

No. 23-601

IN THE
Supreme Court of the United States

JOHN AND JANE PARENTS 1; JOHN PARENT 2,
Petitioners,

v.

MONTGOMERY COUNTY BOARD OF
EDUCATION, ET AL.,
Respondents.

On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Fourth Circuit

**BRIEF OF *AMICUS CURIAE* NATIONAL ASSOCIATION
OF PARENTS, INC. D/B/A PARENTSUSA
IN SUPPORT OF PETITIONERS**

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INTEREST OF *AMICUS CURIAE*¹

The National Association of Parents, Inc. (“ParentsUSA”) is a secular nonpartisan 501(c)(3) nonprofit national organization located in Atlanta, Georgia. ParentsUSA exists to serve all legal parents; i.e., mothers and fathers, married or unmarried, biological or adoptive, and their children throughout the United States. One of the missions of ParentsUSA is to preserve and support the parent-child relationship by protecting the constitutional rights of parents — as those rights have been recognized by this Court. See <https://parentsusa.org>.

SUMMARY OF ARGUMENTS

“[T] the Montgomery County (Md.) Board of Education (“MCBE”) has recently adopted a policy that requires school employees to hide from parents that their child is transitioning gender at school if, in the child’s or the school’s estimation, the parents will not be “supportive” enough of the transition. Petitioner Parents claim this ‘Parental Preclusion Policy’ violates their fundamental rights to direct the care and upbringing of their children.” *Petition for Writ of Certiorari*, Questions Presented, p. (i).

¹ Counsel of record for all parties received notice at least 10 days prior to the due date of *amicus curiae*’s intention to file this brief. *Amicus curiae* certifies that no counsel for a party authored this brief in whole or in part and no person or entity, other than *amicus curiae*, its members, or its counsel, has made a monetary contribution to its preparation or submission.

ParentsUSA contends that (A) the “Parental Preclusion Policy” is based on the false premise that students (children) will be truthful to teachers and staff concerning their parents’ attitudes and level of support with respect to issues relating to gender, (B) if MCPS has reason to believe a child is at risk of physical harm or long-term emotional harm or of child abuse or neglect because of the child’s parents, as a state mandatory reporter, MCPS is required to notify the local department of social services or the appropriate law enforcement agency about suspected cases of child abuse or neglect as soon as possible, (C) the State of Maryland empowers parents, and only parents, and, through Maryland’s Compulsory Education criminal statute, with some exceptions, requires parents to decide from among competing education service providers and to see that their children attend traditional public schools, public charter schools, public magnet schools, private schools, or online academies, or are homeschooled such that MCBE is an education service provider within Maryland’s consumer protection laws which the “Parental Preclusion Policy” violates, and (D) the “Parental Preclusion Policy” teaches children that being deceitful is acceptable and requires teachers and staff to model deceit and, if the subject of the “Parental Preclusion Policy” was academic failure, illicit drug use, sexual assault or sexual activity at school, or bullying, the violation of the fundamental rights of parents would be (more) obvious and (unquestionably) unacceptable as a violation of the rights of children and their parents.

ARGUMENTS

The Court Should Grant The Writ To Protect Children and their Parents from Deceit and to Reaffirm the Fundamental Constitutional Rights of Parents.

A. The “Parental Preclusion Policy” is based on the false premise that students (children) will be truthful to teachers and staff concerning their parents’ attitudes and level of support with respect to issues relating to gender.

My dog ate my homework. – Students throughout history.

The “Parental Preclusion Policy” is based entirely on information the “principal or identified staff member” obtains solely from the student:

Prior to contacting a student’s parent/guardian, the principal or identified staff member should speak with the student to ascertain the level of support the student either receives or anticipates receiving from home. In some cases, transgender and gender nonconforming students may not openly express their gender identity at home because of safety concerns or lack of acceptance. Matters of gender identity can be complex and may involve familial conflict.

Guidelines for Student, Gender Identity in Montgomery County Public Schools, “Communication With Families,” Pet App. 154a.

Children lie.² Children lie for many reasons and, in the context of schools, children lie to avoid consequences for failing to complete an assignment or for misbehaving or to curry favor with a teacher or staff member for the benefits such favored status may provide the student.³ Without requiring the principal or

² Deceit, misleading, and lying are related. Deception indicates successfully lying or misleading: <https://academic.oup.com/book/5430/chapter-abstract/148271147?redirectedFrom=fulltext#>

³ Although axiomatic that children will lie, ParentsUSA provides the following sampling of academic and media reports and articles about children who lie and the adverse consequences to children who are not persuaded (taught) not to lie. Articles on children and lying:

- a. <https://archive.nytimes.com/parenting.blogs.nytimes.com/2016/02/10/why-students-lie-and-why-we-fall-for-it/>
- b. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3483871/>
- c. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2597097/>
- d. <https://www.healthychildren.org/English/family-life/family-dynamics/communication-discipline/Pages/When-Children-Lie.aspx>
- e. https://www.aacap.org/AACAP/Families_and_Youth/Facts_for_Families/FFF-Guide/Children-And-Lying-044.aspx
- f. <https://www.apa.org/news/podcasts/speaking-of-psychology/why-kids-lie>
- g. <https://www.parentingforbrain.com/why-do-kids-lie/>
- h. <https://calmerclassrooms.today/how-to-handle-children-who-lie/>
- i. <https://www.parents.com/kids/development/behavioral/age-by-age-guide-to-lying/>
- j. <https://childmind.org/article/why-kids-lie/>
- k. <https://www.nationwidechildrens.org/family-resources-education/700childrens/2022/05/why-do-children-lie>

identified staff member to speak directly with the student's parents or guardians to ascertain the level of support the student receives or will receive from home, MCPS easily can be manipulated by students or unnecessarily and in violation of the fundamental constitutional right of parents to mislead and to deceive parents.

B. If MCPS has reason to believe a child is at risk of physical harm or long-term emotional harm or of child abuse or neglect because of the child's parents, as a state mandatory reporter, MCPS is required to notify the local department of social services or the appropriate law enforcement agency about suspected cases of child abuse or neglect as soon as possible.

For nearly a century, from *Meyer v. Nebraska*, 262 U.S. 390 (1923), and *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), and through *Stanley v. Kramer*, 455 U.S. 745 (1982) and *Troxel v. Granville*, 530 U.S. 57 (2000), this Court has repeatedly held that “the custody, care and nurture of the child reside first in the parents.” *Troxel*, 530 U.S. at 60 (plurality opinion) (quoting *Prince v. Massachusetts*, 321 U. S. 158, 166 (1944), and citing other cases).

Amicus is challenged with persuasively presenting existing law to this Court knowing there have been few, if any, presentations more compelling than

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1. <https://www.scholastic.com/parents/family-life/social-emotional-learning/development-milestones/truth-about-lying.html>

that provided by then Chief Judge Dillard of the Georgia Court of Appeals⁴ in his fully and specially concurring opinion in *Borgers v. Borgers*, 820 S.E.2d 474 (2018). Chief Judge Dillard, relying on decisions from this Court, sets forth the rights of parents and the very limited circumstances under which states may interfere with those rights:

The liberty interest of parents to direct the upbringing, education, and care of their children is the most ancient of the fundamental rights we hold as a people, and is “deeply embedded in our law.” This cherished right derives from the natural order, preexists government, and may not be interfered with by the State except in the most compelling circumstances.

Id. 820 S.E.2d at 478-479 (citations omitted).

Our trial courts must be mindful in every case involving parental rights that, regardless of any perceived authority given to them by a state statute to interfere with a natural parent’s custodial relationship with his or her child, such authority is only authorized if it comports with the long-standing, fundamental principle that “[p]arents have a

⁴ In Georgia, the Court of Appeals now has exclusive appellate jurisdiction over domestic relations cases pursuant to the Appellate Jurisdiction Reform Act of 2016. See Ga. L. 2016, p. 883, §§ 3-1, 6-1 (c); O.C.G.A. §15-3-3.1(a)(6); O.C.G.A. §5-6-34(a)(11) and (d) and O.C.G.A. §5-6-35(j).

constitutional right under the United States and Georgia Constitutions to the care and custody of their children.” In this respect, the Supreme Court of the United States has acknowledged that “[t]he liberty interest ... of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests ...” And while a parent’s right to raise his or her children without state interference is largely expressed as a “liberty” interest, the Supreme Court of the United States has also noted that this right derives from “privacy rights” inherent in the text, structure, and history of the federal constitution.

Id. 820 S.E.2d at 479-48 (citations omitted).

Amicus relies extensively, as did Chief Judge Dillard, on this Court’s holdings that address children and their parents and the sanctity of the family. *In Meyer v. Nebraska*, 262 U.S. 390, 399 (1923), this Court noted the “liberty interest guaranteed by the Fourteenth Amendment [to the United States Constitution] includes freedom ... to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home[,] and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men[.]” *In Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) this Court recognized there is a “private realm of family life

which the state cannot enter.” Similarly, the parent-child relationship was aptly described in *Pierce v. Soc’y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 535 (1925), thusly: “The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.”

The Georgia Supreme Court also consistently relies on the longstanding precedents of this Court with regard to the barriers to state intervention in the parent-child relationship:

The presumption that children ordinarily belong in the care and custody of their parents is not merely a presumption of the statutory and common law, but it has roots in the fundamental constitutional rights of parents. The Constitution secures the fundamental “right of parents to direct the upbringing of their children,” *Troxel v. Granville*, 530 U.S. 57,65 (2000), and it “protects a private realm of family life which the state cannot enter without compelling justification.” *Arnold v Bd. of Ed. of Escambia County*, 880 F.2d 305, 313 (11th Cir. 1989).

In the Interest of M. F., 780 S.E.2d 291, 297 (2015).

Regrettably for Petitioners and for other parents similarly situated across the USA, the Fourth Circuit Court of Appeals failed to consider and then to follow this Court’s long recognized constitutionally

protected interest of parents to raise their children without undue state interference.

The fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents or have lost [at least] temporary custody of their child to the State. Even when blood relationships are strained, parents retain a vital interest in preventing the irretrievable destruction of their family life. If anything, persons faced with forced dissolution of their parental rights have a more critical need for procedural protections than do those resisting state intervention into ongoing family affairs. When the State moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures.

Stanley v. Kramer, 455 U.S. 745, 753-754 (1982). See generally U.S. Const. amend. IX (“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”); U.S. Const. amend. XIV, § 1 (“... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States ...”); Ga. Const. Art. 1, § 1, XXIX (“The enumeration of rights herein contained as part of this Constitution shall not be construed to deny to the people any inherent rights which they may have hitherto enjoyed.”).

“Orwellian” is an adjective that Merriam-Webster defines as: “of, relating to, or suggestive of George Orwell or his writings[;] *especially*: relating to or suggestive of the dystopian reality depicted in the novel *1984*.” <https://www.merriam-webster.com/dictionary/Orwellian>. “Yet Orwellianism isn’t just about big government; it’s about authoritarianism coupled with lies.” *Five Myths about George Orwell*, Gordon Bowker, The Washington Post, February 24, 2017. https://www.washingtonpost.com/opinions/five-myths-about-george-orwell/2017/02/24/24ef0572-f9ec-11e6-9845-576c69081518_story.html

[W]hen [in the absence of compelling circumstances necessary to substitute its own preferences for the parent’s decision] state actors engage in this sort of Orwellian policymaking disguised as judging, is it any wonder that so many citizens feel as if the government does not speak for them or respect the private realm of family life.

In sum, I take this opportunity, yet again, to remind our trial courts that, in making any decision or taking any action that interferes with a parent-child relationship, our state statutes are subordinate to and must be construed in light of the fundamental rights recognized by the federal and Georgia constitutions []. As this Court has rightly recognized, “[t]he constitutional right of familial relations is not provided by government; it preexists government.” Indeed, this “cherished

and sacrosanct right is not a gift from the sovereign; it is our natural birthright. Fixed. Innate. Unalienable.” Thus, regardless of a court’s personal feelings or perception of a parent’s fitness to care for or retain custody of his or her child, careful consideration of these bedrock constitutional principles and safeguards must remain central to each case without exception. And when this fails to occur, we will not hesitate to remind our trial courts of the solemn obligation they have to safeguard the parental rights of all Georgians.

Borgers v. Borgers, 820 S.E.2d at 482 (citations omitted)(CJ Dillard, specially concurring).

Nothing could be more “Orwellian policymaking disguised as judging” *Id.* at 482, than the MCPS untrained principal or identified staff member through the “Parental Preclusion Policy” making the subjective determination about the level of support a “student either receives or anticipates receiving from home[]” based solely on the child’s (often incorrect or fabricated) report. The absence of due process is staggering.⁵

⁵ Compare the Maryland Department of Human Services, Child Protective Services: “The ultimate success of CPS intervention rests with the family and they must be encouraged to be involved with and participate in the intervention process.” <https://dhs.maryland.gov/child-protective-services/>

In Maryland, “child abuse” and “child neglect” are defined⁶ as:

Physical injury not (necessarily visible) of a child under circumstances that indicate that a child’s health or welfare is harmed or at substantial risk of being harmed.

The failure to give proper care and attention to a child, leaving a child unattended where the child’s health or welfare is harmed or a child is placed in substantial risk of harm.

An act or acts involving sexual molestation or exploitation whether physical injuries are sustained or not.

Identifiable and substantial impairment of a child’s mental or psychological ability to function.

Finding credible evidence that has not been satisfactorily refuted that physical abuse, neglect or sexual abuse occurred.

Whether concerning gender issues or any other subject, issue, or matter, if any MCPS principal, staff member, or teacher has reason to believe a child is at risk of physical harm or long-term emotional harm or even suspected child abuse or neglect because of the

⁶ Code of Maryland Regulations, Sec. 07.02.07.02(B)(11) and (14). <https://dhs.maryland.gov/child-protective-services/reporting-suspected-child-abuse-or-neglect/what-is-child-abuse-and-neglect/>

child's parents (or anyone else including another MCPS employee), as a state mandatory reporter,⁷ MCPS is required to notify the local department of social services or the appropriate law enforcement agency about suspected cases of child abuse or neglect as soon as possible.⁸ Instead, MCPS, without any investigatory training or experience, any investigatory powers, and any concept of due process for the parents and for the students, set about to follow a course of action detached from what the truth may be, all in violation of the fundamental constitutional rights of the parents as defined by this Court.

⁷ "Mandated reporter" means a health practitioner, educator, human service worker, or law enforcement officer required to notify a local department or law enforcement of suspected child abuse or neglect pursuant to Family Law Article, §5-706, Annotated Code of Maryland." Code of Maryland Regulations, Sec. 07.02.07.02(B)(35).

⁸ Code of Maryland Regulations, 07.02.07.04(B).

C. The State of Maryland empowers parents, and only parents, and, through Maryland’s Compulsory Education criminal statute, with some exceptions, requires parents to decide from among competing education service providers and to see that their children attend traditional public schools, public charter schools, public magnet schools, private schools, or online academies, or are home-schooled such that MCBE is an education service provider within Maryland’s consumer protection laws which the “Parental Preclusion Policy” violates

As Petitioners well articulate in Count I of their Complaint, Section 5-203 of the Family Article of the Maryland Code, Section 1-103(b) and Section 1-401 of the General Provisions Article of the Maryland Code, parents are “jointly and severally responsible for the child’s support, care, nurture, welfare, and education; and have the same powers and duties in relation to the child.”⁹

As Petitioners well articulate in Count III of their Complaint, the Maryland Constitution protects the fundamental right to direct their children’s education.¹⁰

As Petitioners well articulate in Count VI of their Complaint, the United States Constitution

⁹ Complaint, Count I, Violation of Maryland Family Law, Pet. App. 123a-125a.

¹⁰ Complaint, Count III, Violation of Maryland Constitution – Parental Rights, Pet App. 131a-133a.

protects the fundamental right to direct their children's education.¹¹

Through a criminal statute, the State of Maryland requires parents to see that their children attend school.¹²

The MCPS does not permit students to register. Students do not have the autonomy or authority to register for MCPS. Only parents or guardians may register a child in MCPS.¹³

Person enrolling student must present official parent/guardian photo identification and proof of relationship to student. Anyone other than parent or legal guardian must complete Determination of Residency and Tuition Status (MCPS Form 335-73) and contact International Admissions and Enrollment at 240-740-4500.

Examples of proof of parent/guardian identity that includes a photograph:

- Driver's license
- Passport

¹¹ Complaint, Count VI, Violation of United States Constitution – Parental Rights, Pet. App. 140a-141a.

¹² “Compulsory Education,” MD Code ED 07-301.

¹³ “Enrollment, *Identity of Person Enrolling Student and Relationship to Student*,” MCPS, <https://www.montgomeryschoolsmd.org/info/enroll/proofs/>

- Other legal form of identification

Examples of proof of parent/guardian relationship to student:

- Birth certificate of student which identifies the parents
- Court order
- Separation agreement or divorce decree
- Other legal form of identification

For parents to consent to enrollment or to register a child in the education option the parents consider best,¹⁴ parents must be fully informed. Parental Consent in the education setting must require that the parents have been fully informed of all relevant information, in his or her native language, or through another mode of communication, the parents understand and agrees in writing, the parents understand the consent is voluntary and can be revoked; i.e., the parents can withdraw the student and enroll their child in another education option or homeschool.¹⁵

MCPS is a “Merchant” offering and making available to parents, as “Consumers,” education

¹⁴ The parents’ decision not only is to enroll or to register a child, but to continue the enrollment and not to withdraw the child from a particular education option. In other words, the necessity of being fully informed in order to make provide consent to continued enrollment occurs every day and not just prior to the initial decision on the education option.

¹⁵ “Consent,” 34 CFR 300.9. Individuals With Disabilities Education Act, 20 U.S.C. 1414(a)(1)(D)

services which are “Consumer Services” within the meaning of Maryland’s Consumer Protection Act.¹⁶ Indeed, MCPS competes with other education service providers within Maryland for the consent and decision of parents to enroll their children (as well as the option to homeschool). “Maryland families can choose from traditional public schools, public charter schools, public magnet schools, private schools, online learning, homeschooling, and microschooled and mix-and-match learning.”¹⁷

¹⁶ Maryland Consumer Protection Act, Maryland Code, Title 13. “Unfair, abusive, or deceptive trade practices include any: (1) False, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers[.]” MD Code CL 13-301. Although there are exemptions from Title 13, none apply to education service providers. MD Code CL 13-104. See also “This title shall be construed and applied liberally to promote its purpose. It is the intent of the General Assembly that in construing the term ‘unfair or deceptive trade practices’, due consideration and weight be given to the interpretations of §5 (a)(1) of the Federal Trade Commission Act by the Federal Trade Commission and the federal courts.” MD Code CL 13-105.

¹⁷ NSCW is a charitable program of the National School Choice Awareness Foundation (NSCAF), a 501(c)(3) nonprofit organization. NSCAF’s mission is to improve K-12 education in the United States, and to support the success of America’s children, by raising broad and equal awareness of the traditional public, public charter, public magnet, private, online, and home education options available for children and families. In addition to organizing NSCW, NSCAF researches, develops, and disseminates the nation’s largest online portfolio of school navigation resources for families, in English and in Spanish.”

When parents select the education service provider for their children, parents must not encounter deception from any of the available education service providers.

D. The “Parental Preclusion Policy” teaches children that being deceitful is acceptable and requires teachers and staff to model deceit and, if the subject of the “Parental Preclusion Policy” was academic failure, illicit drug use, sexual assault or activity at school, or bullying, the violation of the fundamental rights of parents would be (more) obvious and (unquestionably) unacceptable as a violation of the rights of children and their parents.

Lying that may indicate emotional problems:

Some children who can tell the difference between a truth and a lie tell elaborate stories which appear believable. Children or adolescents usually relate these stories with enthusiasm because they receive a lot of attention as they tell the lie.

Other children or adolescents, who otherwise seem responsible, fall into a pattern of repetitive lying. They often feel that lying is the easiest way to deal with the demands of parents, teachers, and friends.

<https://schoolchoiceweek.com/about/> and <https://schoolchoiceweek.com/guide-school-choice-maryland/>

These children are usually not trying to be bad or malicious, but the repetitive pattern of lying becomes a bad habit. For example, a child may lie and say they finished their homework because they are having difficulty doing the homework for reasons related to learning, attention, and/or emotional concerns.

Other adolescents may frequently use lying to cover up another serious problem. For example, an adolescent with a serious drug or alcohol problem will lie repeatedly to hide the truth about where they have been, who they were with, what they were doing, and where their money went. They often feel bad about lying but worry about getting in serious trouble if they tell the truth. There are also children and adolescents who are not bothered by lying or taking advantage of others unless they get caught.

What to do if your child or adolescent lies:

Parents are the most important role models for their children. When a child or adolescent lies, parents should take some time to have a serious discussion about:

- the difference between make-believe and reality as well as lying and telling the truth
- the importance of honesty at home and in the community

- alternatives to lying

If a child or adolescent develops a repetitive pattern of serious lying, then professional help may be indicated. Evaluation by a child and adolescent psychiatrist may help the child and parents understand and then replace the lying behavior with more honest communication and trust.

Lying and Children, Facts for Families, American Academy of Child and Adolescent Psychiatry, No. 44; Updated July 2017.¹⁸

MCPS justifies its “Parental Preclusion Policy” because MCPS is “committed to a safe, welcoming school environment where students are engaged in learning and are active participants in the school community because they feel accepted and valued[]” and “[t]o this end, all students should feel comfortable expressing their gender identity, including students who identify as transgender or gender nonconforming.” *Guidelines for Student Gender Identity in Montgomery County Public Schools*, Pet. App. 150. Nothing indicates that MCPS considered or balanced the present and life-long harm its “Parental Preclusion Policy” causes students by teaching and modeling deceit, by encouraging students to distancing themselves from their parents, and by causing the avoidance of

¹⁸ *Id.*, FN3e

https://www.aacap.org/AACAP/Families_and_Youth/Facts_for_Families/FFF-Guide/Children-And-Lying-044.aspx.

possible conflicts rather than facing and overcoming possible conflicts.

MCPS can and must be required to create “a safe, welcoming school environment where students are engaged in learning and are active participants in the school community because they feel accepted and valued[]” and “where all students . . . feel comfortable expressing their gender identity, including students who identify as transgender or gender nonconforming[]” without violating the fundamental constitutional rights of parents *and* without harming students.

What if the subject of the MCPS “Parental Preclusion Policy” was academic failure, illicit drug use, sexual assault or activity at school, or bullying? ParentsUSA contends that the Court’s consideration of the Petition for Writ of Certiorari should not be based only on the *Guidelines for Student Gender Identity* and limited to gender identity and related gender issues. Rather, the legal issues presented become crystalized when gender identity and related gender issues are replaced by the hypothetical *Guidelines* ParentsUSA drafted for illustration:

1. *Guidelines For Student ~~Gender Identity~~ Illicit Drug Use*, App. 4-6;
2. *Guidelines For Student ~~Gender Identity~~ Academic Performance*, App1-3;
3. *Guidelines For Student ~~Gender Identity~~ Bullying*, App. 7-9; and
4. *Guidelines For Student ~~Gender Identity~~ Sexual Activity or Assault*, App. 10-12.

Hiding information from parents regarding subjects and issues other than gender identity would violate Maryland's Consumer Protection Act and the fundamental rights of parents as found within the Maryland and United States Constitutions. The subject of such deceit by the Respondents cannot insulate Respondents from the violations they are perpetrating.

CONCLUSION

For the foregoing reasons, *Amicus* ParentsUSA respectfully requests that this Court grant Petitioners' Petition for Writ of Certiorari and, thereafter, emphatically reaffirm and clarify its parental-rights precedents by applying them to the pervasive deceit of parents by education service provider, Montgomery County Public Schools, through its *Guidelines For Student Gender Identity*.

Respectfully submitted,

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APPENDIX A

Guidelines For Student ~~Gender Identity~~
Academic Performance

COMMUNICATION WITH FAMILIES – ACADEMIC PERFORMANCE

Prior to contacting a student's parent/guardian, the principal or identified staff member should speak with the student to ascertain the level of support the student either receives or anticipates receiving from home. In some cases, ~~transgender and gender nonconforming~~ students **who underperform or fail academically** may not openly express their ~~gender identity~~ **underperforming or failing status** at home because of safety concerns or lack of acceptance. Matters of ~~gender identity~~ **academic underperformance or failing** can be complex and may involve familial conflict.

PRIVACY AND DISCLOSURE OF INFORMATION – ACADEMIC PERFORMANCE

All students have a right to privacy. This includes the right to keep private one's ~~transgender status or gender nonconforming~~ **academic underperformance** presentation at school.

Information about a student's ~~transgender~~ **academic** status, ~~legal name, or sex assigned at birth~~ may constitute confidential medical information. Disclosing this information to other students, their parents/guardians, or third parties may violate privacy

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laws, such as the federal Family Educational Rights and Privacy Act (FERPA).

Schools will ensure that all medical information, including that relating to ~~transgender~~ students **with failing academic performance**, is kept confidential in accordance with applicable state, local, and federal privacy laws.

Please note that medical diagnosis, treatment, and/or other documentation are not required for a school to accommodate requests regarding ~~gender presentation, identity, and diversity~~ **failing academic performance**.

~~Transgender and gender nonconforming~~ students **with failing grades** have the right to discuss and demonstrate their ~~gender identity and expression~~ **academic underperformance** openly and decide when, with whom, and how much to share private information. The fact that students choose to disclose their status to staff members or other students does not authorize school staff members to disclose students' **failing academic** status to others, including parents/guardians and other school staff members, unless legally required to do so or unless students have authorized such disclosure. It is inappropriate to ask ~~transgender or gender nonconforming~~ students **with failing grades** more questions than are necessary to support them at school.

STAFF COMMUNICATION

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Unless the student or parent/guardian has specified otherwise, when contacting the parent/guardian of a

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~~transgender student~~ **with failing grades**, MCPS school staff members should use the student's ~~legal name and pronoun~~ **academic performance and grades** that correspond to the student's ~~sex assigned at birth~~ **desired academic status although not actually achieved**.

APPENDIX B

Guidelines For Student ~~Gender Identity~~
Illicit Drug Use

**COMMUNICATION WITH FAMILIES – ILLICIT
DRUG USE**

Prior to contacting a student's parent/guardian, the principal or identified staff member should speak with the student to ascertain the level of support the student either receives or anticipates receiving from home. In some cases, ~~transgender and gender nonconforming~~ students **who use illicit drugs** may not openly express their ~~gender identity~~ **illicit drug use** at home because of safety concerns or lack of acceptance. Matters of ~~gender identity~~ **illicit drug use** can be complex and may involve familial conflict.

**PRIVACY AND DISCLOSURE OF INFORMATION –
ILLICIT DRUG USE**

All students have a right to privacy. This includes the right to keep private one's ~~transgender status or gender nonconforming~~ **drug use** presentation at school.

Information about a student's ~~transgender status, legal name, or sex assigned at birth~~ **drug use** may constitute confidential medical information. Disclosing this information to other students, their parents/guardians, or third parties may violate privacy laws, such as the federal Family Educational Rights and Privacy Act (FERPA).

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Schools will ensure that all medical information, including that relating to ~~transgender~~ students **use of illicit drugs at school or elsewhere**, is kept confidential in accordance with applicable state, local, and federal privacy laws.

Please note that medical diagnosis, treatment, and/or other documentation are not required for a school to accommodate requests regarding ~~gender presentation, identity, and diversity~~ **use of illicit drugs at school or elsewhere**.

~~Transgender and gender nonconforming~~ students **using illicit drugs at school or elsewhere** have the right to discuss and demonstrate their ~~gender identity and expression~~ **illicit drug use** openly and decide when, with whom, and how much to share private information. The fact that students choose to disclose their status to staff members or other students does not authorize school staff members to disclose students' **illicit drug use status** to others, including parents/guardians and other school staff members, unless legally required to do so or unless students have authorized such disclosure. It is inappropriate to ask ~~transgender or gender nonconforming~~ students **who use illicit drugs at school or elsewhere** more questions than are necessary to support them at school.

STAFF COMMUNICATION

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Unless the student or parent/guardian has specified otherwise, when contacting the parent/guardian of a ~~transgender~~ student **using illicit drugs at school or elsewhere**, MCPS school staff members should use the

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student's ~~legal name and pronoun~~ **drug use** that correspond to the student's ~~sex assigned at birth~~ **desired clean and sober non-drug use status**.

APPENDIX C

Guidelines For Student ~~Gender Identity~~ **Bullying**

COMMUNICATION WITH FAMILIES – BULLYING

Prior to contacting a student's parent/guardian, the principal or identified staff member should speak with the student to ascertain the level of support the student either receives or anticipates receiving from home. In some cases, ~~transgender and gender nonconforming~~ students **who bully others or who are victims of bullying** may not openly express their ~~gender identity~~ **perpetrator or victim status** at home because of safety concerns or lack of acceptance. Matters of ~~gender identity~~ **bullying** can be complex and may involve familial conflict.

PRIVACY AND DISCLOSURE OF INFORMATION – BULLYING

All students have a right to privacy. This includes the right to keep private one's ~~transgender status or gender nonconforming presentation~~ **bullying as a victim or perpetrator** at school, **whether as a victim or perpetrator by or to another student or by or to a teacher, administrator, or other employee of the school.**

Information about a student's ~~transgender status, legal name, or sex assigned at birth~~ **bullying at school as a victim or perpetrator** may constitute confidential medical information. Disclosing this information to other students, their parents/guardians, or third

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parties may violate privacy laws, such as the federal Family Educational Rights and Privacy Act (FERPA).

Schools will ensure that all medical information, including that relating to ~~transgender~~ students **bullying at school or elsewhere as a victim or perpetrator**, is kept confidential in accordance with applicable state, local, and federal privacy laws.

Please note that medical diagnosis, treatment, and/or other documentation are not required for a school to accommodate requests regarding ~~gender presentation, identity, and diversity~~ **bullying at school or elsewhere as a victim or perpetrator**.

~~Transgender and gender nonconforming~~ students **bullying at school or elsewhere as a victim or perpetrator** have the right to discuss and demonstrate their ~~gender identity and expression~~ **victim or perpetrator status** openly and decide when, with whom, and how much to share private information. The fact that students choose to disclose their status to staff members or other students does not authorize school staff members to disclose students' **bullying victim or perpetrator status** to others, including parents/guardians and other school staff members, unless legally required to do so or unless students have authorized such disclosure. It is inappropriate to ask ~~transgender or gender nonconforming~~ students **who are bullied or who bully at school or elsewhere** more questions than are necessary to support them at school.

STAFF COMMUNICATION – **BULLYING**

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Unless the student or parent/guardian has specified otherwise, when contacting the parent/guardian of a transgender student who is a victim or perpetrator of bullying at school or elsewhere, MCPS school staff members should use the student's legal name and pronoun bullying status that correspond to the student's sex assigned at birth desired bullying status including as not being a perpetrator although the student is or as not being a victim of bullying although the student is.

APPENDIX D

**Guidelines For Student ~~Gender Identity~~
Sexual Activity or Assault**

**COMMUNICATION WITH FAMILIES – SEXUAL
ACTIVITY OR ASSAULT**

Prior to contacting a student's parent/guardian, the principal or identified staff member should speak with the student to ascertain the level of support the student either receives or anticipates receiving from home. In some cases, ~~transgender and gender nonconforming~~ students **who are victims of sexual assault or who engage in sexual activity at school or elsewhere** may not openly express their ~~gender identity~~ **victim of sexual assault status or sexual activity** at home because of safety concerns or lack of acceptance. Matters of ~~gender identity~~ **sexual assault or activity at school or elsewhere** can be complex and may involve familial conflict.

**PRIVACY AND DISCLOSURE OF INFORMATION –
SEXUAL ACTIVITY OR ASSAULT**

All students have a right to privacy. This includes the right to keep private one's ~~transgender status or gender nonconforming~~ **victim of sexual assault status or sexual activity presentation** at school, **whether assault by or sexual activity with another student or with a teacher, administrator, or other employee of the school.**

Information about a student's ~~transgender status, legal name, or sex assigned at birth~~ **victim of sexual assault**

~~status or sexual activity at school~~ may constitute confidential medical information. Disclosing this information to other students, their parents/guardians, or third parties may violate privacy laws, such as the federal Family Educational Rights and Privacy Act (FERPA).

Schools will ensure that all medical information, including that relating to ~~transgender~~ students ~~victim of sexual assault status or sexual activity at school or elsewhere~~, is kept confidential in accordance with applicable state, local, and federal privacy laws.

Please note that medical diagnosis, treatment, and/or other documentation are not required for a school to accommodate requests regarding ~~gender presentation, identity, and diversity~~ ~~victim of sexual assault status or sexual activity at school or elsewhere~~.

~~Transgender and gender nonconforming~~ students ~~sexually assaulted or sexually active at school or elsewhere~~ have the right to discuss and demonstrate ~~or keep confidential~~ their ~~gender identity and expression~~ ~~victim of sexual assault status or sexual activity~~ openly and decide when, with whom, and how much to share private information. The fact that students choose to disclose their status to staff members or other students does not authorize school staff members to disclose students' ~~victim of sexual assault status or sexual activity~~ status to others, including parents/guardians and other school staff members, unless legally required to do so or unless students have authorized such disclosure. It is inappropriate to ask ~~transgender or gender nonconforming~~ students ~~who are victims of sexual assault or who are sexually active at school or~~

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elsewhere more questions than are necessary to support them at school.

STAFF COMMUNICATION

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Unless the student or parent/guardian has specified otherwise, when contacting the parent/guardian of a transgender student who is a victim of sexual assault or who is sexually active at school or elsewhere, MCPS school staff members should use the student's legal name and pronoun sexual inactivity or activity that corresponds to the student's sex-assigned-at-birth desired victim, active, virgin, or inactive status.