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Ohio School District Sued Over Policy That Punishes Kids for "Misgendering" Peers

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A Central Ohio school district is facing accusations that it runs afoul of students' First Amendment rights by compelling students to affirm versions of gender theory via the use of "preferred pronouns" for transgender students in the district. Parents Defending Education (PDE), an organization that defends parents' rights in education, is suing the Olentangy Local School District (OLSD) in the U.S. District Court for the Southern District of Ohio.

PDE makes the case that both parents and students are being compelled by the school district to abandon their freedoms of speech and religion both on school property and off via the district's Code of Conduct, which plaintiffs allege compels "them to mouth support for the District's preferred viewpoints at all times of the day, whether at school or not."

According to a statement from PDE: "District policies violate students' First Amendment rights by chilling students' speech rights, compelling students to affirm beliefs about sex and gender that are contrary to their own deeply held beliefs, and violating parents' Fourteenth Amendment rights through the district's efforts to restrict speech off school grounds and in families' homes."

PDE also accuses the district of usurping parents' right to raise their own children through its policy regarding transgenderism:

> The District's other actions send a clear message to students that only one view about gender identity is acceptable: it has pushed parents out of critical gender-identity decisions of their children through its use of "Gender Identity Support Plans" for students whose biological gender does not align with their gender identity, which the District uses without the consent of their parents. OLSD has also issued "Transgender Guidelines" that instruct teachers and other District officials to hide the student's gender identity and "preferred pronouns" from the student's parents, unless the minor student gives permission otherwise.

"Olentangy's 'harassment' policies show a deep contempt for the constitutional rights of its students and families," said Caroline Moore, PDE's vice president. "Public schools cannot force students to speak in a way that supports a viewpoint contrary to their deeply held beliefs — nor may schools follow students home to police their speech at all hours of the day on their personal devices. But Olentangy has enacted a series of overbroad 'Anti-Harassment' policies under the guise of 'inclusivity' that flout

basic constitutional rights both in and outside of the classroom."

Of particular interest to plaintiffs are school policies 5517, titled "Anti-Harassment," and 5136, which applies to speech found on students' personal devices such as cell phones, social media, email, or other digital modes of communication.

Policy 5517 says the district "will vigorously enforce its prohibition against discriminatory harassment based on … gender identity," and promises swift punishment for what it terms "unlawful harassment" on school property or in connection with school-sponsored events.

Policy 5136 dares to control student conduct off campus by prohibiting the use of personal devices "in any way that might reasonably create in the mind of another person an impression of being threatened, humiliated, harassed, embarrassed or intimidated."

If found "guilty" of such "crimes," students can face escalating punishments up to and including expulsion.

The lawsuit calls out not only the Olentangy Local School District specifically, but the very idea of so-called "bias reporting," which has become a staple of the "speech codes" that have arisen nationwide on college campuses as well as in school districts:

> Living up to their Orwellian name, bias-reporting systems encourage students to monitor each other's speech and report incidents (often anonymously). "Bias" is defined broadly enough to cover wide swaths of protected speech. Schools need only determine that the listener took offense.

Thus far, the school district has been publicly silent about the lawsuit, but PDE alleges that its attorneys have spoken for them regarding their policies.

"The District, through its own attorneys, has confirmed to parents that these policies prohibit 'purposefully referring to another student by using gendered language they know is contrary to the other student's identity' (*i.e.*, 'misgendering'). Together, the District's policies unconstitutionally forbid speech the District dislikes and compel speech it favors," the lawsuit alleges.

PDE, filing on behalf of district parents, seeks a declaratory judgment that the OLSD's policies violate the First and Fourteenth Amendments. In addition, plaintiffs seek a permanent injunction against the district enforcing their harassment policies, particularly 5517 and 5136, and the prohibition on "discriminatory language."

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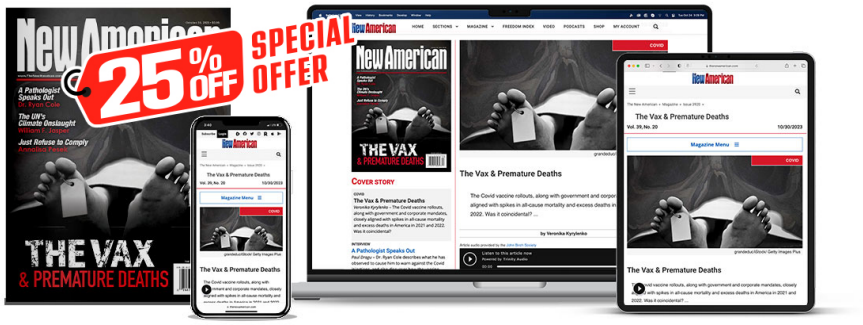

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