

# 25-952

---

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

---

JENNIFER VITSAXAKI,

*Plaintiff-Appellant,*

v.

SKANEATELES CENTRAL SCHOOL DISTRICT,  
SKANEATELES CENTRAL SCHOOLS' BOARD OF EDUCATION,

*Defendants-Appellees.*

---

On Appeal from the United States District Court  
Northern District of New York  
Honorable David N. Hurd  
Case No. 5:24-CV-155

---

**BRIEF *AMICUS CURIAE* OF THE SECULAR STUDENT  
ALLIANCE IN SUPPORT OF APPELLEES AND AFFIRMANCE**

---

**SAMUEL T. GROVER**

*Counsel of Record*

Samantha F. Lawrence

FREEDOM FROM RELIGION

FOUNDATION, INC.

P. O. Box 750

Madison, Wisconsin 53701

(608) 256-8900

sgrover@ffrf.org

*Counsel for Amicus Curiae*

## **CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, amicus The Secular Student Alliance hereby discloses that it has no parent corporation, and no publicly held corporation owns 10% or more of any stock in amicus.

## TABLE OF CONTENTS

	Page
CORPORATE DISCLOSURE STATEMENT .....	i
TABLE OF AUTHORITIES .....	iii
INTEREST OF AMICUS .....	1
SUMMARY OF ARGUMENT.....	2
ARGUMENT.....	3
I. THE PRACTICE OF USING NICKNAMES IS DEEPLY EMBEDDED IN AMERICAN HISTORY AND TRADITION.....	5
A. Use of nicknames has a long and unbroken history in the U.S. generally and in public schools specifically.....	6
B. It has long been a recommended practice for teachers to call students by their preferred names. ....	9
II. THE DISTRICT HAS A DUTY TO PROTECT THE WELFARE AND SAFETY OF TRANSGENDER AND GENDER- NONCONFORMING STUDENTS. ....	14
A. The Petitioner challenges historically established policies that are mandated by the State of New York. ....	16
B. Public schools must cultivate a welcoming and inclusive environment that safeguards the health and well-being of transgender and gender-nonconforming students. ....	18
C. No precedent dictates another result here. ....	23
CONCLUSION.....	26
CERTIFICATE OF COMPLIANCE .....	27
CERTIFICATE OF SERVICE .....	28

## TABLE OF AUTHORITIES

Cases	Page(s)
<i>Mahmoud v. Taylor</i> , No. 24-297, 2025 WL 1773627 (June 27, 2025) .....	23, 25
<i>Wisconsin v. Yoder</i> , 406 U.S. 205 (1972) .....	23, 24, 25
<b>Other Authorities</b>	
Amanda M. Pollitt, Salvatore Ioverno, Stephen T. Russell, Gu Li, & Arnold H. Grossman, <i>Predictors and Mental Health Benefits of Chosen Name Use Among Transgender Youth</i> , YOUTH & SOC. (June 16, 2019), <a href="http://www.ncbi.nlm.nih.gov/pmc/articles/PMC7678041/pdf/nihms-1044373.pdf">www.ncbi.nlm.nih.gov/pmc/articles/PMC7678041/ pdf/nihms-1044373.pdf</a> .....	20
Bradley A. MacDonald, <i>What’s in a Name?: The Constitutionality of Using Personal Pronouns in Public Schools</i> , 56 U. ILL. CHI. L. REV. 477 (2023) .....	4
Brenda Álvarez, <i>Why Pronouns Matter</i> , Nat’l Educ. Ass’n, NEA Today (Oct. 5, 2022), <a href="https://bit.ly/3SsMjuL">https://bit.ly/3SsMjuL</a> .....	20
Charles Ledyard Norton, <i>Political Americanisms: A Glossary of Terms and Phrases Current at Different Periods in American Politics</i> 13 (New York, Longmans, Green & Co. 1890).....	7
Cori Alonso-Yoder, <i>Making A Name for Themselves</i> , 74 RUTGERS U.L. REV. 911 (2022) .....	8
Don C. Locke & Joseph C. Ciechalski, <i>Psychological Techniques for Teachers</i> , 121 (1985) .....	9
Ernest L. Abel, <i>Nicknames of American Civil War Generals</i> , 52 NAMES 243 (2004).....	7

G. Stanley Hall, <i>Some Aspects of the Early Sense of Self</i> , 9 AM. J. PSYCH. 351 (1898) .....	8, 10, 11
Gregory S. Alexander, <i>Name Takings</i> , 19 NW. J.L. & SOC. POL'Y 40 (2023) .....	11
H.L. Mencken, THE AMERICAN LANGUAGE 280 (Alfred Knopf, 1st ed. 1919).....	6
James K. Skipper Jr., <i>Public Nicknames of Famous Football Players and Coaches: A Socio-Historical Analysis and Comparison</i> , 9 SOCIO. SPECTRUM 103 (1989) .....	6
John Blake, <i>In Search of Pookie, Peanut and Peaches</i> , CNN (Jan. 11, 2016, 9:05 AM), <a href="http://www.cnn.com/2015/12/18/us/baltimore-nicknames">www.cnn.com/2015/12/18/us/baltimore-nicknames</a> .	12
Joseph S. C. Simplicio, <i>Some Simple and Yet Overlooked Common Sense Tips for a More Effective Classroom Environment</i> , 26 J. INSTRUCTIONAL PSYCH. 111 (1999) .....	10
Katelyn M. Cooper et. al., <i>What's in a Name? The Importance of Students Perceiving that an Instructor Knows Their Names in a High-Enrollment Biology Classroom</i> , 16 CBE: LIFE SCIENCES EDUCATION 1 (2017) .....	12
Kayla Jimenez et al., <i>When fallout comes from teachers using (or refusing to use) students' preferred names</i> , USA Today, (Apr. 11, 2025, 4:55 PM), <a href="http://www.usatoday.com/story/news/">www.usatoday.com/story/news/</a> .....	14
Manni Jandernoa, <i>Prioritizing Student Well-Being: Name and Pronoun Policies in K-12 Schools</i> , 68 ST. LOUIS U. L.J. 641 (2024), <a href="https://scholarship.law.slu.edu/lj/vol68/iss3/17">https://scholarship.law.slu.edu/lj/vol68/iss3/17</a> .....	21
Mary Beth Hewitt, <i>Helping Students Feel Like They Belong</i> , 7 RECLAIMING CHILD. & YOUTH 155 (1998) .....	9
Mollie McQuillan & Cris Mayo, <i>School Leaders and Transphobia: Direct, Facilitative, Accommodative, and Resistant Forms of Gender-Based Bias and Bullying</i> , 60 EDUC. ADMIN. Q. 37 (2024) .....	13

N.Y. Educ. Law § 12(1)(2) .....	16
Robert D. Morrow, <i>What's in a Name? In Particular, a Southeast Asian Name?</i> 44 YOUNG CHILDREN 20 (1989) .....	11
Robert J. Marzano, <i>A Different Kind of Classroom: Teaching with Dimensions of Learning</i> , 20 (1992) .....	9
Samantha Reidel, <i>Schools Are Forcing Parents to Approve Kids' Nicknames Due to Anti-Trans Laws</i> , Them (Aug. 11, 2023), <a href="http://www.them.us/story/indiana-schools-parents-approve-nicknames-trans-students">www.them.us/story/indiana-schools-parents-approve-nicknames-trans-students</a> .....	15
Stephen T. Russell, Ph.D., Amanda M. Pollitt, Ph.D., Gu Li, Ph.D., Arnold H. Grossman, Ph.D., <i>Chosen Name Use Is Linked to Reduced Depressive Symptoms, Suicidal Ideation, and Suicidal Behavior Among Transgender Youth</i> , 63 J. Adolesc. Health, 503 (2018).....	20
Steve Holt, <i>Her Name Is Qiongyue. You Can Call Her "Joanna,"</i> Bostonia (Feb. 24, 2023), <a href="http://www.bu.edu/articles/2023/asian-students-english-names/">www.bu.edu/articles/2023/asian-students-english-names/</a> .....	11
The Miami Herald Editorial Board, <i>Florida reaches way too far into classrooms. The new target: nicknames</i> , Miami Herald, (Aug. 17, 2023, 4:43 PM), <a href="http://www.miamiherald.com/opinion/editorials/article278337344.html">www.miamiherald.com/opinion/editorials/article278337344.html</a> .....	14
Thomas V. Busse, <i>Nickname Usage in American High School</i> , 31 NAMES 300 (1983).....	8

## **INTEREST OF AMICUS<sup>1</sup>**

The Secular Student Alliance (“SSA”) is a 501(c)(3) nonprofit and network of over 200 groups on high school and college campuses dedicated to advancing nonreligious viewpoints in public discourse. The SSA empowers secular students to proudly express their identity, build welcoming communities, promote secular values, and set a course for lifelong activism. SSA and its chapters and affiliates value the efforts of high schools, colleges, and universities to ensure an inclusive and welcoming educational environment.

---

<sup>1</sup> All parties consented to the filing of this amicus brief. No party’s counsel in this case authored this brief in whole or in part. No party or party’s counsel contributed any money intended to fund preparing or submitting this brief. No person, other than amicus, its members, or its counsel contributed money that was intended to fund preparing or submitting this brief.

## SUMMARY OF ARGUMENT

The use of nicknames and the practice of addressing individuals, including students, by their preferred names is deeply embedded in the history and tradition of the United States. In 2018 the Skaneateles Central School District (“District”) codified this practice and adopted a policy explicitly stating that all students, including transgender and gender-nonconforming students, can choose their preferred name and corresponding pronouns. This sensible policy not only fulfills the District’s moral obligation to protect and respect all students, it also ensures compliance with New York State anti-discrimination and harassment laws. Further, the policy comports with educational best practices recommended by youth psychologists and educators themselves, in recognition of the proven connection between protecting student well-being and cultivating a successful learning environment.

The Petitioner seeks to turn this traditional commonplace practice into a culture war issue, but ultimately she fails to demonstrate that the District’s actions violated any of her constitutional rights, including her free exercise rights or the unenumerated right of parents to direct their children’s religious upbringing. The District’s policy simply



acknowledges and puts in writing a policy that has existed in American public schools for over a century: students may choose how they are addressed in class. The fact that the District explicitly extends this policy to transgender and gender-nonconforming students is a matter of inclusion, respect, and civility—values that should not and cannot be cast aside because of one parent’s religiously-motivated objections. This Court, like the district court, should reject the Petitioner’s claims; no existing precedent dictates another result.

### **ARGUMENT**

Almost anyone who has attended the first day of a new school year can relate to the experience of hearing their own legal name—or that of a classmate—called out by a teacher taking attendance. For many, the name announced in front of the class sounds alien, even though the student who raises their hand in response is familiar. A look of embarrassment may cross their face as the student responds to the teacher with, “actually it’s . . .” followed by the name that they go by, the name all of their classmates call them. The teacher makes a note of the student’s preferred name—their nickname—to ensure that the error is not repeated and then moves on to the next student. This scenario is

business as usual in American public schools. *See* Bradley A.

MacDonald, *What's in a Name?: The Constitutionality of Using Personal Pronouns in Public Schools*, 56 U. ILL. CHI. L. REV. 477, 478 (2023) (“The first day of class is inaugurated by the stereotypical roster check.”). The implicit rule is that students get to pick the name by which they are addressed in class.

When the Skaneateles Central School District adopted a policy that allows for transgender and gender-nonconforming students to go by their preferred name and corresponding pronouns while in school, the District simply extended the same basic courtesy to transgender and gender-nonconforming students that has always been extended to cisgender students in public schools. Throughout American history it has been a common practice in public schools to allow students to go by their preferred name—a nickname— rather than the full name given to them by their parents. There is substantial evidence that this common American practice bolsters students’ sense of self and communicates respect in the classroom. The District’s decision to formalize this policy as it pertains to transgender and gender-nonconforming students is a conscientious and commonsense effort to fulfill the District’s obligation

to protect this highly marginalized group of students from bullying, harassment, and discrimination. The State of New York mandates that the District fulfill this obligation. Yet the Petitioner asks that this Court order the District to shirk its state-mandated obligation and carve out a special rule for the students of religious parents that is at odds with more than 125 years of well-established public school policy.

**I. THE PRACTICE OF USING NICKNAMES IS DEEPLY EMBEDDED IN AMERICAN HISTORY AND TRADITION.**

The challenged policy, implemented by the District, “permits students to use their preferred name and pronouns at school” and permits them to determine “when, how, and if to notify their parents of their decision to elect a chosen name and/or pronouns at school.” JA86 (cleaned up). The District’s policy “does not encourage students one way or another regarding whether they use or disclose different names and pronouns[.]” Appellee’s Br. at 2. In adopting this policy, the District did little more than formalize in writing a practice that has existed historically in America since at least the late 1800s, and in American public schools specifically ever since they became commonplace. This largely uncoded practice exists in the public school context in part because schools recognize that allowing students to select their own

names communicates respect for students' autonomy and promotes self worth.

**A. Use of nicknames has a long and unbroken history in the U.S. generally and in public schools specifically.**

Use of nicknames is not a new nor radical concept, rather, it is deeply embedded in American history and tradition. “[I]n his classic study of the American language, [published in 1919] H.L. Mencken recognized that nicknames were an important and deeply embedded cultural element in American society.” James K. Skipper Jr., *Public Nicknames of Famous Football Players and Coaches: A Socio-Historical Analysis and Comparison*, 9 SOCIO. SPECTRUM 103, 103–04 (1989).

Mencken noted several cultural motivations for adopting nicknames in America. Jewish Americans, for instance, “who face an anti-Semitism that is imperfectly concealed and may be expected to grow stronger hereafter . . . shrink from all the disadvantages that go with Jewishness, and seek to conceal their origin, or, at all events, to avoid making it unnecessarily noticeable.” H.L. Mencken, *THE AMERICAN LANGUAGE* 280 (Alfred Knopf, 1st ed. 1919). Mencken noted that many other immigrants at the time similarly sought to escape the perceived disadvantages of their non-Anglo Saxon origins and “do not wait for the

birth of children to demonstrate their naturalization; they change their own given names immediately [when] they land. . . . this is done almost universally on the East Side of New York.” *Id.* at 284. Thus, in the early 1900s, “[e]ven the most old-fashioned Jews immigrating to this country . . . change *Yosel* to *Joseph*, *Yankel* to *Jacob*, *Liebel* to *Louis*, *Feivel* to *Philip*, *Itzik* to *Isaac*, *Ruven* to *Robert*, and *Moise* or *Motel* to *Morris*. . . . [while e]very Bohemian *Vaclav* or *Vojtěch* becomes a *William*, every *Jaroslav* becomes a *Jerry*, every *Bronislav* a *Barney*, and every *Stanislav* a *Stanley*. The Italians run to *Frank* and *Joe* . . . .” *Id.*

Historically, the practice of redefining oneself through the use of a nickname was not limited to immigrants, of course. The nicknames of prominent political and military figures like “Honest Abe” and “Stonewall Jackson” are well-known to everyday Americans. *See* Charles Ledyard Norton, *Political Americanisms: A Glossary of Terms and Phrases Current at Different Periods in American Politics* 13, 54 (New York, Longmans, Green & Co. 1890); Ernest L. Abel, *Nicknames of American Civil War Generals*, 52 NAMES 243, 246 (2004). Other well-known American historical figures like Sojourner Truth and Harriet Tubman chose to go by names different from their birth names, and

these chosen names have been taught to children for over 150 years. *See* Cori Alonso-Yoder, *Making A Name for Themselves*, 74 RUTGERS U.L. REV. 911, 931 (2022). Thus, the use of nicknames has been a commonplace and accepted practice since the inception of our country.

In the school context, children have long used nicknames as well. One article from 1898 documents the frequency with which American children went by names other than their given names, recounting anecdotal examples such as “one girl . . . called Jennie, till at the age of eight she ordered a change and would respond only to Ida, which became her name,” Elizabeth who “used to call herself Liberty, and that is still her name at the age of nineteen,” and Rose who “at the age of five . . . became cross if not called Ella, and Ella she became.” G. Stanley Hall, *Some Aspects of the Early Sense of Self*, 9 AM. J. PSYCH. 351, 370 (1898). Nickname use remained incredibly prevalent in the United States well into the twentieth century, with a study of one American public high school in 1983 finding that 55% of boys and 40% of girls reported having a nickname. *See* Thomas V. Busse, *Nickname Usage in American High School*, 31 NAMES 300, 302 (1983). Thus, addressing students by their preferred names has a long and unbroken history of

more than 125 years in American public schools, with use of nicknames enjoying an even longer history outside of the public school context. Moreover, this commonly accepted practice is also a recommended best practice in the public school context, due to the recognized benefits for students.

**B. It has long been a recommended practice for teachers to call students by their preferred names.**

It has been a recommended best practice for at least 40 years for teachers to call students by their nicknames or preferred names if the student so requests. *See, e.g.,* Don C. Locke & Joseph C. Ciechalski, *Psychological Techniques for Teachers*, 121–23 (1985) (explaining that knowing and using a student’s preferred name has proven to be an effective technique for helping students meet their psychological needs); Robert J. Marzano, *A Different Kind of Classroom: Teaching with Dimensions of Learning*, 20 (1992) (“A teacher can foster students’ sense of acceptance in many ways: . . . [including by] calling all students by their first or preferred name.”); Mary Beth Hewitt, *Helping Students Feel Like They Belong*, 7 RECLAIMING CHILD. & YOUTH 155, 155 (1998) (“One of the quickest and easiest ways to create a sense of belonging is to call a person by his or her name. . . . You should always use the

individual's preferred name for him or herself, and you should spell it correctly.”); Joseph S. C. Simplicio, *Some Simple and Yet Overlooked Common Sense Tips for a More Effective Classroom Environment*, 26 J. INSTRUCTIONAL PSYCH. 111, 112 (1999) (“When a teacher can address every student by name, that teacher conveys a positive and powerful message to the student. It says that I am interested enough and care enough about you to learn more about you, starting with your name.”). The policy of calling students by their preferred name is recommended in these instructional resources not in the context of transgender or gender-nonconforming students, but rather as a general best practice for ensuring the well-being of *all* students and promoting student success generally.

The psychological benefits of using a child's preferred name have been documented as far back as at least 1898, when the American Journal of Psychology detailed the ways in which the names given to, and chosen by, children affected their early sense of self. *See* Hall, *supra* at 368. In addition to noting the prevalence of the practice at the time, Hall explained that the nicknaming of children has demonstrable social



benefits, including that it is seen as a sign of love and friendship in American culture. *Id.* at 371.

In the context of international students, academics and scholars concerned with best teaching practices have advised teachers that if a student with a non-English name has chosen to “Americanize” their name, teachers should use the child’s preferred name. *See* Robert D. Morrow, *What’s in a Name? In Particular, a Southeast Asian Name?* 44 *YOUNG CHILDREN* 20, 23 (1989). One study in 2014 of Chinese students studying abroad in the U.S. found that 97.4% adopted an English name. *See* Gregory S. Alexander, *Name Takings*, 19 *NW. J.L. & SOC. POL’Y* 40, 67 (2023); *see also* Steve Holt, *Her Name Is Qiongyue. You Can Call Her “Joanna,”* *Bostonia* (Feb. 24, 2023), [www.bu.edu/articles/2023/asian-students-english-names/](http://www.bu.edu/articles/2023/asian-students-english-names/) (describing anecdotal experience of a Boston University associate professor teaching “many international students from Asian countries who go by English names”). In addition to international students, there are also particular regions and urban areas in the United States where nicknames are particularly prevalent and teachers are thus even more likely to receive requests from students not to be called by their “government name,” with which they

do not associate. See John Blake, *In Search of Pookie, Peanut and Peaches*, CNN (Jan. 11, 2016, 9:05 AM), [www.cnn.com/2015/12/18/us/baltimore-nicknames](http://www.cnn.com/2015/12/18/us/baltimore-nicknames) (describing one middle school teacher's efforts to accommodate his students' nickname requests in West Baltimore).

In addition to fostering an environment of mutual respect and promoting students' sense of self, there is also evidence that using students' preferred names directly impacts their learning and educational achievement. In one study of an undergraduate biology class, students provided responses about how their instructor knowing their name impacted them, with 19.4% of students reporting that when an instructor knows their name, they are more invested in the course and more comfortable seeking help from the instructor. See Katelyn M. Cooper et. al., *What's in a Name? The Importance of Students Perceiving that an Instructor Knows Their Names in a High-Enrollment Biology Classroom*, 16 CBE: LIFE SCIENCES EDUC. 1, 6 (2017). Of the students surveyed, 11.9% reported "that they felt as though they perform better in a course when their names are known by an instructor." *Id.* Knowing and using a student's preferred name is thus an important aspect of effectively educating students.

In public schools generally, and in a variety of more specific contexts, teachers frequently use nicknames and preferred names for cisgender students without any thought or public complaint. *See* Mollie McQuillan & Cris Mayo, *School Leaders and Transphobia: Direct, Facilitative, Accommodative, and Resistant Forms of Gender-Based Bias and Bullying*, 60 EDUC. ADMIN. Q. 37, 40 (2024) (noting that educators “regularly use nicknames for cisgender students but [some] struggle to call transgender students by their name if it does not align with their legal name”). By adopting its preferred name policy, the District was following the long-standing recommendations of many educators and academics writing about effective teaching methods. The District’s policy, thus, does not break new ground; it merely codifies an historical, widespread practice in American public schools. Moreover, the District’s adoption of this policy conforms to its state-mandated obligations to protect its students from bullying or discrimination on the basis of their gender or sex. *See* Sec. II, *infra*. It is therefore unclear whether the District could even give the Petitioner what she seeks without contravening state law.

## II. THE DISTRICT HAS A DUTY TO PROTECT THE WELFARE AND SAFETY OF TRANSGENDER AND GENDER-NONCONFORMING STUDENTS.

In recent years, anti-transgender hysteria has turned what has always been a simple, widely accepted rule—that students should be treated with respect, including calling them by their preferred name—into a controversial issue. In an effort to forcibly change this common practice, lawmakers in some states have recently begun enacting novel laws aimed at restricting the ability of school employees to use students’ preferred names. *See* Kayla Jimenez et al., *When fallout comes from teachers using (or refusing to use) students’ preferred names*, USA Today, (Apr. 11, 2025, 4:55 PM), [www.usatoday.com/story/news/education/2025/04/11/fallout-teachers-using-students-preferred-names-pronouns/83016730007/](https://www.usatoday.com/story/news/education/2025/04/11/fallout-teachers-using-students-preferred-names-pronouns/83016730007/). With the introduction of laws requiring parental approval for use of any name other than a child’s legal name in school, in some states determining a student’s nickname is no longer as simple as asking “Is it Robert, Rob, Bob or Bobby?” The Miami Herald Editorial Board, *Florida reaches way too far into classrooms. The new target: nicknames*, Miami Herald, (Aug. 17, 2023, 4:43 PM), [www.miamiherald.com/opinion/editorials/article278337344.html](https://www.miamiherald.com/opinion/editorials/article278337344.html). These

laws have led to absurd results, like requiring parents to approve a school calling their child Ben instead of Benjamin, or Rosie instead of Rosemarie, when “the parents said both children have used their nicknames for almost their entire lives.” Samantha Reidel, *Schools Are Forcing Parents to Approve Kids’ Nicknames Due to Anti-Trans Laws*, Them (Aug. 11, 2023), [www.them.us/story/indiana-schools-parents-approve-nicknames-trans-students](https://www.them.us/story/indiana-schools-parents-approve-nicknames-trans-students).

Public school districts have a duty to protect the welfare and safety of all students, including transgender and gender-nonconforming children. In reaction to phenomena like these recent laws that have placed transgender and gender-nonconforming people at the center of a culture war, the District codified a practice that American public schools have always had implicitly: schools cultivate respect for the autonomy of their students by letting them choose their own names. The use of a student’s preferred pronouns is simply a modern extension of the long-standing general policy that students should be referred to in the manner that they so choose. The District’s adopted policy not only seeks to fulfill its moral obligation to protect and respect its students, it also ensures compliance with New York State law and recognizes the

close, proven connection between protecting student well-being and cultivating successful education outcomes.

**A. The Petitioner challenges historically established policies that are mandated by the State of New York.**

The State of New York requires school districts to act to prevent bullying, harassment, and discrimination against students on the basis of gender or sex, including protecting transgender and gender-nonconforming students. *See* JA82; Appellee’s Br at 4 (stating that the policy is enacted in accordance with all applicable “law, regulations, and guidelines.”). New York’s Dignity for All Students Act states, in part, that “[n]o student shall be subjected to harassment or bullying by employees or students on school property or a school function; nor shall any student be subjected to discrimination based on a person’s actual or perceived . . . sexual orientation, gender, or sex by school employees or students on school property or at a school function.” N.Y. Educ. Law § 12(1). Public school boards are required to incorporate this policy into their districts’ codes of conduct. *Id.* § 12(2). The District’s policy ensures that its transgender and gender-nonconforming students benefit from the same basic welfare and safety protections that all students have historically enjoyed. As the District Court correctly recognized, the

policy “extends the kind of decency students should expect at school: such as being called the name they asked to be called.” JA111; *see also* Appellee’s Br. at 21. The Petitioner seeks to contravene New York law by requiring the District to exclude some students—on the basis of their gender or sex—from the otherwise universal rule that students can dictate their own nicknames.

The Petitioner unconvincingly alleged that the District violated her free exercise rights when, in accordance with its policy, it allowed Jane Doe to dictate their own preferred name and pronouns without parental knowledge or consent. JA100; Appellant’s Br. at 51. However, the Petitioner declines to explain why the District must, should, or even *could* make a special exception for her and disregard New York’s mandate that schools operate under policies such as the one at issue here. While the Petitioner is Greek Orthodox and has personal, religiously-motivated objections to New York’s education law and its strong policy of inclusion and safety, she does not explain how or why the Dignity for All Students Act or any other anti-discrimination provision is unconstitutional, either on its face or as applied to her. She offers no explanation as to why an alleged incidental burden on her

personal religious beliefs must trump the District's obligation to comply with all applicable state laws, nor does she claim that the District is free to disregard state law.

**B. Public schools must cultivate a welcoming and inclusive environment that safeguards the health and well-being of transgender and gender-nonconforming students.**

To successfully educate students, public schools must cultivate a welcoming and inclusive environment that safeguards the health and well-being of transgender and gender-nonconforming students. Public schools have the solemn duty to educate our nation's students, performing a public service that's essential to a functioning democratic society. America is diverse, and our pluralism is the root of our nation's strength. One of the great features of our public education system is that students from different backgrounds, religions, and numerous other characteristics, attend the same schools. In a pluralistic society, creating an environment that safeguards the health and well-being of all students regardless of gender identity or gender expression is essential. Public schools have an indisputable duty to protect the safety and well-being of all students and must not compromise that duty even at the behest of individual parents.



In recognition of their duty to foster an environment of mutual respect and to promote student autonomy, public schools have historically maintained a policy of allowing students to dictate their own preferred name. *See* Sec. I, *supra*. While the District may have only codified this policy in 2018 (*see* JA90; Appellee’s Br. at 3), the policy itself is not new or radical. The policy “is aimed at fostering a safe learning environment for all students, free from discrimination and harassment on the basis of sex, gender, gender identity, gender nonconformity, and gender expression.” JA107–08 (cleaned up). Preserving this policy as it pertains to all students is a necessary part of creating a safe learning environment, regardless of a student’s gender identity. In fact, the benefits of respecting student autonomy to dictate their personal pronouns and nicknames is even more pronounced in the context of transgender and gender-nonconforming students.

Researchers in the area of adolescent health have already confirmed that using transgender youths’ chosen names and pronouns lessens symptoms of depression and lowers suicidal ideations and behaviors. behaviors. *See* Stephen T. Russell, Ph.D., Amanda M. Pollitt, Ph.D., Gu Li, Ph.D., Arnold H. Grossman, Ph.D., *Chosen Name Use Is*

*Linked to Reduced Depressive Symptoms, Suicidal Ideation, and Suicidal Behavior Among Transgender Youth*, 63 J. ADOLESC. HEALTH, 503, 503–05 (2018). “For transgender youth who choose a name different than that given at birth, use of their chosen name in multiple contexts appears to affirm their gender identity and lower mental health risks known to be high in this group.” *Id.* “The available evidence shows that inclusive policies and supportive school personnel have an important role in reducing institutional gender-related discrimination and improving transgender students’ perceived school climate.”

Amanda M. Pollitt, Salvatore Ioverno, Stephen T. Russell, Gu Li, & Arnold H. Grossman, *Predictors and Mental Health Benefits of Chosen Name Use Among Transgender Youth*, YOUTH & SOC. (June 16, 2019), [www.ncbi.nlm.nih.gov/pmc/articles/PMC7678041/pdf/nihms-1044373.pdf](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC7678041/pdf/nihms-1044373.pdf). Similarly, educators themselves recognize that when transgender students’ “correct names and pronouns are used, statistics show that suicide rates drop, while trust and feelings of belonging increase.” Brenda Álvarez, *Why Pronouns Matter*, Nat’l Educ. Ass’n, NEA Today (Oct. 5, 2022), <https://bit.ly/3SsMjuL>. Likewise, legal scholars examining the emergence of preferred name and pronouns

policies suggest that schools must prioritize students above competing interests. “When drafting and enforcing name and pronoun policies, K-12 schools should prioritize student well-being and the facilitation of a successful learning environment, both of which are integral goals of public schools.” Manni Jandernoa, *Prioritizing Student Well-Being: Name and Pronoun Policies in K-12 Schools*, 68 ST. LOUIS U. L.J. 641, 648 (2024), <https://scholarship.law.slu.edu/lj/vol68/iss3/17>. Further, “schools must be mindful of the individual safety risk, both physical and emotional,” of students “when deciding how to proceed with parental disclosure of gender identity.” *Id.* at 666.

All of this research supports the District’s decision to codify a long-running practice into a written policy, in accordance with state law, to prevent harm to students. Acknowledging in writing that the historical practice of allowing students to choose how they are addressed in class applies to transgender and gender-nonconforming students is a simple yet profound step that can help decrease the risks of suicidal ideation and depressive symptoms for this marginalized student population. Children are entrusted to the public school system for hundreds of hours each year. Given the immense amount of time

students are required to be at school, parents must be able to trust that schools will do their best to create a safe educational environment. The District's policy also serves the purpose of informing parents of what protections they can expect from their child's school. These protections are rightly applied universally, to all students, regardless of one parent's personal religious objection to the existence of individuals who do not neatly fall within the gender binary.

The Petitioner "merely alleges that the choices available to students who choose to take advantage of the Policy runs afoul of her own religious beliefs." JA104. In reality, this religiously-motivated objection is not to the District's policy specifically, but to a well-established practice in American public schools. Historically, students have long been afforded the benefit of choosing how they are addressed in class, regardless of their gender identity. Any alleged incidental burdens on parental religious beliefs fall far short of outweighing the documented benefits to students' health and well-being that comes from granting them this basic form of personal autonomy. Public schools do not violate a parent's free exercise rights by prioritizing student safety and well-being over personal religious beliefs.

**C. No precedent dictates another result here.**

“The Policy addresses what the Complaint identifies as a recurring phenomenon: students requesting to use different names and pronouns at school for personal reasons.” Appellee’s Br. at 29 (citing JA 15, 17). While the Petitioner has attempted to frame this case as a challenge to a new and radical policy concocted by the District, in reality the Petitioner’s true objections are to a policy that has been in effect for over well over 125 years, in schools throughout the United States. Moreover, this case pits the Petitioner’s personal religious beliefs against her own child’s personal autonomy and freedom of expression, with the school district falling in the middle as mediator. The Supreme Court has not provided any indication that the hybrid due process and free exercise right claimed by the Petitioner should win out when pitted against a student’s personal autonomy. The two principal Supreme Court decisions to which the Petitioner points in support of this hybrid rights claim are inapposite, as neither *Wisconsin v. Yoder*, 406 U.S. 205 (1972) nor *Mahmoud v. Taylor*, No. 24-297, 2025 WL 1773627 (June 27, 2025) involves a situation where a parent’s religious beliefs conflict with the personal liberties of their child.

*Yoder* involved Amish parents’ challenge to Wisconsin’s mandatory schooling law. *See* 406 U.S. at 209. The Amish parents in *Yoder* “believed that, by sending their children to high school, they would not only expose themselves to the danger of the censure of the church community, but, as found by the county court, also endanger their own salvation and that of their children.” *Id.* at 209. They further established, through expert testimony, that following Wisconsin’s law would “result in the destruction of the Old Order Amish church community . . . .” *Id.* at 212. Importantly, the *Yoder* Court recognized that “[t]he State’s argument proceeds without reliance on any actual conflict between the wishes of parents and children.” *Id.* at 232; *see also id.* at 237 (Stewart, J., concurring) (“As the Court points out, there is no suggestion . . . that the religious beliefs of the children here concerned differ in any way from those of their parents.”). Ultimately, the Court sided with the Amish, but reiterated that its holding “in no way determines the proper resolution of possible competing interests of parents, children, and the State in an appropriate . . . proceeding in which the power of the State is asserted on the theory that Amish

parents are preventing their minor children from attending high school despite their expressed desires to the contrary.” *Id.* at 232.

The *Mahmoud* Court relied principally on *Yoder*, without any evidence that the parent-petitioners’ personal religious views were at odds with the desires of their children. *See* No. 24-297, 2025 WL 1773627. The Court further noted that this area of law “will always be fact-intensive,” *id.* at \*15 (citing *Yoder*, 406 U.S. at 218), and that “[e]ducational requirements targeted toward very young children, for example, may be analyzed differently from educational requirements for high school students.” *Id.* This makes sense because while elementary-school-aged children, like those of the *Mahmoud* petitioners, are unlikely to have beliefs that differ from those of their parents, middle and high school students—like the one involved in the present case—are far more likely to have developed their own opinions and beliefs, which may or may not accord with those of their parents.

Thanks to the stark contrast in their factual patterns, *Yoder* and *Mahmoud* cannot shed light on the outcome in the present case, where “the Policy obligates the District to honor *students’ own beliefs and requests* regarding names, pronouns, and privacy, rather than impose

beliefs on or make requests to students.” Appellee’s Br. at 28 (emphasis in original). Absent any such binding authority, this Court should reject the Petitioner’s request to discredit her child’s own wishes and upend a school policy backed by more than a century of widespread custom and practice.

### CONCLUSION

For the foregoing reasons, this Court should affirm the district court’s dismissal of Petitioner’s case.

Dated: July 17, 2025

Respectfully submitted,

/s/ Samuel T. Grover

Samuel T. Grover

*Counsel of Record*

Samantha F. Lawrence

Freedom From Religion

Foundation, Inc.

P. O. Box 750

Madison, Wisconsin 53701

(608) 256-8900

sgrover@ffrf.org

*Counsel for Amicus Curiae*



## **CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rules of Appellate Procedure 32(a)(7)(B), 32(f), 32(a), and Local Rule 29.1, I hereby certify that the foregoing brief complies with length, typeface, and type-style requirements. This brief contains 4,942 words and was prepared in a proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook font.

Dated: July 17, 2025

Respectfully submitted,

/s/ Samuel T. Grover  
Samuel T. Grover

## **CERTIFICATE OF SERVICE**

In accordance with Local Rule 25.1(c), this brief is being filed electronically via the Court's CM/ECF system on this day, July 17, 2025, and six paper copies will be delivered to the Court. Counsel for the Parties are being served with electronic copies via the Court's CM/ECF system and email.

Dated: July 17, 2025

Respectfully submitted,

/s/ Samuel T. Grover  
Samuel T. Grover