

MODEL POLICY #33

EMPLOYEE USE OF STUDENT PRONOUNS

Why Adopt This Policy?

School boards should consider adopting this policy to uphold parental rights in determining how their children are addressed at school, while also respecting the free speech and beliefs of professional staff members. This policy provides a framework for finding a balanced approach that respects various viewpoints and sincerely held beliefs, while ensuring respect for the dignity of all students and rights of district parents.

Policy

Parents have the right to determine the names and pronouns that staff use to refer to their children while at school. Subject to the provisions of the following paragraph, professional staff members must address students by the name and pronouns as indicated by the student's parents.

In addition to respecting parents' rights to direct the upbringing and education of their children, the district also respects the rights of its professional staff members to free speech and to teach while remaining consistent with their sincerely held beliefs and religious practices. Any professional staff member that has an objection to using names and pronouns which correspond with a gender identity inconsistent with the biological sex of a student will not be forced to do so. Instead, professional staff members may refer to a student by last name or other neutral means as approved by the building principal, with a focus on finding a balance between accommodating sincerely held beliefs and religious practices and respecting the dignity of students and rights of all parents.

The district will not discipline teachers for refraining from using the preferred names and pronouns of students if doing so would conflict with teachers' sincerely held beliefs.

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

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



Legal Analysis

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 *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925).

With respect to rights of professional staff members, courts have held that the government cannot compel speech that contradicts individuals' sincere beliefs. See *also* *303 Creative LLC v. Elenis*, No. 21–476, Slip Op. (June 30, 2023) (holding that the State of Colorado could not use its public accommodations law to compel a graphic artist to speak message that contradicts her beliefs and stating that our commitment to free speech does not allow “a government to coerce an individual to speak contrary to her beliefs on a significant issue of personal conviction”); *West Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 640 (1943) (holding that the Constitution forbids the state from using the public schools as a tool “to coerce uniformity of sentiment in support of some end thought essential” by the government); *Wooley v. Maynard*, 430 U.S. 705, 714 (1977) (stating that “the right of freedom of thought protected by the First Amendment against state action includes both the right to speak freely and the right to refrain from speaking at all”).



This should not be construed as legal advice. Wisconsin Institute for Law & Liberty (WILL) is a 501(c)(3) nonprofit organization that is providing model policies as a resource for anyone to review and use.