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Robert P. Taylor, Ed.D.
Superintendent
WAKE COUNTY PUBLIC SCHOOL SYSTEM
5625 Dillard Drive
Cary, North Carolina 27518
wcpss-superintendent@wcpss.net

Ashlie Thompson, Ph.D.
Southern Area Superintendent
WAKE COUNTY PUBLIC SCHOOL SYSTEM
5625 Dillard Drive
Cary, North Carolina 27518
southernarea@wcpss.net

Sarah Stephens, Ph.D.
Principal
MIDDLE CREEK ELEMENTARY SCHOOL
110 Middle Creek Park Avenue
Apex, North Carolina 27539
sstephens4@wcpss.net

Tyler Swanson
Chairman
WAKE COUNTY BOARD OF EDUCATION
5625 Dillard Drive
Cary, North Carolina 27518
tjswanson@wcpss.net

**Re: Wake County Public School System's violation of parental rights under
*Mahmoud v. Taylor, Mirabelli v. Bonta, and North Carolina law***

Dear Drs. Taylor, Thompson, and Stephens and Mr. Swanson:

This law firm represents several families with children enrolled at Middle Creek Elementary School in the Wake County Public School System (WCPSS). We write to enforce these parents' constitutional rights under *Mahmoud v. Taylor* and *Mirabelli v. Bonta* as well as North Carolina statutory and constitutional law. This letter is sent on behalf of Middle Creek Parental Rights (MCPR), an unincorporated association of concerned parents, and the following specific parents who have children currently enrolled at Middle Creek Elementary School: [REDACTED]. Other parents who are members of MCPR also hereby seek relief, but they are concerned about the dangers of doxxing and thus must remain anonymous at this time because of this threat. Our clients have already faced doxxing—including, we believe, from someone who often works for WCPSS—and amazingly they have received *no assurances* from the school system about their safety or the safety of their children at school, which only increases our concerns about the inadequate protection and respect being given to our clients' rights.

This matter stems from the WCPSS's recent hiring of a music teacher for Middle Creek Elementary School in Apex. Based on information provided to parents, the individual currently identifies as transgender and has also identified as other than transgender. To be clear, this dispute does *not* concern whether WCPSS is obliged to make its employment decisions without consideration of sexual orientation or gender identity. *Bostock v. Clayton County*, 590 U.S. 644 (2020), establishes the school district's duties under Title VII in this regard. Nor are we asking that this teacher's employment be terminated or otherwise adversely affected. Suggestions to the contrary are wholly false and misleading.

But neither *Bostock* nor Title VII is a license to ignore the constitutional rights of parents in the education and upbringing of their children. Parents from Middle Creek Elementary School have received only unsatisfactory answers from WCPSS when they have asked how it will address Middle Creek students on matters of sexual orientation and gender identity. This is not a speculative concern. Issues of gender and sexuality have unsurprisingly already arisen in this specific teacher's class.

For merely raising concerns about how WCPSS will handle these significant questions and asking that their *elementary-aged children* not be instructed contrary to their religious beliefs, a speaker from the floor at a Wake County Board of Education meeting called these concerned parents bigots and advocated for **expelling** their children from the school system. And, at a prior meeting, concerned religious parents were labeled as the “worst of Wake County.” WCPSS’s apparent animus toward parents with traditional religious beliefs about marriage and sexuality is both unproductive and unconstitutional, and it taints its decisions regarding this matter. *See Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 534-35 (1993).

Nevertheless, we write in the hope that WCPSS will agree to our very reasonable requests, thereby avoiding litigation. Specifically, we require the following:

- (a) The right for parents to opt their children out of any class, including music, taught by the music teacher at issue. Instead, students should be allowed to attend an alternative class or permitted to leave campus for religious instructions in accordance with state law and WCPSS policy.
- (b) Formal written assurances that no student will be disciplined for not using this teacher’s “preferred” pronouns and courtesy titles. That is, students must be free to call the teacher “Mr.” and use “he/him/his” pronouns for the teacher without being corrected or disciplined by the teacher or any other WCPSS employee.
- (c) Formal written assurances that sexuality and gender identity will not be discussed at Middle Creek by any WCPSS faculty or staff members, except as allowed by state law, and only with prior parental notice and a parental right to opt out of such discussion. This includes informal class discussions that are not specifically deemed curricular by WCPSS.
- (d) Formal written assurances that the music teacher will not be permitted to occupy any restroom, locker room, or other similar space at the same time as any student.
- (e) Formal written assurances that no employee of WCPSS will engage in retaliation against any student who is opted out of class or any discussion of sexuality or gender identity, uses male pronouns and courtesy titles to refer to the music teacher, or otherwise seeks to invoke their constitutional rights.

Factual Background

Middle Creek Elementary School, located in southern Wake County, educates children from kindergarten to fifth grade. During the summer of 2026, the school engaged in the process of hiring a music teacher. Music is considered a required class, which students of all grades must attend once per week.

We are informed and believe that the current music teacher interviewed while presenting as a biological male and may also have claimed to be non-binary during the selection process. Only at the beginning of the school year did parents learn that the music teacher is a biological male who now presents as a transgender woman.

Many of the families of children enrolled at Middle Creek adhere to traditional Christian beliefs about marriage and sexuality. According to their sincere religious beliefs, God created men and women, and a person's sex and gender identity are determined biologically, not by an individual's subjective feelings. Thus, a man may not become a woman, and vice versa.

These parents desire to impart their faith to their children without interference from the government, but they do not wish to forfeit their legally protected right to a public education to do so. When parents have inquired about how the subject of "gender identity" and sexuality will be addressed, they have received only evasive responses from the school's administrator. They are, therefore, justifiably concerned that Middle Creek administrators and teachers will instruct their children that this music teacher *is* a woman, when the teacher is in fact biologically male. Similarly, parents are concerned that their children will be required to address the teacher using female pronouns (she/her/hers) and female courtesy titles ("Ms.", "Mrs.", or "Miss"). The school's administration has reserved the right to discipline students who refuse to use female pronouns and courtesy titles for this teacher, and in fact one parent's child was corrected in front of the class on Thursday, August 6, when she referred to the teacher as "Mr. [last name]." We are also informed and believe that this teacher recently "pinky swore" that she was a "girl" during discussions with a female student.

Parents reasonably believe the presence of this teacher will be used to justify engaging in instruction on transgenderism, sexual identity, and other topics that are inappropriate for elementary-aged children and that conflict with their religious beliefs. Lest there be any confusion that WCPSS desires to compel discussion of "gender identity" and sexuality on elementary school aged children, that is in fact what School Board member Lynn Edmonds has said: "I hope families and staff see this as an opportunity to learn about and discuss the diverse world we live in" It is, however, the right of parents to decide if, when, and how to "discuss" gender identity and sexuality with their young children, and public schools possess no lawful power to force that discussion upon them.

Attempting to mitigate the conflict with their religious beliefs, parents have made the modest request to opt out of music class in favor of another class or academic exercise for their students (*e.g.*, study hall or independent study), but these requests have been uniformly denied by Middle Creek administrators. Parents have also been told that taking their students out of class will constitute an unexcused absence. Nevertheless, the United States and North Carolina constitutions, as well as state statutes, require appropriate accommodations for these parents and their children.

Threats and Doxxing

Since this issue has arisen, some concerned parents have had their safety threatened through doxxing. An individual who frequently works for WCPSS (or someone otherwise using her name and identity) posted an innuendo-filled public comment on the Facebook page of the *News & Observer* referring to parent [REDACTED]: “So weird he’s so worried about a teacher teaching music. Wonder if he would like ppl openly talking about him? Maybe the ones of us that know should be telling the world about his private life??? I say we start an open dialogue all about him instead????” Another commenter encouraged her to “dish it” because “we need all the tea.” The discussion then progressed to yet another commenter mentioning Mrs. [REDACTED] and her place of employment.

These comments are especially misdirected since we do not wish to discuss this teacher’s private life. To the contrary, we are seeking assurances that *the teacher’s private life will remain private*, not become part of the education at Middle Creek, and thus not interfere with the rights of these parents to raise their children as they deem best.

The [REDACTED] complained about this doxxing to Principal Stephens. What followed is even more shocking. The individual complained about then texted [REDACTED] directly about the doxxing report. In her text, she wrote the following:

Your husband trying to get me fired is real [f-word expletive omitted] hilarious. I’m so thankful that helping your son and that [REDACTED] feels like there needs to be a protective boundary around [first name of the [REDACTED] son] from me that’s considering how much you want my Child around yours leave my family alone

While hardly a model of clarity, such a text from a person associated with WCPSS is plainly disturbing for multiple reasons: (1) using the f-word in texting to a parent; (2) making of comments about a specific child’s safety; and (3) falsely stating that a proper report of doxxing is the equivalent of “trying to get [her] fired.” We are also especially concerned that this person would only have known that the [REDACTED]—as opposed to any of the countless others who saw her public post on the N&O’s Facebook page—reported the post to the school due to someone with WCPSS telling her that the [REDACTED] *specifically* had complained. This suggests that rather than take the doxxing seriously, one or more WCPSS administrators specifically disclosed that the [REDACTED] were the complainants, without regard to the implications of so doing, and thereby put them and their children in the position of facing further harassment.

To date, the [REDACTED] have received no assurances from WCPSS that this issue has been addressed, and they are rightfully concerned about their children’s safety at Middle Creek.

Mirabelli and Mahmoud

As you may be aware, in California, attorneys from this firm were successful in obtaining an injunction in U.S. District Court against enforcement of policies that tried to circumvent parental rights on the issue of transgenderism and gender identity. In that case, *Mirabelli v. Bonta*, 607 U.S. 492 (2026), the U.S. Supreme Court, upon an emergency application, affirmed the injunction of the District Court and vacated the Ninth Circuit’s stay of the injunction as to the parent-plaintiffs.

The Supreme Court held in *Mirabelli* that the parent-plaintiffs were likely to succeed on the merits of their claim for injunctive relief under the Free Exercise Clause of the First Amendment because the policies at issue substantially interfered “with the ‘right of parents to guide the religious development of their children,’” and the state likely could not overcome strict scrutiny. *Id.* at 496 (quoting *Mahmoud v. Taylor*, 606 U.S. 522, 559 (2025)).

In *Mirabelli*’s closely related prequel, *Mahmoud v. Taylor*, the Supreme Court struck down a public school policy of refusing to provide parental notice and an opt-out when “LGBT+ inclusive” story books would be taught. Specifically, the Court held that failing to provide notice and an opt-out from LGBTQ+ “materials and instruction” “burdens the religious exercise of parents,” because it “requires them to submit their children to instruction that poses ‘a very real threat of undermining’ the religious beliefs and practices that the parents wish to instill.” *Mahmoud*, 606 U.S. at 530. The Supreme Court’s decision has broad application. It made clear that any “educational requirement or curricular feature,” and any “instruction or materials,” can “substantially interfer[e] with the religious development of a child,” depending on the parent’s particular religious beliefs and the nature of the material at issue. *Id.* at 550. Courts must consider “the specific context” in which the “instruction or materials at issue are presented,” and whether they are presented in a “manner that is ‘hostile’ to religious viewpoints and designed to impose upon students a ‘pressure to conform.’” *Id.* (citing *Wisconsin v. Yoder*, 406 U.S. 205, 218 (1972)). When “instruction or materials” “substantially interfer[e] with the religious development” of children, parents **must** be afforded notice and the opportunity to opt out their children from viewing the materials. *Id.* at 558.

In *Mirabelli* itself, the U.S. Supreme Court rejected the Ninth Circuit’s conclusion that *Mahmoud* was limited in its application to “uniquely coercive curricular elements.” Rather, the Court recognized that California’s “intrusion on parents’ free exercise rights [there]—unconsented facilitation of a child’s gender transition—is *greater* than the introduction of LGBTQ storybooks . . . considered sufficient to trigger strict scrutiny in *Mahmoud*.” *Mirabelli*, 607 U.S. at 496 (emphasis added). The Supreme Court held that California’s “policies cut out the primary protectors of children’s best interests: their parents.” *Id.* at 496-97. Therefore, it held, “California’s policies will likely not survive the strict scrutiny that *Mahmoud* demands.” *Id.* It further held that, whether religious or non-religious, all parents’ rights are violated by these policies, “on due process grounds.” *Id.* at 497.

Similarly, the *Mahmoud* Court observed that “[m]any Americans, like the parents in th[a]t case, believe that biological sex reflects divine creation, that sex and gender are inseparable, and that children should be encouraged to accept their sex and to live accordingly.” 606 U.S. at 552.

Additionally, “[m]any Americans ‘advocate with utmost, sincere conviction that, by divine precepts, same-sex marriage should not be condoned.’” *Id.* at 550-51 (quoting *Obergefell v. Hodges*, 576 U.S. 644, 679 (2015)); *see, e.g., W. Va. v. B.J.P.*, 146 S. Ct. 2356, 2382 (2026) (Thomas, J., concurring) (“Men and boys with gender dysphoria are not women or girls, even if they believe that they are. Sex is an immutable ‘biological’ characteristic . . . ; it is binary . . . To use language to obscure reality . . . is to lie to the public[.]”). These are beliefs that parents have a constitutionally protected right to impart to their children.

Just like the books at issue in *Mahmoud* and the policies in *Mirabelli*, WCPSS’s actions “present as a settled matter a hotly contested view of sex and gender that sharply conflicts with the religious beliefs that [many] parents wish to instill in their children.” *Mahmoud*, 606 U.S. at 553. Accordingly, “[s]uch instruction carries with it precisely the kind of objective danger to the free exercise of religion that the First Amendment was designed to prevent.” *Id.* at 555 (internal quotes omitted). WCPSS’s actions further violate North Carolina’s statutory prohibition on any “[i]nstruction on gender identity, sexual activity, or sexuality . . . in grades kindergarten through fourth grade, regardless of whether the information is provided by school personnel or third parties,” N.C. Gen. Stat. § 115C-76.55, and manifest a disregard for the statutory bar on schools “[p]rovid[ing] instruction to students on divisive concepts,” *id.* –76.210(a)(3).

By failing to provide substantial notice and opportunity to opt out and otherwise accommodate these parents’ religious beliefs, WCPSS has cognizably burdened their right to the free exercise of religion, which is protected not only by the U.S. Constitution but by North Carolina law as well. *See, e.g.,* N.C. Const., art. I, §§ 13-14; *see also id.* § 15 (“The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.”). WCPSS is also violating the provisions of North Carolina’s Parental Bill of Rights, which give a parent the right “[t]o direct the education and care of his or her child[.]” and “[t]o direct the upbringing and moral or religious training of his or her child[.]” in addition to abridging the parental right to inspect supplementary educational material and to opt out of instruction concerning sexuality and reproductive health. N.C. Gen. Stat. § 114A-10(1) & (2); *id.* § 115C-76.25.

Tinker, Olentangy, and N.C. Gen. Stat. § 115C-76.210(a)(2)

The directives of the WCPSS, namely its requirement for students to address the music teacher using female pronouns and courtesy titles, likewise run afoul of *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969), as recently explained by the *en banc* Sixth Circuit in *Defending Education v. Olentangy Local School District Board of Education*. In *Olentangy*, the full court reversed the panel’s initial affirmance of the District Court’s denial of a preliminary injunction for a parents’ rights group seeking protection from a public school policy, akin to that of WCPSS here, “bar[ring] its students from referring to transgender and nonbinary classmates using the pronouns that match their biological sex if the classmates prefer to go by different pronouns.” 158 F.4th 732, 738 (6th Cir. 2025).

Relying on *Tinker*, the *en banc* court held that the school district failed to carry its burden of showing why punishment of students for using another student’s non-preferred pronoun was

consistent with the free-speech protections of the First Amendment. *Id.* at 753-60. As the Sixth Circuit summarized:

[T]he District’s ban on the use of biological pronouns regulates speech on a public concern in a way that discriminates based on viewpoint. So the District bears a heavy evidentiary burden to justify its ban. But it presented no evidence at all that the use of biological pronouns would disrupt school functions or violate anyone’s rights.

Id. at 753.

Under the First Amendment, “[t]he government may not restrict the speech that individuals use to alter the beliefs that they hold. That is ‘thought control.’” *Id.* at 760 (citing *Am. Booksellers Ass’n, Inc. v. Hudnut*, 771 F.2d 323, 329 (7th Cir. 1985) (Easterbrook, J.)); see *Meriwether v. Hartop*, 992 F.3d 492, 517 (6th Cir. 2021) (professor stated free exercise claim as to policy requiring use of preferred gender pronouns, which was required to satisfy strict scrutiny); see also *Whitney v. California*, 274 U.S. 357, 375 (1927) (Brandeis, J., concurring) (“[F]reedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth[.]”).

WCPSS similarly engages in content- and viewpoint-based discrimination of speech by students, concerning a matter of public concern that cannot be sustained under *Tinker* when it requires students to address the music teacher as a female. Under the same rationale employed by the Sixth Circuit in *Olentangy*, the WCPSS prohibition on “misgendering” this teacher cannot stand.

In addition to the *Tinker*-based rationale of the Sixth Circuit in *Olentangy*, the protections of the Supreme Court’s *Mahmoud* decision also reach infringement on the parents’ free exercise rights through the forced use of pronouns and titles. See *Mahmoud*, 606 U.S. at 565 (strict scrutiny required if a law substantially interferes with the religious development of parents’ children). WCPSS can protect against discrimination and disrespect without compelling each and every student to manifestly assent to its chosen dogma through the words a student utters. See, e.g., *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) (“[N]o official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”).

Moreover, pursuant to the recently enacted N.C. Gen. Stat. § 115C-76.210(a)(2), schools may not “[c]ompel students, teachers, administrators, or other school employees to affirm or profess belief in divisive concepts.” Yet, that is exactly what WCPSS does here when it requires students to address a biologically male teacher using female pronouns and courtesy titles contrary to their and their parents’ religious beliefs.

Relief Demanded

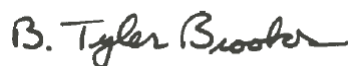
Accordingly, on behalf of Middle Creek Parental Rights, including the specific parents identified and those members who are currently undisclosed, it is here demanded that, within

fifteen (15) days of the date of this letter, WCPSS provide the following:

- (a) The right for parents to opt their children out of any class, including music, taught by the music teacher at issue. Instead, students should be allowed to attend an alternative class or permitted to leave campus for religious instructions in accordance with state law and WCPSS policy.
- (b) Formal written assurances that no student will be disciplined for not using this teacher's "preferred" pronouns and courtesy titles. That is, students must be free to call the teacher "Mr." and use "he/him/his" pronouns for the teacher without being corrected or disciplined by the teacher or any other WCPSS employee.
- (c) Formal written assurances that sexuality and gender identity will not be discussed at Middle Creek by any WCPSS faculty or staff members, except as allowed by state law, and only with prior parental notice and a parental right to opt out of such discussion. This includes informal class discussions that are not specifically deemed curricular by WCPSS.
- (d) Formal written assurances that the music teacher will not be permitted to occupy any restroom, locker room, or other similar space at the same time as any student.
- (e) Formal written assurances that no employee of WCPSS will engage in retaliation against any student who is opted out of class or any discussion of sexuality or gender identity, uses male pronouns and courtesy titles to refer to the music teacher, or otherwise seeks to invoke their constitutional rights.

Please have the School Board's legal counsel or other representative contact this office to discuss an amicable resolution of this matter.

Sincerely,



B. Tyler Brooks[†]
Senior Counsel

[†]*Admitted in North Carolina, South Carolina, Tennessee, and Michigan.*

cc: Stephen M. Crampton, Senior Counsel (via email)
Christopher A. Ferrara, Senior Counsel (via email)
Nathan C. Loyd, Counsel (via email)