

Judge Rules in Favor of Teacher Suspended for Denouncing Proposed School Policy on Gender

A Virginia judge has ruled a physical education teacher be reinstated to his Virginia elementary school position after being placed on leave following a speech in which he denounced proposed school policy on gender.

Twelfth Circuit Judge James E. Plowman ruled in favor of Byron “Tanner” Cross, and ordered Loudoun County Public Schools (LCPS) to reinstate Cross to his position at Leesburg Elementary School.

Judge Plowman granted a temporary injunction allowing Cross to continue his job until Dec. 31, at which time, unless other orders have been made, the injunction will dissolve.

Cross was placed on temporary leave after he disputed the proposed school policy on gender pronouns, one that requires faculty to address transgender students by their chosen pronouns. Cross said he could not comply because to do so would violate his beliefs.

Loudoun County School Board just put a school teacher on administrative leave for stating he would not teach LGBTQ because it violates his Christian principles.

– Michael S. Miller (@imichaelsmiller) May 27, 2021

“I’m a teacher, but I serve God first,” Cross said. He said he could not “affirm that a biological boy can be a girl and vice versa because it’s against my religion. It’s lying to a child, it’s abuse to a child, and it’s sinning against our God.”

Policy 8040, one of the policies Cross referenced in his speech, reads:

LCPS staff shall allow gender-expansive or transgender students to use their chosen name and gender pronouns that reflect their gender identity without any substantiating evidence, regardless of the name and gender recorded in the student's permanent educational record.

School staff shall, at the request of a student or parent/legal guardian, when using a name or pronoun to address the student, use the name and pronoun that correspond to their gender identity. The use of gender-neutral pronouns are appropriate. Inadvertent slips in the use of names or pronouns may occur; however, staff or students who intentionally and persistently refuse to respect a student's gender identity by using the wrong name and gender pronoun are in violation of this policy.

In granting the injunction, Plowman argued that Cross' rights to speech and religious liberty are central to the case.

Plowman argued that Cross' "interest in expressing his First Amendment speech outweigh the Defendant's interest in restricting the same and the level of disruption that Defendant asserts did not serve to meaningfully disrupt the operations or services of Leesburg Elementary School."

This comes in response to the school's argument that it suspended Cross not for what he said, but for the disruption his words caused.

Plowman argued Cross "was speaking as a citizen, not in his official capacity" as a teacher. His ruling identified that the board meeting occurred "during nonworking hours at a forum where public comment was invited."

Cross, who is represented by Alliance Defending Freedom, said

at a rally after the hearing, “Last Tuesday, I went to school board meeting and respectfully objected to two proposed policies. When I spoke, I was thinking about my values, my students, my parents and my fellow teachers. The truth is I’m not alone. Many of us are concerned that proposed policies would harm students and require us to violate our beliefs by saying things that are not true.” {eo}

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