

Brittany Jones Testimony in Support of S.B. 76

Senate Education

February 10, 2025

Chairwoman Erickson and members of the committee, my name is Brittany Jones. I am an attorney and the Director of Policy and Engagement for Kansas Family Voice. Kansas Family Voice believes that children are given to parents and families, and are known best by them. Families are designed to nurture, love, educate, and prepare children to engage the world around them. Only in the most extreme circumstances should a child be alienated from their family. Unfortunately, there are too many scenarios in which schools have attempted to place themselves between a child and the parents. Further, teachers retain the right not to be compelled to speak in violation of their beliefs. For these two reasons, we express our support for the Given Name Act, S.B. 76.

The Supreme Court has repeatedly affirmed the right of parents to direct the upbringing of their children. Many of these cases have centered around parent's rights as it relates to public education. The right was first recognized overtly in *Meyers v. Nebraska* and affirmed two years later in *Pierce v. Society of Sisters*.¹

The right has also come into play specifically when dealing with a religious freedom rights of minority faiths.² And the newest case dealt with whether these parental rights extended to other family members in custody cases.³ As we look at the scope of the Supreme Court's jurisprudence on parental rights, it is heavily weighted towards protecting parent's right to raise their children as they see fit and only abridged in very specific situations.

These rights are backed up by federal statutes that protect parents' rights to review records as well as statutes that require that schools give parents access to curriculum.⁴ Further Kansas statute states,

It shall be the public policy of this state that parents shall retain the fundamental right to exercise primary control over the care and upbringing of their children in their charge. It is further the public policy of this state that children shall have the right to protection from abuse and neglect.⁵

Further, federal statutes and caselaw support parent's rights to continue to direct their child's upbringing even in schools. Laws like Family Education Rights and Privacy Act (FERPA) reiterate the importance of a parent in the educational process.⁶ When it comes to ensuring parents have access to all files and interventions surrounding their

¹ *Meyer v. Nebraska*, 262 U.S. 390 (1923), *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

² *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

³ *Troxel v. Granville*, 530 U.S. 57 (2000).

⁴ Family Education Rights and Privacy Act (FERPA), 34 CFR Pt. 99; Protection of pupil rights, 20 USC § 1232h.

⁵ Kan. Stat. Ann. § 38-141(b).

⁶ Family Education Rights and Privacy Act (FERPA), 34 CFR Pt. 99; Protection of pupil rights, 20 USC § 1232h.

child, schools should follow FERPA as well as direction from the federal court in *Ricard v. USD 475 Geary Cty.* A federal court with jurisdiction over Kansas said, “It is difficult to envision why a school would even claim—much less how a school could establish—a generalized interest in withholding or concealing from the parents of minor children, information fundamental to a child's identity, personhood, and mental and emotional well-being such as their preferred name and pronouns.”⁷ The court went on to say that the School Districts interest in concealing a child’s gender identity from parents who might disagree was “impermissible” because interfered with the fundamental rights of the parents.⁸

Unfortunately, we have seen all too often that schools when unchecked have either created policy to keep information from parents, some relying on the Biden Administrations Title IX rule that is enjoined.⁹ While others have hidden this information from parents it in a more case by case situation. This is not just happening in other states, but has happened in Kansas. One notable case is in USD 500 in Kansas City, KS.¹⁰

The harm associated with this is not some sort of esoteric harm attached to just the parent, but also harms the child by removing their system of support and trust. Dr. Hillary Cass, former President of the Royal College of Pediatrics and Child Health in the UK, said of social transition it is “an active intervention” with potentially serious psychological effects, and “not a neutral act.” As with any intervention in the life of a child, parents have a right to know about it and to refuse intervention, if they choose.

In many instances, parents may have no idea what is going on with their child and they are never even given the chance to make a choice in how they will respond to what their child is experiencing. Rather, school administrations have just assumed that the parent is a bad actor. Parents are never given the opportunity to support their child or address any underlying concerns.

By separating a child from their parents and not including them in these interventions, the school actually makes the child’s anxiety worse, removing the child’s sense of safety. How can it ever be the right policy to encourage a child to essentially live a double life and lie to the people who generally love that child more than anyone else in the world? This creates great psychological stress on the child and can lead to damaged relationships for years to come.

This is not an attack on the school districts but is intended to provide them the clarity they need on this topic – it’s supported by Federal statute and caselaw. One common complaint is that many students go by nicknames or some sort of derivative of their name. This is easily solved since the bill specifically says “or a derivative of such

⁷ *Ricard v. USD 475 Geary Cty.*, 2022 U.S. Dist. LEXIS 83742, *20.

⁸ *Id.*

⁹ The Cass Review, Feb. 2022, <https://cass.independent-review.uk/wp-content/uploads/2022/03/Cass-Review-Interim-Report-Final-Web-Accessible.pdf>

¹⁰ <https://defendinged.org/incidents/north-kansas-city-schools-appears-to-keep-gender-identity-of-students-hidden-from-parents-tells-staff-that-students-as-young-as-kindergarten-are-not-too-young-to-learn-about-gender-issues-compares-t/>

name.”¹¹ And if there is true concern, all that needs to be done is have the parents provide the school with a list of names that the child may be called whether those are nicknames or otherwise.

When it comes to the topic of teachers and compelled speech, the caselaw is very clear that teachers’ conscience rights should be respected. Compelled speech is a well developed area of law with a host of cases on the topic.¹² Courts have affirmed time and time again that a teacher does not lose his right to speak but their speech is limited when operating in their official capacity.

A school in Geary County tried to force a teacher to use a pronoun of a student that was inconsistent with that child’s biological sex and it required that she hide that information from the parents of the child. When a teacher objected based on her First Amendment rights, she won a judgment because the policy violated the First Amendment freedoms of the teacher involved in the lawsuit in regards to being forced to hide the information from the parents.¹³ The school district changed the pronoun policy after the teacher’s complaint so that her policy of refusing to use pronouns was in compliance with the new school policy.

This is not the only case on this topic. The Sixth has also wrestled with how to protect teacher’s First Amendment rights. A case in which the U.S. Court of Appeals for the Sixth Circuit ruled that a professor could refuse to use a student’s preferred pronouns because of his religious beliefs.¹⁴ The court ruled that the professor’s First Amendment rights were violated by the university’s policy.

This of course is slightly different because it is in the university system, and not in the K-12 where a teacher’s rights may be more limited. However, other lower court rulings have also looked sided with teachers when they respectfully declined to use pronouns of a student in violation of their beliefs.¹⁵ Time and time again courts have said teacher’s a right not to be forced to express messages that violate their beliefs.

At least two other states have passed similar laws to the one proposed today.¹⁶ Parental rights should not be viewed as an attack on teachers. Teachers give of themselves and their resources selflessly to their students. However, as the power of the government has increased so has the influence of the educational system. The parental rights movement is about re-establishing what most people agree is not controversial – parents have the ultimate responsibility and privilege of raising their children.

Parents are best positioned to know and raise their kids. Educational institutions can be an asset to this relationship. Recognizing and protecting the fundamental relationship between a parent and their child is vital to ensuring the stability of our society. Further, protecting the rights of teachers not to be compelled to speak beliefs

¹¹ KS S.B. 76 Sect. 1(b)(2)(2025).

¹² See e.g. *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943), *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023).

¹³ *Ricard v. USD 475 Geary Cty.*, 2022 U.S. Dist. LEXIS 83742.

¹⁴ *Meriwether v. Hartop*, 992 F.3d 492 (2021).

¹⁵ *Vlaming v. W. Point Sch. Bd.*, 302 Va. 504 (2023); *Cross v. Loudoun County School Board*, CL21003254-00, (Va. 2023).

¹⁶ Arkansas and Louisiana.



that are contrary to their beliefs is foundational to our free diverse society. This is backed by years of Supreme Court jurisprudence as well as federal law. For these reasons, I ask that you pass S.B. 76 out favorably.

Thank you!