



1241 N FRANKLIN PLACE
MILWAUKEE WI 53202
WILL-LAW.ORG
414.727.9455

LEGAL ALERT

TO: ALL BOARD MEMBERS OF PUBLIC SCHOOLS
FROM: WISCONSIN INSTITUTE FOR LAW & LIBERTY
DATE: MARCH 3, 2026
RE: SECRET GENDER TRANSITION POLICIES

On March 2, 2026, the United States Supreme Court released an order in *Mirabelli v. Bonta*,¹ which addresses California’s statewide policy that prevents public schools from telling parents about their children’s efforts to engage in gender transition at school. These policies are typically called “gender support policies” or “secret gender transition plans.” They allow or require teachers to affirm and assist students in changing their names and pronouns at school, while withholding or concealing such information from parents, or in some cases, actively deceiving parents.

In *Mirabelli*, the Supreme Court concluded that the parent plaintiffs are likely to succeed on the merits of their constitutional claims and therefore allowed the district court’s permanent injunction to remain in effect while the appeal proceeds. This means that the school is not allowed to continue with its secret gender transition plans while the appeal continues. The Court concluded that parents seeking religious exemptions are likely to prevail under the Free Exercise Clause because these policies interfere with a parent’s ability to guide the religious development of their children. The Court also determined that parents are likely to succeed on their claim that gender support plans violate parents’ rights to direct the upbringing and education of children. Because these policies relate directly to mental health, concealing such information from parents violates parents’ constitutional rights.

Risks for school boards. School boards must ensure compliance with the United States Constitution. Failure to do so can result in significant liability for a school district, resulting in litigation that may include compensatory damages, punitive damages, and attorney fees. Continuing to withhold information about students’ names or pronoun changes from parents can also create serious legal liability for individual employees, including principals, counselors, and teachers. The Supreme Court’s decision makes clear that parents now have standing to challenge gender support plan policies in court.

¹ The opinion is available at this link:
https://www.supremecourt.gov/opinions/25pdf/25a810_b97d.pdf.

Next steps for school boards. To protect your school district from liability and lawsuits brought by parents against the board, its members, and your district employees, you should consider taking the following steps immediately:

1. Repeal any policy that allows students to change names and pronouns at schools without the explicit permission of parents or legal guardians;
2. Adopt a policy that promotes, rather than violates, parental rights, such as WILL’s model policy on gender identity and parental consent;²
3. Investigate whether school employees have developed informal “gender support” plans or “secret gender transition” policies. If you find such policies, take immediate steps to remedy the situation.

WILL Resources. WILL is a nationwide resource for school districts and parents. As a public-interest law firm, WILL filed the first lawsuit in the country against secret gender transition plans in 2020.³ And in 2023, WILL obtained the first ruling in the country declaring that secret gender transition plans are unconstitutional.⁴

You may use any of WILL’s resources, available here: will-law.org/schoolboards/.

² This policy is available at this link: <https://will-law.org/wp-content/uploads/2024/04/ModelPolicies-2ndEdition-Chapter-32.pdf>.

³ Case page, *Doe v. MMSD*, available here: <https://will-law.org/doe-v-mmsd/>.

⁴ Case page, *T.F. v. Kettle Moraine*, available here: <https://will-law.org/b-f-v-kettle-moraine-school-district/>.