to believe that a student is seeking to transition or has begun to socially transition to a gender that differs from his or her biological sex, personnel may, but are not required to, inform parents.

For purposes of this policy, the term "parent" includes a legal guardian or other person who is legally responsible for the welfare of the child (such as grandparent or stepparent with whom the child lives).

Rights under this policy transfer from the parents to a student who is 18 years old or emancipated under state law.

Legal Analysis — National

The Fourteenth Amendment of the U.S. Constitution recognizes the "inherent right" of parents to "direct the upbringing and education of children under their control." *See also Meyer v. Nebraska*, 262 U.S. 390, 43 S. Ct. 625, 67 L. Ed. 1042 (1923); *Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510 (U.S. 1925).

Legal Analysis — Wisconsin

WILL recently won a lawsuit on this issue. In *T.F., et. al. v. Kettle Moraine Sch. Dist.*, the Court found that parents have a fundamental liberty interest in the decisions regarding care, custody, and control of their children, and that school districts cannot supplant a parent's rights to control the healthcare and medical decisions for their children. As such, the school district could not socially transition a child against the parents' wishes. Specifically, the court said, "[t]he School District could not administer medicine to a student without parental consent. The School District could not require or allow a student to participate in a sport without parental consent. Likewise, the School District cannot change the pronoun of a student without parental consent without impinging on a fundamental liberty interest of the parents."

The court agreed with WILL experts that social transitioning is a powerful psychotherapeutic intervention which should usually be preceded by a mental health professional conducting a psychological assessment in order to assess the benefits and challenges of such a transition. Thus, whether to address a child as the opposite sex is undisputedly a medical and healthcare issue.

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