

Even With Supreme Court's Order Local School Districts Enact Their Own Transgender Mandates

Even as the Supreme Court ordered that the federal government cannot force public schools to take part in its “transgender mandate,” a few local school boards have taken it upon themselves to enact the provisions of the mandate anyway.

In Virginia, the Fairfax County School Board instituted a policy change that added “sexual orientation,” “gender identity,” and “gender expression” as protected criteria in its policies and student handbooks. By the time concerned parents had mounted a challenge to the new policy, however, 30 days had expired and a local circuit court judge threw out their case.

With assistance from Liberty Counsel, an international nonprofit litigation, education, and policy organization dedicated to advancing religious freedom, the sanctity of life, and the family, those parents filed an appeal with the Virginia Supreme Court. Oral arguments in the case were heard Thursday.

Liberty Counsel represents Jake Doe, a minor, John and Jane, the parents, and Andrea Lafferty. They argue that a legal principle known as “Dillon’s Rule” requires that local non-discrimination laws must not be more stringent than state laws.

Virginia does not include sexual orientation, gender identity or gender expression as protected classes. Liberty Counsel attorneys also argued that there is no 30-day clause when Dillon’s Rule is applied.

According to a press release from Liberty Counsel:

During the oral argument, the Virginia Supreme Court zeroed in on that issue and similarly appeared to agree that a Dillon's Rule challenge cannot be limited to a 30-day window. If it were limited, the school board could pass illegal policies that conflict with state law during the summer break when there are no students on campus to challenge the law. If it is not challenged within 30 days, the illegal act would be grandfathered.

"The school board act of adding 'gender identity, expression and sexual orientation' to the local policy violates state law and harms children," said Mat Staver, Founder and Chairman of Liberty Counsel. "Allowing boys to use private facilities for girls violates the right to privacy and places girls at risk of sexual abuse. Virginia law also requires uniformity throughout the state to avoid a patchwork of conflicting laws at the local level. We should hear from the Virginia Supreme Court soon and we look forward to presenting arguments on the school board's illegal act in the near future."

The case also highlights the needs for Christians to remain vigilant at all times for similar encroachments by government.