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Via Email Only

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Re: Potential Violations of Parental Rights and Federal Law

Dear Members of the Board:

The Wisconsin Institute for Law & Liberty (WILL) has become aware of a publicly circulating video, originally posted on January 17, 2022, in which a teacher employed by the Sturgeon Bay School District appears to describe and display a Google Form distributed to students. The form asks students to provide their preferred names and pronouns and includes a question asking whether the teacher may use those preferred names and pronouns when communicating with the student's parents or guardians.

If accurate, this practice raises serious legal concerns and appears to conflict with the recent order issued by the United States Supreme Court in *Mirabelli v. Bonta* as well as federal student privacy law.

As WILL recently advised school boards across Wisconsin and the country, the U.S. Supreme Court in *Mirabelli* concluded that parents challenging "secret gender transition" policies are likely to succeed on their constitutional claims. The Court allowed a permanent injunction against such policies to remain in place while the appeal proceeds. The Court's order makes clear that policies or practices that facilitate gender identity changes at school while withholding that information from parents very likely interfere with parents' constitutional rights to direct the upbringing and education of their children.

The practice shown in the video appears to do exactly that. By asking students whether their preferred name and pronouns are "safe for me to use when calling or emailing home," the form invites students to direct school staff to conceal information from parents about a significant aspect of the student's identity and mental health. The U.S. Supreme Court's

order strongly suggests that such practices are unconstitutional. In addition to this, the Court in *Mahmoud v. Taylor* found that school district policies which substantially interfere with the “right of parents to guide the religious development of their children” are unconstitutional. *Mahmoud v. Taylor*, 606 U.S. 522, 559 (2025) (citing *Wisconsin v. Yoder*, 406 U.S. 205 (1972)).

The form also appears to request sensitive personal information relating to a student’s gender identity without parental notice or consent. This raises potential issues under the Protection of Pupil Rights Amendment (PPRA), which limits the collection of certain categories of sensitive information from students without proper parental notification and opt-out rights. 20 U.S.C. 1232h(b).

School districts face significant legal risk if they continue policies or practices that undermine parental rights. As the U.S. Supreme Court recognized in *Mirabelli*, parents have standing to bring constitutional claims when schools conceal information related to their children’s gender identity from them. Litigation in this area may expose districts and individual employees to substantial liability.

Accordingly, we urge the District to take the following steps immediately:

1. Investigate whether the form shown in the video was distributed to students and whether similar forms or surveys are currently in use.
2. Cease any policies or practices that allow students to request school staff to conceal information about their gender identity from parents.
3. Ensure that parents are promptly informed of any requests by students to use different names or pronouns at school.
4. Require parental notice and an opportunity to opt out before distributing any forms, surveys, or practices that ask students to provide preferred pronouns, or remove those questions altogether and instruct all staff not to use any such forms, surveys, or practices relating to gender identity.
5. Review district policies and staff practices to ensure compliance with parental rights and federal law.

WILL has previously advised school boards that continued use of “gender support plans” or similar practices that conceal information from parents creates substantial legal exposure for school districts. The school district should ensure that parents—not school staff—remain the primary decision-makers regarding the upbringing of their children. Please act now to uphold parents’ constitutional rights and avoid liability.

Very truly yours,

WISCONSIN INSTITUTE FOR LAW & LIBERTY



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