

No. G064332

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**IN THE COURT OF APPEAL OF THE STATE  
OF CALIFORNIA  
FOURTH APPELLATE DISTRICT,  
DIVISION THREE**

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MAE M. THROUGH GUARDIAN AD LITEM  
ANTHONY M. et al.  
PLAINTIFFS-APPELLANTS,  
V.  
JOSEPH KOMROSKY et al.  
DEFENDANTS-APPELLEES.

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On Appeal from the Superior Court of Riverside, California  
Case No. CVSW2306224  
The Honorable Eric Keen  
Department 6

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**BRIEF OF AMICI CURIAE OUR DUTY- USA IN SUPPORT OF  
DEFENDANTS-APPELLEES AND IN SUPPORT OF AFFIRMANCE**

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## STATEMENT OF INTEREST OF *AMICUS CURIAE*

Our Duty – USA (“Our Duty”) is a national nonprofit organization with over 1,000 members, including Californians. It has no religious or political affiliations. Its mission is to (1) support families with trans-identifying children in finding non-medical solutions to gender dysphoria; (2) provide educational materials and advice on how to safeguard secret social transitions of children in school settings; and (3) pressure governments to develop public policies that serve the best interest of those struggling with identity issues.

Never in reported human history has there been such a meteoric rise of children and youth rejecting their biological sex and adopting transgender identities, nor has there been such a rapid infiltration of gender ideology in all aspects of life, including schools, commercial enterprises, government and culture. What was once an exceedingly rare circumstance has become commonplace, resulting in entire industries earning billions of dollars in altering children’s secondary sex characteristics.

Gender identity is based upon a belief system that replaces biological sex with an internal feeling known only to the individual. Society has created a fictional child that is said to have been born with a mismatch of their brain and body. Our Duty

rejects this notion, and the anathematic narrative that if parents do not affirm their children’s rejection of their body, they will kill themselves, while recognizing that gender-confused children do have a heightened risk of suicide.

Our Duty wrote the framework parental notification policy used for the drafting of the Policy at issue herein. Our Duty members have children who have been secretly socially transitioned by schools, which resulted in their child’s acute depression, but with parental compassionate guidance and love, returned to acceptance of their immutably sexed body. Our Duty members have a profound interest in the outcome of this case.

## **I. INTRODUCTION**

Plaintiffs-Appellants allege that the trial court erred in its denial of its preliminary injunction request to enjoin enforcement of the Policy that requires parents to be notified when their student is requesting that the school participate in the student’s social transition. The trial court correctly found that the Policy was subject to the rational basis test that was readily met by the Policy’s stated purpose.

## **II. THE POLICY AND BACKGROUND**

### **A. The Policy Is Limited in Scope.**

The Temecula Valley Unified School District (“TVUSD”) Policy 5020.1 (“Policy”) states that TVUSD shall:

notify the parent(s)/guardians . . . within three days . . . that a student is:

- a. Requesting to be identified or treated as a gender . . . other than the student’s biological sex or gender listed on the student’s birth certificate or any other official records. This includes any request by the student to use a name that differs from their legal name . . . or to use pronouns that do not align with the student’s biological sex . . . .
- b. Accessing sex-segregated school programs and activities, including athletic teams . . . or using bathrooms or changing facilities that do not align with the student’s biological sex . . . .
- c. Requesting to change any information contained in the student’s official or unofficial records.

Notification is limited to *only* the *parents* of the student requesting to be treated differently, and does not include other students or teachers. Notification only occurs when the student is requesting the school to *participate* in his social transition. It does not address same-sex attracted students, nor does it reference “transgender or gender nonconforming students,”<sup>1</sup> the alleged group Appellants claim is being discriminated. (Appellants’ Opening Brief, p. 33.)

## **B. History of Schools Hiding Students’ Struggles with Gender.**

The move to disenfranchise parents started in 2013, when the California Department of Education (“CDE”) began issuing “guidance” that schools must

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<sup>1</sup> The use of the nebulous term “gender nonconforming” is confounding and goes well beyond the Policy. The Policy does not require notification should on any particular day a student have an appearance that does not neatly fit the stereotypical look for his sex.

keep a student’s gender identity hidden from parents. This guidance, which does not have the force of law, was turned into school board Administrative Regulation (“AR”) 5145.3.<sup>2</sup> Schools were directed to create a covert, parallel records-filing system to hide students’ name changes, in order to skirt parents’ requests for pupil records or education records to which they are entitled under Cal. Ed. Code §49069.7 and FERPA, 20 U.S.C. §1232g.

In response to parents’ concerns, school boards began enacting “Parental Notification Policies” to alert parents when their child is rejecting his natural body; also known as gender dysphoria. Gender dysphoria is a mental health disorder recognized by the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition,<sup>3</sup> and is routinely combined with other mental health issues such as autism<sup>4</sup> and depression that need to be addressed by the parents.<sup>5</sup> Whether a student has been diagnosed with gender dysphoria or not

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<sup>2</sup> See e.g. Roseville Unified School District’s AR5145.3. <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36031056&revid=h3Guhk7TsplusD0c0yMeHUy2A==&ptid=amIgTZiB9plushNjl6WXhfiOQ==&secid=9slshUHzTHxaaYMVf6zKpJz3Q==&PG=6&IRP=0&isPndg=false>.

<sup>3</sup> Nokoff NJ. Medical Interventions for Transgender Youth. [Updated 2022 Jan 19]. Endotext [Internet]. Table 2. DSM-5 Criteria for Gender Dysphoria.

<sup>4</sup> See, e.g., Jennifer Murray, et al., *Autism and transgender identity: Implications for depression and anxiety*, 69 *Rsch. in Autism Spectrum Disorders* 101466 (Jan. 2020), <https://doi.org/10.1016/j.rasd.2019.101466>.

<sup>5</sup> Lisa Littman, *Rapid-Onset gender dysphoria in adolescents and young adults: A Study of parental reports*. *PLOS*, 36. (2018), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.021415>

is a distinction without a difference, as any student who is adopting a trans-identity is rejecting their sexed bodies.

### **C. California Lawsuits.**

Multiple lawsuits have been filed related to the issue of school secret social transitions. “Social transition” refers to the use of youths’ trans-identifying names and pronouns, access to opposite sex-specific accommodations, and altering exterior presentation to mimic the opposite sex. Two lawsuits have been filed by parents against school districts/employees for secretly socially transitioning their minor daughters: *Konen v. Caldeira*, (Super. Ct., Monterey Cnty, No. 22CV001813 (settled for \$100,000) and *Regino v. Staley* (Ninth Circuit Court of Appeals, No. 23-16031). Two lawsuits have been filed by teachers who refuse to deceive parents: *Jessica Tapia v. Jurapa Unified School District*, (C.D. Cal. No. 5:23-cv-00789) (settled for \$360,000) and *Mirabelli et al. v. Olson*, (S.D. Cal. No. 3:23-cv-00768-BEN-WVG)(“*Mirabelli*”). Two lawsuits have been filed by governmental officials against school districts with parental notification policies: *People v. Chino Valley Unified Sch. Dist.* (Cal. Super. Ct., S.B. Cnty. No. CIVSB2317301)(“*CVUSD*”) and *CDE v. Rocklin Unified School District* (Cal. Super. Ct. Placer Cnty., No. 8-CV-0526).

## D. Assembly Bill 1955.

In 2024, the California legislature passed Cal. Stats 2024 Ch. 95 (AB1955) in an attempt to codify law that schools, while actively participating in the social transition of a student, may not be mandated to inform the parents. AB1955 goes into effect on January 1, 2025. AB1955 states in relevant part:

Section 220.3 is added to the Education Code, to read:

(a) An employee or a contractor of a school district, . . . **shall not be required to disclose any information related to** a pupil’s sexual orientation, **gender identity**, or gender expression **to any other person without the pupil’s consent unless** otherwise required by state or federal law.

(b) **Subdivision (a) does not constitute a change in, but is declaratory of, existing law.** (Emphasis added.)

Whether there is actually any existing law supporting AB1955 is being challenged.<sup>6</sup>

## III. ARGUMENT

### A. The Trial Court Correctly Applied the Rational Basis Test.

Equal Protection provides that “all persons similarly situated should be treated alike.” *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985).

Courts must determine the level of scrutiny afforded to an equal protection claim.

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<sup>6</sup> Three challenges to AB1955 exist. See *Mirabelli; Chino Valley Unified School District v. Newsom* (E.D. of Cal. No. 2:24-cv-01941-DJC-JDP) and *City of Huntington Beach v. Newsom* (C.D. of Cal. No. 2:24-cv-07959).

Strict scrutiny is required where the laws are based on a suspect class or when the discrimination impacts a fundamental right. *Moreno v. Draper*, 70 Cal.App.4th 886, 893 (1999)(“*Moreno*”). “If a quasi-suspect classification (e.g., [sex], illegitimacy) is involved, intermediate scrutiny is applied. And, if neither a fundamental right is affected nor a suspect or quasi-suspect classification is involved, then the rational basis standard applies.” *Id.* Classification that does not “exhibit obvious, immutable, or distinguishing characteristics that define them as a discrete group; and they are not a minority or politically powerless” are not a suspect class. *Id.* at 894.

Contrary to Appellants’ assertion, *Sail’er Inn, Inc. v. Kirby*, 5 Cal.3d. 1 (1971) does not stand for the proposition that gender identity triggers heightened scrutiny. *Sail’er Inn* addressed discrimination based upon biological sex combined with the fundamental right of employment.<sup>7</sup> See also, *In re Marriage Cases*, 43 Cal. 4<sup>th</sup> 757, 783-784 (2008)(strict scrutiny standard utilized because marriage is a fundamental right). *Taking Offense v. States*, 60 Cal.App.5<sup>th</sup> 696 (2021), review granted, is also unhelpful to Appellants’ argument. The Court in *Taking Offense*, erroneously, and *in dicta*, found that laws related to transgender status require strict scrutiny based upon its misinterpretation of *Bostock v. Clayton County*, 140 S. Ct.

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<sup>7</sup> This Court must be mindful that until recently “gender” was synonymous with biological sex; whereas gender identity is a fairly recent term in the legal system.

1731, 1753 (2020). The *Bostock* Court specifically limited its holding to the employment context by stating:

The employers worry that our decision will sweep beyond Title VII to other federal or state laws that prohibit sex discrimination. . . . sex-segregated bathrooms, locker rooms, and dress codes. . . are [not] before us; The only question before us is whether an employer who fires someone simply for being homosexual or transgender has discharged or otherwise discriminated against that individual because of such individual's sex.

No California case has found that trans-identifying persons are a quasi-suspect class. Federal courts are split over whether transgender identities are quasi-suspect classifications. The Fourth and Ninth Circuits have held that persons with transgender identities are a quasi-suspect class. See *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 607 (4th Cir. 2020); *Karnoski v. Trump*, 926 F.3d 1180 (9th Cir. 2019) (per curiam). Whereas, the Sixth, Tenth and Eleventh Circuits have ruled otherwise. See *L.W. ex rel. Williams v. Skrametti*, 83 F.4th 460, 486 (6th Cir. 2023) cert. granted; *Fowler v. Stitt*, 104 F.4th 770, 794 (10th Cir. 2024); *Eknes-Tucker v. Governor of Ala.*, 80 F.4th 1205, 1230 (11th Cir. 2023).

Here, the classification is students, with notification triggered for **any** student regardless of their sex or then-current identity, and therefore the rational basis is the correct standard, which is met. The Policy's legitimate government interest is readily found through its stated purpose to "restore trust between the school districts and parent(s)" and "[b]ring parent(s)/guardians into the decision-making process for mental health and social-emotional issues of their children . . .

in order to prevent or reduce potential instances of self-harm.” Additionally, Education Code section 51101 recognizes parent’s participatory rights in the education of their children.

**B. Gender Identities are Not Immutable; therefore, the Policy’s Classification is not a Distinct Group**

Students’ identities are neither static nor inflexible and therefore, the classification of the policy is students. Adopting a transgender identity is recognized to be flexible in law, through multiple scientific studies and through Our Duty’s stories below.

**1. California Law Recognizes Flexible Gender Identities.**

California’s laws recognize the fluidity of gender identities. California’s Code of Regulations Title 15 §1302 recognizes vacillating genders in its definition of “gender fluidity:”

“Gender fluidity” means a gender identity which can vary over time. A gender fluid person may **at any time** identify as male, female, neutrois, any other non-binary identity, or some combination of identities. Their gender can also vary at random or vary in response to different circumstances. . . . (Emphasis added.)

Welfare and Institutions Code section 14197.09 states, in relevant part:

Trans-inclusive health care” means comprehensive health care that . . . accepts **gender fluidity** . . . (Emphasis added.)

## **2. Scientific Studies Recognize Gender Identities are Mutable.**

Studies demonstrate that children who are not socially or medically transitioned have upwards of a 98% rate of desistence.<sup>8</sup> A 15-year Netherlands' study demonstrates that close to 75% of youth ages 11-26 outgrow their discomfort with their sex by age 26 with the return to comfort directly related to elapsed time.<sup>9</sup> A study of the U.S. military healthcare system found that 30% of adults who began gender interventions discontinued within four years.<sup>10</sup> Another study on adults found a 32% rate of detransition<sup>11</sup> or discontinuation of gender treatment.<sup>12</sup>

## **3. Our Duty's Members Children Abandoned their Gender Identities.**

These personal accounts underscore the devastating results when schools deceive parents about their child's gender confusion. They also show the flexibility of a trans-identity, and that parents do not abuse or abandon their

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<sup>8</sup> See SEGM, *Early Social gender Transition in Children is Associated with High Rates of Transgender Identity in Early Adolescence*, May 8, 2022, <https://segm.org/early-social-gender-transition-persistence>.

<sup>9</sup> P. Rawee I. *Development of Gender Non-Contentedness During Adolescence and Early Adulthood*, 53 ARCH SEX BEHAV. 5:1813-1825 (May 2024) doi: 10.1007/s10508-024-02817-5.

<sup>10</sup> Roberts CM, et al. *Continuation of Gender-affirming Hormones Among Transgender Adolescents and Adults*. J Clin Endocrinol Metab. 2022 Aug 18;107(9):e3937-e3943. doi: 10.1210/clinem/dgac251. PMID: 35452119.

<sup>11</sup> The term “detransition” as used in this brief indicates that a person pursued medical treatment—e.g. puberty blockers, hormones, and/or surgeries—but then ceased such treatments and embraced his biological sex.

<sup>12</sup> Isabel Boyd et al., *Care of Transgender Patients: A General Practice Quality Improvement Approach*, 10 Healthcare 11 (2022).

gender dysphoric children. Each parent featured, save for one, were Democrats at the time their child claimed a transgender identity.

**a. Sue Y, Mother of Detransitioned Female**

Sue Y<sup>13</sup> and her now adult daughter, G, live in California. When G started puberty at age 12, her entire demeanor changed. G started to dress in dark and oversized clothes, her personality went from pleasant to agitated, and she became suicidal. Amidst these changes, G told her mom she was transgender.

Sue promptly took G to a Kaiser's gender clinic. Outside of her mother's presence, a clinician told G about hormonal treatments and surgeries she could have "to make her authentic." Afterwards, the clinic told Sue she had to choose whether to have "a dead daughter or a live son." No alternative treatment options were offered.

Terrified, Sue followed the gender clinic's advice and placed her daughter on puberty blockers. Sue directed G's school to cooperate with G's social transition, which it did. For two and a half years, Sue was fully committed to G's social and medical transition. But G's "authentic" self failed to emerge. Instead, G's mental health deteriorated. G began cutting herself, became suicidal and

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<sup>13</sup> Some pseudonyms are used to protect their families from the animus often directed at parents or children who resist the push to pursue a "gender transition." Their identities are known to Our Duty.

borderline anorexic, and was in and out of psychiatric hospitals. After an out-of-state psychiatrist advised that G's distress was due to other mental health issues, Sue stopped the puberty blockers and affirming her transgender identity.

Sue then contacted G's public school instructing the staff to cease all counseling and stop referring to her daughter as a boy. The school counselor was furious, and refused to follow Sue's and the psychiatrist's directives, and called Child Protective Services ("CPS"). No formal charges were made against Sue. Sue removed G from the school and, some six years later, G is now a well-adjusted adult woman who embraces her female sex.

**b. Lydia McLaughin, Mother of a Formerly Trans-identified Female**

Lydia, who is mixed race, lives in Santa Clarita, California. Lydia's daughter's friend introduced T to transgenderism. T, who was never uncomfortable in her female body, decompensated. She started self-harming, cut her hair, changed her clothing to oversized male shirts and cargo pants. T's public high school solidified her transgender identity with lessons about transgenderism, while requesting and using T's desired male name and pronouns. Lydia found out, accidentally, that the school was referring to T as a boy.

Lydia demanded that the teachers stop socially transitioning her child. The teachers did not, while assuring Lydia that they would. The principal even met with T to inform her that her transgender identity would be their secret.

T fell deeper into the new identity, and started wearing a breast compression binder. T's mood darkened to the point where Lydia was afraid of her. T acquired an explosive temper, started telling lies to her friends that her parents abuse her, and adopted an eating disorder. Lydia did not give up on T, nor did she affirm T knowing the danger of surrendering to her daughter's maladaptive identity.

Lydia engaged legal counsel, confronted the school, used FERPA and public records requests to discover that the school continued to undermine her. Shockingly, the superintendent and assistant superintendent were conspiring together on how they would hide the school's social transition of T.

Despite the horrible vitriol T spewed at Lydia, Lydia reminded T that she would always love her. Lydia credits a summer trip that removed T from outside influences, as the step that returned T to her authentic self.

T, now a senior, has completely dropped her trans-identity, stopped wearing a binder, grew out her hair, wears stereotypically feminine clothing, and make-up. T's sweet demeanor has returned, and most touching of all, T restarted her "Love you Mommy's" notes that T gives her mom expressing her love. These notes had stopped abruptly when T was in her transgender phase. Lydia believes that had she not learned of the school's socially transitioning of T that gave her the opportunity to intervene, her daughter's mental health issues

would have worsened.

**c. Lisa Mullins, Mother of a Formerly Trans-identified Daughter**

Lisa is a former art teacher. Her daughter M struggled in middle school as she gained significant weight due to a medical condition. M is a creative and bemoaned sports, pushing her out of the “cool” group. Her confidence waned as she entered high school, which she started during the COVID-19 lockdowns. M lost all interactions with peers. Her best friend’s family was in complete lockdown.

M turned to the internet, where she readily fell into the transgender world, watching Anime (which has gender bending themes), YouTube and TikTok. M changed markedly, wearing cartoon-like make-up, shaving her eye brows, and changing her bedroom décor to witchcraft imagery. She also started to cut herself. Lisa grew worried. Lisa listened in on some classes and was alarmed with the overt sexual perversion she heard, well beyond what her 14-year-old needed to know about sex. Health class included questions about whether her daughter would be comfortable masturbating in a room with another person or engaging in anal sex. M had never been kissed. Lisa also heard classes espousing gender ideology.

When the schools finally re-opened, M refused to go because of her anxiety. M cut herself so deeply it required an emergency room visit. M was

treated by a psychiatrist, diagnosed with depression and anxiety, and medicated.

Lisa then discovered that M had changed her name and pronouns at school, using the plural, “they/them” flipping her name between male to female, even a Greek’s god name. The school adopted every name change and pronouns without question as M and her entire friend group circulated through non-binary and transgender identities.

Lisa met with the principal, teachers and spoke at the school board, demanding that the school stop treating her daughter as a boy. The school would sometimes agree, but it never actually followed Lisa’s directives. Lisa toured the school photographing how the Wellness Center enticed students with an “Explore Me” – box filled with “trans” tape that is used to crush females’ breast, create a fake penis bulge, or tape a males’ penis up to create a smooth crotch area. Free breast binders were also available. See photograph.



Lisa never affirmed M, nor stopped battling the school. The school informed Lisa that M, a minor, controlled her name and pronouns at school. But even after M emailed her teachers to use her real name, teachers still used M's false names as did the school counselor. Lisa believes that the school's obstinance was purposeful to demonstrate its power over "bigots and transphobes" like Lisa. CPS came to Lisa's home; no charges were filed. Lisa suspects that the school called CPS.

M is now an adult in college, having shed her transgender identities. She stopped cutting, dressing as a man and wearing cartoonish make-up, but the stain of the public school's aberrant behavior was too much for Lisa to bear. She moved her family out of California a month ago.

**d. Aurora Regino, Mother of a Formerly Trans-Identified Female**

Aurora had a 12-year-old daughter, A.S. A.S. had some traumatic events in her life. Her father was in a debilitating car accident that rendered him brain-damaged. In 5<sup>th</sup> grade, her beloved grandfather passed away, Aurora was battling breast cancer, and A.S. started puberty early.

A.S., feeling distressed at the changes to both her home life and body, turned to her school counselor for solace. The school counselor had encouraged students in A.S.'s class to explore their identities and consider whether they felt like they

were not the gender associated with their sex. The school counselor had told students that this feeling was normal and that students should embrace the feeling if they had it.

The school counselor invited A.S. and a small group of other girls around her age to an arts and crafts group. After one of the girl's group meetings, A.S. told the school counselor she felt like a boy. The counselor sprang into action. She asked A.S. if she had a boy's name she wanted the teachers to use. A.S. felt pressured by the school counselor and said she did.

A.S.'s teachers, clandestinely, started to refer to her as a boy, with a boy's name and male pronouns. The girl's group, which started as an arts-and-crafts club, became a club for indoctrination. The school counselor began discussing gender and sexuality in depth with the 12-year-old girls. Without permission from Aurora, A.S. was meeting with the school counselor and being further coached into her transgender belief. The school counselor also told A.S. about binding her breasts and "top surgery."

A.S. told the counselor that she wanted her mom to know about what was going on. The counselor encouraged her to keep it a secret. Finally, A.S. told her grandmother, and she in turn told Aurora.

The school did its best to try to evade Aurora's inquires, telling her—falsely—that it was required by law to keep its actions secret from her. Aurora

filed suit.

A.S. is no longer at the offending school, and is slowly returning to her true-self, a happy, feminine girl who loves her mom and family, although not without long-lasting impact.

**e. Erin Friday, Mother of a Formerly Trans-identified Female**

Erin lives outside of San Francisco. Her daughter, P, was just eleven when following the gender identity portion of her public school sex-education course that taught students that they “could have been born in the wrong body,” P and her entire friend group each chose an identity on the LGBTQ spectrum. During the COVID-19 lockdowns, P shifted from lesbian to transgender. Her friends’ identities likewise morphed, with many landing on non-binary or transgender. On the whole those girls who were affirmed as being the opposite sex by their parents and others, persisted, and those who were not, returned to embrace their immutable sex.

During lockdowns, P had secretly spent hours on pornography-filled websites, and in conversation with “trans- identified” adults and older minors who advised P that her depression, anxiety, and loneliness were because she was a “transboy”. P imbibed a steady stream of TikTok, YouTube and Instagram videos, including sites that provided scripts to adolescents on how to use suicide as a tool

to “blackmail” parents. Forums even counseled that parents who do not “affirm” must be rejected as bigots. P ran away several times and asked to be emancipated.

The public high school teachers who never met P in person, adopted P’s new male identity without consulting with Erin. After hearing the teachers through zoom classes refer to P as a male, Erin called the school, incensed that teachers were undermining her parental rights. The administration insisted that the school was a “safe space” but could not define what “safe” meant. The school then reported Erin to CPS, and later the police. No charges were filed.

Mental health providers told Erin that P would commit suicide if not affirmed. But Erin having read the actual studies and literature knew that affirmation does not prevent suicide, but instead leads to increased suicidality.

Erin removed P from her public school, but P was solidly invested in her trans- identity. Her teachers had created a schism between child and parent. P was barely getting out of bed; her basic hygiene was ignored and she was not eating. P believed that everything about her body was wrong; that she would commit suicide because that’s what “transgender kids” do; and that her parents hated her because they did not affirm her transgender identity. The so-called “safe” school never once tried to check in on P to see how she was faring.

It took almost two years for Erin to repair the damage that P’s school had wrought, but P did stop identifying as a boy.

Erin tested the veracity of the public school and made a FERPA request. The school failed to provide one record with her daughter's male name on it, even though such documents existed. The school, even though, it had been caught socially transitioning P, continued its deceptive practices.

**f. Arienne Adamcikova – Mother of a formerly Trans-Identified Male**

Arienne describes herself as progressive, living in San Francisco and part of the LGB activist community. Arienne is a public school teacher who has witnessed the cataclysmic growth in students taking on a transgender identity. Ten years ago, she had no students who were trans-identified, now there are an increasingly growing number of trans-identified students each year.

Arienne's son at age 16, as he was suffering from anxiety and abject loneliness because of lockdowns, turned to the internet. There he spent hours watching intriguing videos with transgender themes. Prior to the lockdowns, he had struggled with bullying and insecurity as he went through puberty, disliking his body and face.

Arienne affirmed her son's new trans-identity, because that was what she was taught to do as a teacher and parent, believing that this was part of his identity exploration and that he would reach the conclusion that no one can change sex.

However, affirming her son worsened his anxiety and depression. Arienne researched more, discovering that a new social contagion was underfoot, that

affects kids with no prior gender identity issues at or around the time of puberty. Arienne reversed course, walking back the affirmation slowly with love and care, knowing that her son's distress and confusion was genuine. After about a year and a half, Arienne's son ceased identifying as a girl, and fully embraced his male body. Arienne believes that because she is a teacher, her son's private school followed her directives, but knows that parents are being deceived by public school employees.

In her teaching position, Arienne is told that she is mandated to accept a child's pronouncement of their transgender identity or any other iterations of identity at face value and to keep it a secret from the parents. Schools do this by segmenting social transition plans from student's other records, utilizing the grading and attendance system to automatically switch names and pronouns depending upon the recipient, and requiring teachers to alter their language when communicating with parents. Teachers are also told to encourage the students to keep their gender identity secret from their parents, abridging the parent/teacher relationship, and creating a system of deception pitting child and school against parent without provocation. The secrecy edict applies to all students, and is not based upon any knowledge by the school that the parents have been, or are abusive to the student. The assumption is that *all* parents are unsafe and that *only* teachers are safe.

**g. Beth Bourne, Mother of Desisting Female**

Beth is the mother of S, an 18-year-old female who began identifying as a transgender boy at age 13. Beth surmises that S wanted to present as a boy to shield herself from the type of terrible sexual assault suffered by her best friend in sixth grade. S also has long-standing mental health issues. A significant contributing factor to S’s adoption of a transgender identity was her school - Davis Joint Unified High School,<sup>14</sup> that has one in twenty-five students identifying as transgender, 2.8 times the national average.<sup>15</sup>

Beth believes that Davis has such a high trans-identifying student population because the school’s counseling services are provided through CommuniCare, that focuses on providing affirming services for Yolo County’s LGBTQ+ Community.

Kenna Cook, the CommuniCare project coordinator for S’s school, wants CommuniCare to serve as a “*chosen family*,” where trans-identifying “7th through 12th graders” can find a “safe place to ‘be themselves’ and talk to *trusted*

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<sup>14</sup> A Davis teacher was just arrested for rape of a middle school student, demonstrating how truly “unsafe” schools are. [Middle school teacher arrested in California on accusations of rape of a child in Centralia \(msn.com\)](https://www.msn.com/en-us/news/education/middle-school-teacher-arrested-in-california-on-accusations-of-rape-of-a-child-in-centralia).

<sup>15</sup> Colin Wright, *BREAKING: New Documents Reveal Shocking Surge in Trans-Identified Students in Davis, CA Schools*, Reality’s Last Stand, (Jan. 17, 2023), <https://www.realityslaststand.com/p/breaking-new-documents-reveal-shocking>.

*adults.*”<sup>16</sup> Ms. Cook fancies herself as one of those “trusted adult” despite authoring “sex-positive” blogs with titles such as “Be a Better Butt Slut,”<sup>17</sup> and organizing events like “Spanksgiving.”<sup>18</sup>

In an extraordinary act of selflessness, Beth gave up custody of S to her ex-husband in exchange for a prohibition of gender interventions while S was still a minor. Now, an adult, S has not medicalized and is showing signs of desistance, moving from trans to non-binary, wearing normal bras instead of breast binders, and wearing dresses and typical female make up.

**h. Ann M., Lesbian Mother of a Formerly Trans-Identified Male**

Ann is a public-school teacher in a Chicago suburb, where she lives with her wife and her 16-year-old biological son, D. D. had no childhood signs of gender

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<sup>16</sup> Jordan Silva-Benham, *CommuniCare expands services for LGBTQ+ youth in Yolo County: ElevateYouth works with residents aged 12 to 36*, Daily Democrat (March 26, 2021) (emphasis added), <https://www.dailydemocrat.com/2021/03/25/communicare-expands-services-for-lgbtq-youth-in-yolo-county/>.

<sup>17</sup> Kenna Cook, *Be a Better Butt Slut*, Medium.com (Sept. 20, 2017) (“Let’s talk about the final frontier of penetrative sex. The boss level. The position of the professionals.” <https://web.archive.org/web/20191123092157/https://medium.com/@mamacooking/be-a-better-butt-slut-c8c123512bbc>).

<sup>18</sup> Kenna Cook, *Spanksgiving: Impact Play 101*, Eventbrite.com (Nov. 22, 2017) (“Ever been interested in learning how to find the pleasure in a good spanking or want to know how to handle a paddle like a pro?” <https://www.eventbrite.com/e/spanksgiving-impact-play-101-tickets-39629296292>).

dysphoria. He was socially awkward, and was diagnosed with attention-deficit disorder and anxiety.

In the eighth grade, D told his parents he was transgender. Ann figured D was simply exploring various identities. But over the next year, D's mental health declined. COVID-19 lockdowns left him cut off from friends. D stayed in his room most of the time, gained significant weight, and was rude and aggressive toward his parents.

Because Ann thought D might be struggling with his sexual identity, she took him to a Gay Straight Alliance (GSA) outing, a student group she had once led. It backfired because the GSA was no longer focused on supporting same-sex-attracted youth but instead was encouraging gender transitions.

D's transgender identity deepened, and he asked Ann to instruct his school to use his female name. Ann refused, but D, circumvented her and asked all his teachers to use his female name. They complied without informing Ann. One of D's teachers even reached out to him privately to encourage him to "stay true to yourself" by maintaining a female identity.

Ann discovered the school's action and also that D was being influenced in online forums. Ann then spent a great deal of time with D to help him understand why transgenderism is harmful. She showed him research on the exponential increase in children identifying as transgender, and how Dr. McEvenue, a plastic

surgeon in Canada, had bragged on social media about how much breast tissue he had removed from healthy teenage girls. They watched a movie about detransitioners, “The Trans Train” together.

D walked back his trans-identity, cutting his hair, exclusively wearing male clothing, and using his male name and pronouns. Ann is haunted by the thought that if she had not intervened, D might not have escaped his trans-identity without bodily harm or worse. One of Anne’s friends had a child going through the same transgender issues; that mother affirmed her child’s gender identity, and the boy soon thereafter took his own life.

Each of these youth desired to socially and medically transition their bodies to appear as the opposite sex. Each changed their minds through their parents’ loving guidance avoiding severe irreversible changes to their bodies.<sup>19</sup> None of the parents would have had the opportunity to guide their children had they not learned that the schools were socially transitioning his children. None of these parents abandoned or harmed their child.

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<sup>19</sup> Sue’s daughter may have fertility issues or pre-mature osteoporosis from her use of puberty blockers and some of the females who used binders have permanently misshaped breasts.

**C. The Policy is non-discriminatory even if the Court applies the intermediate and strict scrutiny tests.**

For the Policy to survive strict scrutiny it must be narrowly tailored to advance the state's compelling interest. See *Catholic Charities v. Superior Court* 32 Cal. 4th 527, 549 (2004). To survive intermediate scrutiny the classification must serve governmental objectives and the discrimination employed must be substantially related to the achievement of those objectives. *Moreno*, supra. 70 Cal.App.4th at 893. The Policy passes each of these tests.

California recognizes that trans-identified youth have a heightened risk for suicide and it is that risk which provides the compelling state interest and/or governmental objective.

In his lawsuit *CVUSD*, Attorney General Rob Bonta states that **86%** of trans-identified youth have considered suicide and **56%** have attempted it.<sup>20</sup> The declaration of intent by the California legislature in Cal. Stats 2023, Ch. 338 AB665, states in relevant part:

A shocking **78 percent of LGBTQ+ youth** who were surveyed shared they had considered suicide, with the vast majority of those who had considered suicide sharing they had done so in the last year, and nearly one-third had made an attempt in the past year.

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<sup>20</sup> See *CVUSD*, supra, pages 6-7.

These are astounding figures. The parent must know, at the earliest time, that their children are in the category of youth likely to commit suicide so that they may get the child mental health services. Parents will not know to hide medications, remove knives, lock up poisons, and be more vigilant to safeguard their child. Ninety-Five percent of suicides of children ages 10-14 occur at home.<sup>21</sup> In 2019, 1 student in the whole of the U.S. took his life at school,<sup>22</sup> while 328 California children committed suicide.<sup>23</sup>

Given that suicides are extremely common at home and uncommon at school, the Policy is advancing a compelling state interest narrowly tailored to notify the parents without forcing the school to treat the student in a manner that does not align with the student's then current identity. Parents are present not only during the school year, but all summer, over school breaks, before and after school hours. Parents' relationships with their children don't end when the child moves to another classroom or grade.

Parents must be involved in their child's mental health. Studies show that

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<sup>21</sup> Understanding the Characteristics of Suicide in Young Children, Institute of National Mental Health (December 14, 2021)

<sup>22</sup> Number of Suicides of Youth ages 5-18 years at school in the United States from 1992 to 2020, Statista.com.

<sup>23</sup> Kidsdata. <https://www.kidsdata.org/topic/211/suicides-age/bar#fmt=123&loc=2,127,347,1763,331,348,336,171,321,345,357,332,324,369,358,362,360,337,327,364,356,217,353,328,354,323,352,320,339,334,365,343,330,367,344,355,366,368,265,349,361,4,273,59,370,326,333,322,341,338,350,342,329,325,359,351,363,340,335&tf=110&pdist=7&ch=1309,446,1308,787&sort=loc>

gender-confused children have companion mental health issues that left undiagnosed place the students in grave danger. See footnotes 4, 5 and 24.

**D. The Policy protects Parents’ Fundamental Rights to Raise Their Children.**

A century of jurisprudence affirms that parents have the right to the control, custody and upbringing of their children. *Toxel v. Granville*, 530 U.S. 57 (2000). Parental rights *do* “extend beyond the threshold of the school door.” *Fields v. Palmdale Sch. Dist.*, 447 F.3d 1187, 1190 (9th Cir. 2006) (deleting contrary language from *Fields v. Palmdale Sch. Dist.*, 427 F.3d 1197 (9th Cir. 2005)).

Parents are the only people—presumed as a matter of law—to have the sufficient knowledge and vested interest in their children’s welfare to direct medical or psychological treatment of their children. See *Pierce v. Society of Sisters*, 268 U.S. 510, 602 (1925)(the “starting point” of family law is that the “natural bonds of affection lead parents to act in the best interests of their children”).

It is the antithesis of jurisprudence that parents are deemed to be abusive without *any* due process, and based upon pure speculation. Schools do not withhold bad grades, misbehavior by a student, truancy, or other information from parents because a parent *may* react poorly upon receiving the news. Abuse statutes are prospective in nature, not anticipatory. See Cal. Penal Codes §§ 11164-11174.3. If

the latter were the case, all parents would need to be investigated by child protective services upon becoming parents. Last, the evidence belies the fact that parents abuse or abandon their gender-confused children, as shown by Our Duty’s stories and CVUSD that notified 14 parents of their students’ trans-identities and none of those parents harmed their children. See CVUSD amicus brief. Parents must be informed of their child’s rejection of self.

**E. Social Transition Constitutes a Mental-Health Intervention for Children that Parents Should Control; not schools.**

Social transition appears to be the single most important predictor of desistence or persistence of a transgender identity, and is not “a neutral act,” according to the Cass Review, the world’s largest systematic review of the evidence on transitioning minors.<sup>24</sup> Social transition may lock-in an otherwise ephemeral identity discordance past adolescence and, in turn, leading to unnecessary and irreversible medicalization.

In studies where children are not socially transitioned, the desistence rate is upwards of 98%, with a majority of these children just being gay.<sup>25</sup> By contrast, when children are socially transitioned, they have exceedingly high rates of

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<sup>24</sup> Hillary Cass, *Independent review of gender identity services for children and young people*, April 2024. <https://cass.independent-review.uk>.

<sup>25</sup> See Footnotes 8-9; Michael Biggs, *The Dutch Protocol for Juvenile Transsexuals: Origins and Evidence*, *J. Sex & Marital Therapy* 1, 5 (2022) (Early social transition may hinder healthy development of gender-nonconforming homosexual children.)

persistence followed by high rates of irreversible medical interventions.<sup>26</sup> Counsel advocating for entrance into sex-segregated spaces based upon a gender identity rather than immutable sex, have argued, that using restrooms and other sex specific facilities are a crucial part of a treatment protocol for a “medically diagnosed and documented condition.” See e.g. *Whitaker v. Kenosha Unified Sch., Dist.*, 858 F.3d 1034, 1050 (7th Cir. 2017).

Thus, the science demonstrates that not only is social transition a psychosocial medical treatment that can determine whether the child will return to comfort in their natal body or move forward with irreversible medical interventions, it is part of an entire medical treatment plan that requires parental involvement.

Schools are not either empowered or trained to determine which child would benefit or be harmed by social transition. Schools cannot circumvent the parents’ fundamental rights to determine their own child’s medical treatments. See, e.g., *Lassiter v. Dep’t of Soc. Servs.*, 452 U.S. 18, 27 (1981) (re-affirming that parents’ interest over their children “undeniably warrants deference and, absent a powerful countervailing interest, protection”).

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<sup>26</sup> Kristina R. Olson et al., *Gender Identity 5 Years After Social Transition*. July 13, 2022 *Pediatrics* (2022) 150 (2): e2021056082. <https://doi.org/10.1542/peds.2021-056082>

The best result for a gender-confused child is for that child to have their parents involved in their treatment plan, with their distress resolved without medicalization that can permanently sterilize and disfigure children.

#### IV. CONCLUSION

For all of the reasons set forth above, and those stated by Defendants-Appellees, this court should follow the sagacious opinion ruling in *Mirabelli*, where in the injunction enjoining Escondido's school secrecy policy stated:

The school's [secrecy] policy is a trifecta of harm: It harms the child who needs parental guidance and possible 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 ... harms [school staff] . . .

*Mirabelli v. Olson*, 691 F. Supp. 2d. 1197 (S.D. Cal. 2023).

Dated: September 23, 2024

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## CERTIFICATE OF COMPLIANCE

I, C. Erin Friday, am counsel for Amicus Curiae Our Duty, and I certify that the attached brief has a typeface of 14 points or more and contains 6,791 words, as determined by a computer word court.

DATED: September 23, 2024

/s/ C. Erin Friday

C. ERIN FRIDAY, ESQ.  
*Counsel for Amicus Curiae*  
Our Duty

## CERTIFICATE OF SERVICE

I am employed in the County of San Mateo, State of California. I am over 18 and not a party to this action. My business address is P.O. Box 442, San Carlos, CA 94070.

X I hereby certify that on September 24, 2024, I electronically filed the foregoing application and brief with the California Court of Appeals, Fourth Appellate District, by using the Court's Electronic Filing System operated by TrueFiling.

On the date set forth below, I served a true copy of the following document(s) Application for Leave and Amicus Brief on the following interested parties in this action as follows:

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