

FILED
02-19-2020
CIRCUIT COURT
DANE COUNTY, WI
2020CV000454

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.

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR A TEMPORARY INJUNCTION**

TO: Madison Metropolitan School District
545 West Dayton Street
Madison, WI 53703

PLEASE TAKE NOTICE that Plaintiffs in this action, by their undersigned counsel, hereby move the Court, pursuant to Wis. Stat. § 813.02, for a temporary injunction prohibiting the Madison Metropolitan School District (the "District") from following certain policies set forth in its recently adopted document entitled "Guidance & Policies to Support Transgender, Non-binary & Gender-Expansive Students." Specifically, Plaintiffs seek a temporary injunction prohibiting the District from: (1) enabling children to socially transition to a different gender identity at school by selecting a new "affirmed named and pronouns," without parental notice or consent; (2) preventing teachers and other staff from communicating with parents that their child may be dealing with gender dysphoria, or that their child has or wants to change gender identity, without the child's consent; and (3) deceiving parents by using different names and pronouns around parents than at school.

The grounds for this motion are as follows:

1. The District recently adopted a set of policies pertaining to transgender students in a document entitled “Guidance & Policies to Support Transgender, Non-binary & Gender-Expansive Students.”

2. Some of these policies violate parents’ constitutional rights to direct the upbringing of their children under Article 1, Section 1 and Article 1, Section 18 of the Wisconsin Constitution.

3. Specifically, the District’s policies enable children, of *any age*, to transition to a different gender identity at school, by adopting a new name and pronouns to be used at school, without parental notice or consent, and then prohibit staff from communicating with parents that their child may be dealing with gender dysphoria without the child’s consent.

4. Worse, the District’s policy even directs staff in some circumstances to actively deceive parents by reverting to using the child’s birth name and corresponding pronouns when the child’s parents are nearby.

5. Parents’ rights cases have established that parents have the primary role in directing the upbringing of their children, especially in significant decisions (like healthcare), and that the government may not supplant parents simply because a parent’s decision is not agreeable to the child.

6. Whether a child with gender dysphoria should socially transition to a different gender identity is a significant and controversial healthcare decision that falls squarely within parental decision-making authority.

7. The District’s policy preventing teachers and other staff from notifying parents that their child may be dealing with gender dysphoria, without the child’s consent, also directly

interferes with parents' ability to provide professional assistance their child may urgently need, and interferes with parents' ability to guide their children through sensitive and difficult decisions.

8. A temporary injunction is warranted because Plaintiffs have a significant likelihood of success, because the District's Policy may do substantial harm to Plaintiffs or their children while this lawsuit is pending for which Plaintiffs have no adequate remedy at law, and because an injunction will do no harm whatsoever to the District, but will simply require the District to include parents in significant decisions involving their children, which is and should be the norm under Wisconsin law.

This motion is further supported by the brief and affidavits filed herewith.

PLEASE TAKE FURTHER NOTICE that this motion will be heard on a date and time to be set by the Court. Plaintiffs' counsel intends to contact the District's counsel to attempt to reach a mutually agreeable scheduling proposal for briefing and hearing this motion, which Plaintiffs' counsel will then submit to this Court. Alternatively, Plaintiffs' Counsel will inform this Court if counsel for the parties are unable to agree on a proposed schedule.

Dated: February 19, 2020.

Respectfully Submitted,

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* *Pro Hac Vice* motion pending