



Written by [Michael Tennant](#) on June 8, 2021

Judge Orders Reinstatement of Virginia Teacher Suspended for Opposing Trans Policy

A judge has ordered that a Virginia teacher who was suspended for opposing a proposed transgender policy at a school-board meeting be reinstated to his position.

Tanner Cross, a physical-education teacher at Leesburg Elementary School in Loudoun County, was placed on administrative leave on May 27, two days after he expressed opposition to a proposed policy requiring teachers to refer to students by their preferred names and pronouns instead of those corresponding to their legal names and sexes.



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"I love all of my students, but I will never lie to them regardless of the consequences," Cross said during the public-comment portion of a school-board meeting. "I'm a teacher, but I serve God first, and I will not affirm that a biological boy can be a girl and vice versa because it is against my religion. It's lying to a child. It's abuse to a child. And it's sinning against our God."

Such effrontery did not sit well with the far-left Loudoun County School Board, which proceeded not only to suspend Cross but also to bar him from all school property.

A letter from the Alliance Defending Freedom, which is representing Cross, to the school district failed to change any minds, so Cross [filed suit](#) and sought an emergency injunction reinstating him to his former position.

On Tuesday, Judge James Plowman, Jr., of Virginia's 20th Circuit Court granted the injunction pending trial.

Most of Plowman's [opinion](#) considered whether Cross was likely to prevail at trial, one of the main criteria for granting emergency relief. He noted that Cross' anti-transgender-policy comments were offered in his capacity as a private citizen — he had to go through the same process to speak at the meeting as anyone else — and were about "a matter of public concern." Thus, his speech was constitutionally protected. In addition, he found it likely that Cross' right to the free exercise of religion had also been violated because "the 'comments' made by the Plaintiff have in their very core, proclamations of faith and how he is to apply them to his life."

The school board, on the other hand, acted in bad faith, Plowman suggested.

The board argued that Cross had to be suspended because his comments had disrupted operations at Leesburg Elementary School. However, the board provided little evidence to back up its assertion, and even much of that was suspect. Primarily, the board cited six e-mails from five families who requested that their children be removed from Cross' classroom because of his remarks. Considering that Leesburg Elementary has about 400 students, Plowman found "the magnitude of parental complaints to be *de minimis* ... and could not reasonably be construed to be so disruptive to school operations as to



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justify” Cross’ suspension.

Plowman pointed out some other interesting features of the e-mails. First, although the school claimed Cross had been reassigned from his morning duties on May 26 because of the e-mails, only one of them had been sent prior to that time. Second, “Some of the beliefs and assertions expressed by parents regarding Plaintiff’s anticipated future conduct, are wholly inconsistent with his statements to the School Board,” something the board was “readily aware of ... at the time the suspension was issued,” he observed in a footnote.

“The weight of the evidence,” Plowman declared, “supports a determination that the Plaintiff is likely to prevail on the merits.”

Plowman also found that Cross had suffered “irreparable harm” both by being suspended for speaking his mind and by being banned from school property, preventing him from appearing at future board meetings.

The board’s actions beyond suspension further caught Plowman’s attention. Why, he asked, did the board need to suspend Cross when there were only three weeks left in the school year? Even worse, perhaps, is the fact that the board felt it necessary to notify the entire “Leesburg Elementary School community” of Cross’ suspension, a decision Plowman considered “unnecessary and vindictive.”

Finally, Plowman decided to issue the injunction because “upholding constitutional rights is in the public interest.” He ordered the board to reinstate Cross “immediately” and to lift its prohibition on his stepping onto school grounds. He directed both parties to the lawsuit to schedule a trial by June 16.



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