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March 12, 2024

To: Shai Fuxman, Ed. D
Chair, Natick School Committee
13 East Central Street
Natick, MA 01760

Cc: Natick School Committee Members
Bella Wong, J.D. Interim Superintendent
James Errickson, Town Administrator
Town Meeting Members
Select Board
Amanda Loomis, Director of Community Development
Troy Smith, Director of Equity, Inclusion & Outreach
John Townsend, Deputy Town Administrator
Michael K. Boudreau, Director of Public Health
Dorothy Blondiet, Director of Human Resources
Lynn Kelly, Town Clerk
James G. Hicks, Police Chief
Elizabeth Heffler SRO
Kelley Kevin SRO
James O'Shaughnessy SRO
Frank Foss Town Moderator

Re: Gender Identity Support Policy (File JB-B dated October 15, 2018)

Dear Mr. Fuxman:

I am contacting you at the request of my Natick taxpayer clients who are concerned about the well-being of gender questioning and gender non-conforming children in the Natick Public Schools (NPS). My clients believe that there are potential legal infirmities and other consequences created by the NPS's Gender Identity Support Policy (File JB-B (Oct. 15, 2018)) (Gender Policy).

The Gender Policy does not mandate NPS personnel to give notice to and include parents or legal guardians in matters related to socially transitioning a minor to a different gender identity from the gender corresponding to their sex ("social transitioning"). For example, the school policy does not require legal process to change a student's name at school and does not require the mandate of parental discussion or participation in the decision-making process:

A critical component of the student's support plan may include changes to names and gender identity markers used in communication with and about the student. This information and how the student will be referred to and to whom this information will be conveyed will be included in the planning and communication plan developed with the student. Natick Public Schools will not require legal documentation to change the student's name or gender on the educational record. The student and/or family discussion with the support team will suffice.

This school policy's failure to require parental notice and consent to a minor child's desire for social transitioning, including name-change at the school, creates unnecessary risks for children in making decisions regarding their gender identity without the guidance of *their* parents, while communicating with other school administrators. In fact, the school's policy appears to interfere with parental rights recognized in Massachusetts law requiring a parent to file a court case to change their child's legal name until the child becomes 18 years or older:

If you are 18 years or older, live in Massachusetts, and want to legally change your name, you can file for a name change in Massachusetts. Parents or guardians can file to change their minor child's name. If parents or guardians can't agree on a child's name, the court will decide based on the best interest of the child. A child over 12 needs to agree to the name change

See: <https://www.mass.gov/info-details/find-out-who-can-change-their-name#children>.
Whereas, the school's legal-name-change process does not involve a court case at all.

The type of claims that parents could bring against NPS relates directly to school's policies that intentionally exclude parents (lacking a mandated notice requirement) from their children's support plan that may include social transitioning. Those claims could include intentional infliction of emotional distress, harassment under Chapter 258E, anti-bullying under Chapter 71, s. 37O, and constitutional claims. These claims are detailed below. Essentially, because the Gender Policy excludes the parents from participating in their child's social transitioning, school parents can bring these and possibly other claims against the NPS at any time.

Specifically, as you know, gender non-conformity is behavior by an individual that does not match masculine or feminine gender norms. Gender non-conformity can be accompanied by a mental health condition known as gender dysphoria, which refers to distress some children experience due to a mismatch between their gender identity — their personal sense of their own gender — and their sex assigned at birth. Gender dysphoria is included in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR). Nowhere in your policy, does it state or refer to how NPS is to address this mental health condition, diagnose it, or ensure this condition is absent from the child. In this regard, parental permission would be necessary to acquire to avoid litigation risks. Yet, your policy does not mandate engaging with the parent in the student's support plan.

My clients are concerned that the Gender Policy, as incorporated into the Natick School Committee Policy Manual, indicates that the Natick School Committee is not aware of the current “standard of care” for minors related to social transition, or that consensus around the risks of social transition is very much in flux. As such, to exclude parents from a student’s plan that involves possible life-changing decisions is to do harm to the child as much as to do harm to the parent in intra-family relationships.

1. No state or federal law requires the school’s concealment from parents of their minor child’s questioning gender identity or the school district’s role in enabling a minor child to socially transition.

The NPS is responsible for determining policy related to informing parents about a minor child’s gender identity, and responsibility for any harms arising from the interpretation and implementation of that Policy. Natick residents have asked Shai Fuxman, chair of the Natick School Committee, Bella Hadid, acting school superintendent, and other NPS personnel to explain the rationale behind the omission of a mandate to include parents in any discussion by NPS personnel related to socially transitioning a minor. The response has been versions of “we follow guidance from the state” on this topic, and usually they share links to the Massachusetts Department of Elementary and Secondary Education’s website page on gender identity. For example, Mr. Fuxman stated in response to NPS parental exclusion from social transitioning:

In each specific case, a plan is developed with the student. Each plan is different and developed in collaboration with the students and a team of folks at the school, and the parents if appropriate. If a student is developmentally able, we honor their wishes in the planning stages, which may include not revealing this information to their families. If this is the case, we do try to counsel them regarding how to communicate with their families. Ultimately, being able to advocate for yourself is the developmental milestone we look for here, regardless of the age.

This type of response has been unhelpful and is, at best, an incomplete response.

Moreover, Mr. Fuxman has stated the above approach is consistent with legal advice received by NPS, guidance from DESE and what is the subject of the *Ludlow* case where a ruling in favor of this practice is now at the appellate level. This too is unhelpful and unavailing.

The *Ludlow* case mentioned by Mr. Fuxman is currently on appeal in the U.S. Court of Appeals for the First Circuit. *Foot v. Town of Ludlow*, 2022 WL 18356421 (D. Mass., 2022). In short, the issues of that case are not settled which also means that the law is unsettled. Indeed, if the *Ludlow* decision is to teach anything, it is that NPS must tread carefully in its enforcement of the current Gender Policy. This letter outlines how NPS should tread carefully and why.

Specifically, the *Ludlow* case was brought by plaintiffs who are parents of 11 and 12 year old children who were socially transitioned by Ludlow Massachusetts School District personnel without informing the parents. In his opinion, the district judge noted:

“Plaintiffs...asserted that Defendants' adoption and implementation of a policy of withholding information about their children's gender identity from parents went beyond what the law required and intentionally undermined the parent/child relationship in a manner that shocks the conscience.

On its face, the Massachusetts non-discrimination statute does not require such a policy and it is disconcerting that school administrators or a school committee adopted and implemented a policy requiring school staff to actively hide information from parents about something of importance regarding their child. Indeed, in an earlier case, this court recognized that deception by school officials could shock the conscience where the conduct obscured risks to a person's bodily integrity and was not justified by any government interest. See *Hootstein v. Amherst-Pelham Reg. Sch. Comm.*, 361 F. Supp. 3d 94, 112 (D. Mass. 2019)”

Foote, 2022 WL 18356421 at *7. The judge further noted:

"[I]n the case of a younger student," DESE (Massachusetts Department of Elementary and Secondary Education) advises schools to create a plan with input from parents, but DESE has not defined younger students, other than by describing them as "not yet able to advocate for themselves." DESE Guidance, <https://www.doe.mass.edu/sfs/lgbtq/genderidentity.html#5>.”

“The court agrees that the policy, as described by Plaintiffs, was based on a flawed interpretation of the DESE Guidance and ignored the plain language advising that parents be informed after the student is advised that such communication will occur”

“Students and parents would almost certainly be better served by a more thoughtful policy that facilitated a supportive and safe disclosure by the student, with support and education available for students and parents, as needed and when accepted”

Id. at *7. Judge Smith’s statements align with those made recently by the primary international body setting the “Standard of Care” for gender questioning and gender non-conforming individuals, the World Professional Association for Transgender Health (WPATH).

See Order on Defendants’ Motion to Dismiss Dec. 14, 2022
<https://clearinghouse.net/doc/136359/>.

2. International health organizations including the World Professional Association for Transgender Healthcare in its latest guidance from 2022 recognize that parental and caregiver involvement with social transitioning has both benefits and risks but, for minor children social transitioning must involve parents or caregivers for support and acceptance for the child's sake.

Social transition is a mental health intervention with benefits and risks, according to the 2022 Standard of Care version 8 (SOC-8) from WPATH. In chapter 6 on adolescents and chapter 7 on children, SOC-8 highlights the criticality of involving parents and caregivers in any gender affirming care program, clearly stating that social transition can typically only take place with the support and acceptance of parents and caregivers. The American Psychological Association on its website also affirms the requirement that a patient's parents or caregivers be involved in decisions related to gender affirming care. Statement 7.14 from SOC-8 reads as follows (original bolding):

“We recommend health care professionals discuss the potential benefits and risks of a social transition with families who are considering it”.

In section 7.14, the authors further note “concerns” related to social transition:

“Another often identified social transition concern is that a child may suffer negative sequelae if they revert to the former gender identity that matches their sex designated at birth (Chen et al., 2018; Edwards-Leeper et al., 2019; Steensma & Cohen-Kettenis, 2011). From this point of view, **parents/caregivers should be aware of the potential developmental effect of a social transition on a child.**”

(Emphasis added). SOC-8 further highlights the importance of involving parents or caregivers in social transition noting it can “only take place” with the support and acceptance of parents or caregivers.

“Additionally, social transition for children typically **can only take place with the support and acceptance of parents/caregivers**, which has also been demonstrated to facilitate well being in gender diverse children (Durwood et al., 2021; Malpas et al., 2018; Pariseau et al., 2019), although other forms of support such as school based support have also been identified as important (Durwood et al., 2021; Turban, King et al., 2021).

(Emphasis added). Although “Chapter 7 Children” in SOC-8 is only 12 pages long, **the word parents is used more than 25 times**, to emphasize the importance of including parents or caregivers in the care plan for the child.

The SOC also emphasizes that healthcare providers need to avoid stereotyping parents and families - and cites the example of when deciding on a care plan parents or guardians should participate in some capacity in the process:

“Thus, HCPs of all disciplines should avoid stereotyping based on preconceived ideas that may be incorrect or biased (e.g., that a family who belongs to a religious organization that is opposed to appreciating gender diversity will necessarily be unsupportive of their child’s gender diversity) (Brown & Mar, 2018). Instead, it is essential to approach each family openly and understand each family member and family pattern as distinct.”

“Unless contraindicated, it is extremely helpful for parents/guardians to participate in some capacity in the psychotherapy process involving prepubescent children as family factors are often central to a child’s well-being”

See <https://www.tandfonline.com/doi/pdf/10.1080/26895269.2022.2100644>

The American Psychological Association again emphasizes the necessity of parental or guardian participation to support the minor child. The Association warns that in any legislative action involving transgender care for minors, whether for or against, parents and guardians must play a role for the well-being of the minor child:

“Decisions about whether to seek gender-affirming care, and what specific services to utilize, must be made between a provider, patient, and the patient’s parents or guardians...Gender affirming care typically includes steps toward social transition...”

See: <https://www.apa.org/topics/lgbtq/gender-affirmative-care>

Therefore, the school’s failure to mandate a requirement to involve parents or guardians is not in the best interests of a minor child regarding any social transitioning decision of the minor child.

3. The Gender Policy lacks an affirmative requirement requiring parental permission before socially transitioning a minor and is, therefore, inconsistent with Massachusetts laws, Town of Natick laws, NPS and Town of Natick regulations related to minor children.

The school’s Gender Policy, without parental consent, is inconsistent with other laws requiring parental consent for other topics directly related to minor children and their conduct. Quite frankly, the school’s Gender Policy is anomalous in this regard. The school’s policy AC on non-discrimination requires “Encouraging positive experiences in human values for children, youth and adults, all of whom have differing personal and family characteristics and who come from various socioeconomic, racial and ethnic groups.” But, the school’s non-discrimination policy “encouraging positive experiences in human values” for student and their families is not followed in the school’s Gender Policy.

For example, NPS requires students obtain a signed permission form from parents or guardians for field trips. NPS requires that students obtain permission from their parents or guardians before playing on an NPS athletic team.

See Natick School Committee Policy Manual Revised June 13, 2022:

https://cdnsm5-ss11.sharpschool.com/UserFiles/Servers/Server_119386/Image/Superintendent%20Office/School%20Committee%20Policy%20Manual%20Revised%20June%2013,%202022.pdf

Likewise, Massachusetts law only allows a child to change their name in three situations, and all require involvement of an adult, parent or guardian. (1) They are adopted by an adult 18 or older. (2) A parent or guardian files to change their name. (3) Parentage judgment includes an order to change the child's name. The Town of Natick does not allow a minor under 18 to get a tattoo.

See <https://www.mass.gov/info-details/find-out-who-can-change-their-name>

See <https://www.natickma.gov/DocumentCenter/View/16801/Chapter-21---Regulations-for-Body-Art-PDF>

While social transitioning is a “private matter” affecting both the minor child and familial relationships, whether or not for the benefit of the minor child, the lack of parental or guardian involvement should give pause to governmental officials. As demonstrated above with the non-exclusive list of examples, government officials provide a process to alert and include the parent and obtain parental or guardian permission when the government believes the child will be at risk or exposed to some harm. The same logic should be applied to a minor child’s desire to social transition. The child’s desire, as a minor, is devoid of experience to make decisions with life-long consequences, either in a school environment or outside. Regardless, school officials, likewise, cannot make decisions for the minor child or even guide the minor child devoid of the parent’s or guardian’s opinion. Thus, their participation is critical within the NPS process.

On the flipside, without the parent’s or guardian’s participation, the school officials are subject to liability for causing harm to the minor child. Like any controversy, there are two approaches to the issue. However, here, the NPS should weigh the consequences of not mandating parental or guardian participation.

4. The lack of policy, legal, and social consensus regarding the risks and benefits of social transitioning for minor children emphasizes the necessary inclusion of parents or guardians in minor children decision-making with life-long consequences.

The support for requiring parental permission to socially transition a minor has widespread support among Massachusetts voters. In a private poll of Massachusetts likely voters conducted using a national polling firm in December of 2023, 67% of all respondents and 72% of respondents who were parents, strongly or somewhat support schools getting parental consent before a school administrator helps minor children change their gender identity.

Multiple countries including the Netherlands, England, France, Finland, and Denmark are tightening the qualifications for children and adolescents to gain access to gender affirming care, as documented in the July 12, 2023 US News and World Report article “European Countries Restrict Trans Health Care for Minors,” which notes:

“Citing insufficient research, European health bodies from Sweden to France are taking a more conservative approach to gender-affirming care for minors.”

See <https://www.usnews.com/news/best-countries/articles/2023-07-12/why-european-countries-are-rethinking-gender-affirming-care-for-minors>.

The same trend is covered in an April 2023 Atlantic article, “A Teen Gender-Care Debate Is Spreading Across Europe” which notes:

“Doubts have now come to the Netherlands, where the most-contested interventions for children and adolescents were developed.”

See <https://www.theatlantic.com/health/archive/2023/04/gender-affirming-care-debate-europe-dutch-protocol/673890/>

Dr. Stephen Levine, who has decades of experience with gender dysphoria, and former chair of the Standards of Care Committee that developed the 5th version of the WPATH guidelines recently warned about therapy for minors that encourages transition as having unpredictable effects on the child, including mental health, physical health, and notably, life expectancy:

“Therapy for young children that encourages transition cannot be considered to be neutral, but instead is an experimental procedure that has a high likelihood of changing the life path of the child, with highly unpredictable effects on mental and physical health, suicidality, and life expectancy.”

See https://www.legis.state.pa.us/WU01/LI/TR/Transcripts/2020_0046_0001_TSTMNY.pdf

Another well-known practitioner, Dr. Erica Anderson, who identifies as transgender, as a former member of the WPATH Board and former president of U.S. PATH (the U.S. branch of WPATH), publicly denounced trends in schools that exclude parents or guardians from minor children seeking to social transition. Anderson is against “schools depriving parents of the knowledge of what’s going on with their children,” arguing that such policies are “a terrible idea,” and that “cutting [parents] out” of this decision is “misguided,” “unethical,” and “irresponsible.”

See <https://adfmedialegalfiles.blob.core.windows.net/files/Doe-MMSD-OpeningBriefOnAppeal.pdf>

5. The possible claims the NPS could face when it enforces the Gender Policy without parental or guardian participation as a mandate, is significant and could have serious consequences for the NPS.

We have reports from parents that their minor children are having a “fearful and apprehensive response” – to actions taken by NPS personnel in classrooms related to these students’ gender identity resulting from the Gender Policy. Outside of the classroom, NPS personnel’s application of the Gender Policy has created situations where biological female athletes have experienced fear in locker rooms when in the presence of a transgender girl (a biological male). This could be especially problematic for NPS if these incidents involve students who were socially transitioned without parental consent.

Parents and our clients believe NPS and the School Committee are not taking the situation seriously. NPS and the Town of Natick should consider the financial risk associated with any claims that could occur related to the Gender Policy, and how potential claims could be mitigated with common sense policy changes.

First, under Massachusetts common law, the tort of tortious infliction of emotional distress would apply to school officials bullying a child into social transitioning without notifying the parents or from other actions taken to enforce the Gender Policy. To be sure, the appellate court in *Cormier v. City of Lynn*, 479 Mass. 35 (2018) held that, even where a defendant city “could have and should have done more” to protect a student from bullying, and their inaction resulted in the child being severely injured during a bullying incident, the Massachusetts Tort Claims Act bars a suit against the city and its employees where they did not “originally cause” the situation. However, this court decision does not preclude a lawsuit where the school district is the original cause of the tort. And, when school officials are bullying a student into social transitioning without notifying the parent or engaging in other actions related to enforcing the Gender Policy that cause students emotional distress, the school district is the “original cause” of the situation as further detailed below.

Second, Chapter 258E has application to NSD’s social transitioning of minor students without parental notice. The parental concern is school officials using their position of authority to create fear in students leading them to engage in social transitioning without parental notice or involvement. And, Chapter 258E bans school officials from using “fear for the purpose of compelling conduct”—here to socially transition without parental notice. The fact that the parents are not informed at all, contrary to World Professional Association for Transgender Health (WPATH) standard of care no. 8 (SOC 8) and evidence-based medicine, is evidence of harassment upon a minor to compel social transition.

The Massachusetts state legislature enacted G.L. Chapter 258E to prevent harassment—and it covers public schools. Enacted in 2010, after decade-long debate, the state legislature adopted the law to address absence of civil protective orders for victims of harassment, the violation of which would be an arrestable/criminal offense. Since 2010, Chapter 258E has been applied to public school settings to protect students from harassment.

Under Chapter 258E, specifically, a true threat does not require “an explicit statement of an intention to harm the victim as long as circumstances support the victim's fearful or apprehensive response.” 25 *A.T. v. C.R.*, 88 Mass. App. Ct. 532 (2015). “Intimidation” has a meaning other than “fear” and should be separately addressed. In so doing, the definitions supplied by the courts in other contexts are useful. See *Commonwealth v. Gordon*, 44 Mass. App. Ct. 233, 235, 694 N.E.2d 2 (1998). Webster's Third New International Dictionary 1184 [3d ed. 1993] defines intimidate as “to make timid or fearful: inspire or affect with fear.” The decision noted that the Supreme Judicial Court had similarly defined the concept of intimidation as “putting in fear for the purpose of compelling or deterring conduct.” Neither definition includes the requirement that to intimidate another, an individual must somehow place that person in fear or apprehension of actual harm. *A.T. v. C.R.*, 88 Mass. App. Ct. 532 (2015).

Additionally, under Chapter 258E, because it is impossible to look into someone's mind to determine his intent, fact finders are instructed to examine the defendant's actions and all of the surrounding circumstances and then to draw reasonable inferences to determine what was the defendant's intent. See, e.g., *Commonwealth v. Blake*, 409 Mass. 146, 150, 564 N.E.2d 1006 (1991).

Third, Chapter 71, s. 37O, the anti-bullying law, has application to NPS's social transitioning of minor students without parental notice and other actions taken by NPS personnel to enforce the Gender Policy.

Massachusetts' anti-bullying law applies to school staff engaging in bullying as defined under the statute:

"Bullying", the repeated use ...by a member of a school staff including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that: (i) causes physical or emotional harm to the victim or damage to the victim's property; (ii) places the victim in reasonable fear of harm to himself or of damage to his property; (iii) creates a hostile environment at school for the victim; (iv) infringes on the rights of the victim at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school.

Mass. Stat. ch. 71 § 37O. And, the law applies on school and nearby grounds. *Id.* “Hostile environment”, a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of the student's education. *Id.*

In *L.M. v. Town of Middleborough*, 2023 WL 4053023, at *8 (D.Mass., 2023), which is on appeal, Mass. Stat. ch. 71 § 37O was cited as a basis to ban a student wearing a “THERE ARE ONLY TWO GENDERS” shirt because it bullied LGBTQ students because public schools

are required “to provide a safe environment to progress academically and developmentally regardless of gender identity.” The federal district court stated:

Defendants contend that, were Plaintiff permitted to wear the Shirt, Defendants would fail to comply with their mandate from the Massachusetts Legislature prohibiting discrimination, bullying, or harassment in schools based on gender identity or expression and directives from the Massachusetts Department of Elementary and Secondary Education (“DESE”) requiring that schools provide a safe environment to progress academically and developmentally regardless of gender identity. *Id.*; *see also* M.G.L. c. 76 § 5; M.G.L. c. 71 § 37O; 603 C.M.R. § 26.05; DESE, Guidance for Mass. Pub. Sch. Creating a Safe and Supportive School Environment, *available at* <https://www.doe.mass.edu/sfs/lgbtq/genderidentity.html>.

Id.

However, the logic of the anti-bullying law can also be cited to support that NPS officials are prohibited from taking actions related to enforcement of the Gender Policy that leads to situations where non LGBTQ students feel that they are being subjected to bullying or harassment. The law requires NPS “to provide a safe environment to progress academically and developmentally regardless of gender identity.”

Whether school official bullying under Mass. Stat. ch. 71 § 37O is occurring in the particular case requires a case-by-case analysis.

Additionally, as NPS knows, it is without question and well established that the U.S. Constitution considers the relationship between the parent and child and child and parent as a fundamental right under the Fourteenth Amendment. *Troxel v. Granville*, 530 U.S 57, 66–68 (2000) (fundamental parental right to direct the upbringing of their children, including making mental health decisions). *See also*, *Parham v. J.R.*, 442 U.S. 584 (1979); *Colon v. Collazo*, 729 F.2d 32 (1st Cir. 1984). Moreover, in a due process analysis, the United States Court of appeals for the First Circuit has declared that “[c]onscience-shocking conduct usually entails physical or psychological abuse or *significant interference with a protected relationship, such as the parent-child relationship.*” *McConkie v. Nochols*, 446 F.3d 258, 261 (1st Cir. 2006) (emphasis added). Here, because of the lack of a mandate to communicate with parents or guardians when their child is considering social transitioning and school officials are supporting that transition without parental involvement, NPS is in fact significantly interfering with the parent-child relationship. This exposes NPS to constitutional claims under 42 U.S.C § 1983 (Civil Rights Act).

In conclusion, state and federal laws expose NPS to claims that relate to the implementation and enforcement of the Gender Policy as applied to minor children. Moreover, recent cases across the country demonstrate that school officials cannot hide behind qualified immunity when enforcing gender policies in schools

6. Recent federal circuit court cases have resulted in school officials losing protection of qualified immunity in rulings against school districts for concealing facts from parents or guardians related to the social transition of a minor child.

Generally, the doctrine of qualified immunity protects state and local officials, including law enforcement officers, from individual liability for monetary damages unless the official violated a clearly established constitutional right. However, in preliminary rulings, the United States Court of Appeals for the Sixth Circuit and a United States District Court in California recently have denied motions by the defendant school districts to grant the teacher and school official defendants qualified immunity. Both cases involve school district personnel violating the constitutional rights of plaintiffs.

This means that teachers and school district officials may be personally responsible for paying attorney’s fees and damage awards if the plaintiffs ultimately prevail, although frequently municipalities assume the significant costs of these rulings.

Plaintiffs Elizabeth Mirabelli and Lori Ann West initiated a federal civil rights action on April 27, 2023, against the Escondido California Union School District (“EUSD”) where they are teachers. *See Mirabelli v. Olson*, 2023 WL 5976992 (S.D.Cal., 2023).

EUSD adopted a policy requiring school personnel to participate in a student’s social transition to a new gender and to withhold any information about this social transition from the student’s parents.

This policy violated Plaintiffs’ moral and religious views, so they requested—but were denied—an exemption.

The lawsuit names one of EUSD’s school principals, the EUSD school district superintendent, and members of the EUSD school board as defendants.

In its preliminary ruling in favor of the plaintiffs, the court stated the policy “harms the child who needs parental guidance and possibly mental health intervention to determine if the incongruence is organic or whether it is the result of bullying, peer pressure, or a fleeting impulse. It harms the parents by depriving them of the long recognized Fourteenth Amendment right to care, guide, and make health care decisions for their children. And finally, it harms plaintiffs [teachers] who are compelled to violate the parent’s rights by forcing plaintiffs to conceal information they feel is critical for the welfare of their students—violating plaintiffs’ religious beliefs.” *Id.* at 18.

<https://www.thomasmoresociety.org/news/california-federal-court-issues-order-blocking-school-from-forcing-teachers-to-lie-to-parents#gsc.tab=0>

7. In light of the facts presented above, we request the following from NPS and the Natick School Committee.

The Massachusetts Public Records Law (Public Records Law) and its Regulations provide that each person has a right of access to public information. This right of access includes the right to inspect, copy or have copies of records provided upon the payment of a reasonable fee. Based on the Public Records Law, we request the following information:

- a. Any public records providing a count of how many minor children enrolled in the Natick Public School system who have a gender identity “support plan” in place as described in the Gender Policy.
- b. Any public records providing a count of the number of children enrolled in the Natick Public School system who are being addressed by different names and/or pronouns that are different from their legal name or pronouns.
- c. Any public records providing a count of the number of children enrolled in the Natick Public School system who are being addressed by different names and/or pronouns that are different from their legal name or pronouns without the awareness of at least one parent or legal guardian.
- d. Any public records providing a count of the number of children who have a Gender Identity Support Plan in-place who have been socially transitioned without the knowledge of at least one parent or legal guardian.
- e. Any public records providing the identification of any NPS schools that require teachers to conceal from a minor child’s parents that the minor child has commenced any change typically related to a social transition, including but not limited to any of the following: a change of name, pronouns, chest binding, and padding.
- f. Any public records identifying complaints from students related to transgender females (biological males) being present in girls bathrooms or locker rooms.

8. NPS Gender Policy should be updated to mandate notification and obtaining permission from parents or guardians regarding issues of social transitioning.

In light of the information we have presented, and the preponderance of information from other sources showing that there are significant risks associated with social transition and other gender-affirming care, we request that the NPS Gender Policy be immediately amended. The revisions as amendments, would mandate parental notifications and participation in a student’s support plan that involves any and all aspects of social transitioning. This includes, but is not

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limited to notifying parents or guardians when NPS personnel become aware that a minor child has questions about their gender identity. Finally, the amended policy should be revised to include the necessity of obtaining written permission from the parent or guardian before a minor child may be socially transitioned.

Attached is our recommendation for modifications to the policy. We look forward to receiving the information requested above and your response to our suggested modifications to the Gender Policy prior to the next School Committee meeting.

Sincerely,

Erick Kaardal
Mohrman, Kaardal & Erickson, P.A.**

Andrew J. Couture
Law Office of Andrew J. Couture*

*Admitted to Practice in the Commonwealth of Massachusetts

**Not admitted to Practice Law in the Commonwealth of Massachusetts

Attachment
Recommended Policy Change

NPS will secure written approval from parents before implementing any social transition support plan for a child. Parents will be notified regarding a child engaging in social transitioning including all school documents and communications relating to their child's social transitioning. Parents will be notified prior to school employees engaging in social transition discussion with their child. Parents will be continuously notified regarding social transitioning of their child. The parents will be notified of the date and time of the discussion, the school employees involved in the discussion, the content of the discussion, and any decision made based on the discussion.