First Circuit Affirms School's Policy of Respecting Students' Gender Identity in Challenge from Parents

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On February 18, 2025, the First Circuit Court of Appeals upheld a decision from the Massachusetts Federal District Court dismissing a lawsuit brought by the parents of two middle school students in the Ludlow public school district alleging that the school had infringed on their constitutional right to direct the upbringing of their children.

The parents sued the school district in response to its policy of using a student's preferred name and gender pronouns without first notifying the student's parent or guardian unless the student consents to the notification. The parents also asserted district staff interfered with their right to parent. Among these were a librarian's request that students include their preferred pronouns in a video assignment, and a counselor's discussion of gender identity with one of the students, including informing the student that they could use whichever bathroom they preferred. Specifically, the parents alleged these practices interfered with their Fourteenth Amendment Due Process rights and impermissibly restricted their parental right to control the upbringing, custody, education and medical treatment of their children.

The school asserted that its policy and protocol were designed to comply with Massachusetts' state antidiscrimination law, which protects individuals from discrimination on the basis of gender identity. It also followed DESE's non-binding guidance. Specifically, the DESE guidance directs school personnel to speak to students before disclosing their "gender nonconformity or transgender status" with the student's parent, as many students may face issues with non-acceptance or even safety at home.

Although the Court recognized parents do have a fundamental right to direct the upbringing of their children, it held the school district did not



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infringe this right. As a preliminary matter, the Court found that respecting a student's preferred name and pronouns did not amount to medical intervention as the parents argued. It then clarified parents do not have a fundamental right to control a school's curricular or administrative decisions, citing long-standing Supreme Court precedent. The Court explained "once parents choose to send their children to public school, they do not have a constitutional right to direct how a public school teaches their child."

Here, the Court found the school district's decision to abide by students' gender identity preferences was entirely within its purview as a method of ensuring students have a supportive learning environment. The parents, in contrast, have no right to direct or control how the school chooses to maintain this learning environment.

Additionally, the Court held that because the school's policy of parental notification deferred to student choice, it was permissible. Though the Court noted instances of actual coercion to encourage students to withhold information from their parents may be problematic, the school district's policy merely allowed students to make the choice themselves. To constitute a viable claim, the school district's behavior would have to involve restraining conduct, not mere nondisclosure of information.

Ultimately, the Court held schools have a compelling interest in protecting the physical and psychological wellbeing of minors, and the policies in place in Ludlow were rationally related to achieving that goal. The complaint was, therefore, properly dismissed by the District Court.

We anticipate that the parents will likely appeal to the Supreme Court. We will closely monitor any developments and provide further updates. If you have any questions regarding the implications of the First Circuit's decision, please contact any member of our School Law group.

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