No. 25-77

In the Supreme Court of the United States

STEPHEN FOOTE, INDIVIDUALLY AND AS GUARDIAN AND NEXT FRIEND OF B. F. AND G. F., MINORS, ET AL.,
Petitioners,

v.

LUDLOW SCHOOL COMMITTEE, ET AL.

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

BRIEF OF *AMICUS CURIAE* INDEPENDENT WOMEN'S LAW CENTER SUPPORTING PETITIONERS

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INTRODUCTION AND INTEREST OF *AMICUS CURIAE*[1]

This case is about whether school staff may encourage, promote, and facilitate the social transition of children to the opposite sex against explicit parental instructions seeking to protect the mental health of their children. The decision below—the first time a court of appeals has held that social transition is *not* medical treatment—allows the State to usurp parents' role in making important medical decisions on behalf of their children potentially suffering from gender dysphoria and other psychological comorbidities. And that usurpation risks disproportionate harm to young women and girls.

This threat to young women and girls is of great concern to *amicus curiae* Independent Women's Law Center ("IWLC"), which is a project of Independent Women's Forum ("IWF"), a nonprofit, non-partisan 501(c)(3) organization founded by women to foster education and debate about legal, social, and economic issues. IWF promotes policies that advance women's interests by expanding freedom, encouraging personal responsibility, and limiting the reach of government. IWLC supports this mission by advocating for equal opportunity, individual liberty, and the rights of women and girls. As organizations comprised primarily of women, many of whom are mothers, IWF and IWLC believe that public schools should *not*

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[1] This brief was not authored in whole or in part by counsel for any party and no person or entity other than *amicus curiae* or its counsel has made a monetary contribution toward the brief's preparation or submission. Counsel of record for all parties received timely notice of *amicus'* intent to file this brief.

interfere with parents' right to direct the upbringing, including medical care, of their children and fear that permitting school staff to socially transition children will irreversibly damage the health and wellbeing of many young people, especially young women and girls.

For the reasons stated by petitioners, IWLC agrees that the Court of Appeals erred in concluding that social transition is not medical treatment and does not implicate parents' rights to direct the upbringing of their children. IWLC writes to further explain the dangers of that holding to the mental and physical health and wellbeing of children in public school, and in particular to girls and young women. This Court should grant certiorari and reverse the decision below.

SUMMARY

Social transition is a controversial and unproven experiment masquerading as medical and mental health treatment that leads children and adolescents to persist in their gender dysphoria and prevents the proper treatment of underlying mental health issues. Moreover, social transition almost inevitably leads to chemical and surgical treatments that irreversibly damage mental and physical health. By allowing school staff to facilitate the use of opposite-sex names and pronouns for children and preventing parents' ability to opt out their children unless they withdraw their children from public school entirely, the Court of Appeals' decision enables State actors—instead of parents—to decide whether to expose children to the risks of social transition. And that threatens disproportionate harm to young women and girls.

Indeed, young women and girls are particularly vulnerable to the social pressures and peer influences that may lead to gender dysphoria. And research confirms that the exponential increase in diagnoses of gender dysphoria in recent years is driven largely by young women and girls, who often have other mental health issues. Unfortunately, the decision below will permit public schools to experiment with the mental and physical health of these vulnerable children and adolescents in their care, even against parental wishes.

As shown below, permitting such experimental treatment without parental consent threatens disproportionate and irreversible harm to young women and girls. This Court should grant review and hold that social transition is medical and mental health treatment that parents, not school staff, have the right to direct on behalf of their children.

ADDITIONAL REASONS FOR GRANTING THE PETITION

I. The Decision Below Improperly Allows State Actors to Usurp the Parental Role.

By enabling school staff to facilitate the social transition of children in school without parents' knowledge and even against parents' express instructions, the decision below allows State actors to usurp the parental role and ignores the fundamental presumption that parents act in the best interests of their children.

Proper analysis of this important issue must begin with this Court's decision in *Parham* v. *J.R.*, 442 U.S. 584 (1979). There this Court rejected an

argument that parents' rights to direct the upbringing of their children "must be subordinated" by a child's constitutional rights to "be[] free of unnecessary bodily restraints" and "not be[] labeled erroneously" as mentally ill. *Id.* at 601-602. Indeed, this Court determined that parents' rights to direct the upbringing of their children necessarily include the "high duty to recognize symptoms of illness and to seek and follow medical advice." *Id.* at 602 (internal quotation marks omitted). Moreover, this Court recognized that "[t]he law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions." *Ibid.*

The decision below ignores that important presumption. Instead, the First Circuit allows State actors to facilitate the social transition of a child even against parents' explicit instructions—running headlong from this Court's reasoning in *Parham*: "Simply because the decision of a parent is not agreeable to a child or because it involves risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state." 442 U.S. at 603. The Court further explained: "The same characterizations can be made for a tonsillectomy, appendectomy, or other medical procedure. Most children, even in adolescence, simply are not able to make sound judgments concerning many decisions, including their need for medical care or treatment. Parents can and must make those judgments." *Ibid.*

Under that reasoning, how a minor child's gender dysphoria should be treated—whether through psychotherapy, social transition, or other means—is ultimately a decision for parents, not public school staff. And that is true even if the parents' decision is not agreeable to their minor child. The First Circuit's rejection of these basic principles calls out for this Court's review.

II. The Decision Below Forces Parents to Choose Between their Children's Health and Education

Apparently to escape this Court's reasoning in *Parham,* the decision below styled the facilitation of minor children's social transition in public schools as a "curricular and administrative decision[.]" But school staff are not *educating* students by facilitating their social transition and the social transition of their classmates. Nor are they making administrative decisions for school operations.

Rather, by using a perceived boy's name and male pronouns for a girl, school staff are validating her incorrect belief that she is or can become a boy—that there is something wrong with her body, and that it can be "fixed" with chemical or surgical interventions. In short, in facilitating "gender transitions," school staff are engaging in a form of group therapy. And parents should be permitted to opt their children out of that therapy without having to withdraw them from public school and pay for alternative schooling.

But even if facilitating social transition of students *were* a curricular decision (and it is not)—just last Term, this Court affirmed parents' right to

opt out of instruction that "substantially interferes" with their right as parents to direct the upbringing of their children. *Mahmoud* v. *Taylor*, 145 S. Ct. 2332, 2353 (2025) (holding that school board's "introduction of the 'LGBTQ+-inclusive storybooks—combined with its decision to withhold notice to parents and to forbid opt outs—substantially interferes with the religious development of their children" in violation of parents' rights under the First Amendment). Indeed, the Court roundly "reject[ed] th[e] chilling vision of the power of the state to strip away the critical right of parents to guide the religious development of their children." *Id.* at 2358. And the Court should extend that decision to reject the similarly "chilling vision" embodied in the decision below—that is, of the State's power to usurp parents' rights under the Fourteenth Amendment to direct their children's upbringing. That is especially true given that a child's social transition has lifelong consequences for her mental and physical health and wellbeing, as set forth in detail below.

Indeed, as Judge Thapar of the Sixth Circuit recently explained, school policies permitting the secret social transition of children are "beyond troubling" because they strip parents of the possibility of intervening to seek medical help for their children. *Kaltenbach* v. *Hilliard City Schs.*, No. 24-3336, 2025 WL 1147577, at *1-2 (6th Cir. Mar. 27, 2025) (Thapar, J., concurring). Here, the First Circuit's decision further strips away parental rights—suggesting that public schools may facilitate the social transition of a child even against their parents' explicit instructions.

If this troubling decision stands, parents of children suffering from gender dysphoria will be left

with only two bad options: allow school staff to administer controversial and unproven medical treatments or else withdraw from public school and invest in alternative schooling. Indeed, the Court of Appeals' decision explicitly pointed to "private educational institutions, religious programming, [and] homeschooling" as potential alternatives for parents. Pet.37a. But as this Court recently recognized, "[i]t is both insulting and legally unsound to tell parents that they must abstain from public education * * * when alternatives can be prohibitively expensive and they already contribute to financing the public schools." *Mahmoud*, 145 S. Ct. at 2360.

For these reasons, too, this Court should grant certiorari to relieve parents from the unfortunate consequences of the decision below.

III. The Decision Below Threatens Disproportionate Harm to Young Women and Girls.

But that is not all. One of the most troubling consequences of the decision below is the threat it poses to the health and wellbeing of young women and girls. By enabling public schools to facilitate the social transition of children against parents' wishes, that decision will disproportionately harm vulnerable young women and girls whose parents cannot afford to pay for alternative schooling.

A. The recent exponential increase in gender dysphoria is disproportionately driven by young women and girls.

Young women and girls are particularly susceptible to social influences that increase the incidence of gender dysphoria in adolescence. Indeed,

the United States Department of Health and Human Services released a report earlier this year summarizing the findings of a comprehensive review of the evidence and practices used to address gender dysphoria in children. That report recognized that "[o]ver the past decade, the increase in patients" presenting to pediatric gender medicine clinics "has been described as exponential, a trend driven primarily by adolescent females who typically have no childhood history of [gender dysphoria]."[2]

That conclusion is confirmed by the Cass Review, a similarly comprehensive review of the scientific evidence of medical interventions used to address gender dysphoria in children conducted by Dr. Hilary Cass for England's National Health Service. That review noted that the recent increase in patients referred to gender clinics in the United Kingdom has been "disproportionately" driven by adolescent girls.[3] These observations are consistent with those of other prominent researchers in the field.[4]

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[2] U.S. Dep't Health & Hum. Servs., Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices 64-65 (as corrected 2025) (the "HHS Report"), https://tinyurl.com/2x4enzkn (citations omitted); see also *id.* at 56-57 ("more recent referrals [to gender clinics] have been dominated by teenage girls").

[3] Hilary Cass for NHS England, *Independent Review of Gender Identity Services for Children and Young People: Final Report* 26 (updated Dec. 2024), https://tinyurl.com/3mzfckv2 (the "Cass Review").

[4] See*, e.g.*, Kenneth J. Zucker, *Adolescents with Gender Dysphoria: Reflections on Some Contemporary Clinical and Research Issues*, 48 Archives of Sexual Behav. 1983, 1986 (2019), https://doi.org/10.1007/s10508-019-01518-8 ("[A] new

The exact causes of the increase in young women and girls with gender dysphoria has not been identified, but the Cass Review reported anecdotal accounts of "female students forming intense friendships with other gender-questioning or transgender students at school, and then identifying as trans themselves."[5] The Cass Review also highlighted studies demonstrating that on average girls spend more time on social media than boys, are more likely to be the victim of online harassment, and are more likely to have low self-esteem.[6]

Even the World Professional Association for Transgender Health ("WPATH"), a "gender-affirming" advocacy organization,[7] has recognized that "susceptibility to social influence impacting gender" may be a factor for some young people.[8] Moreover, WPATH has recognized that "a parent/caregiver report may provide critical context in situations in which a young person experiences very recent or sudden self-awareness of gender diversity and a corresponding gender treatment request, or when

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subgroup of adolescents with gender dysphoria has appeared on the clinical scene * * * comprised—at least so far—of a disproportionate percentage of birth-assigned females who do not have a history of gender dysphoria in childhood or even evidence of marked gender-variant or gender nonconforming behavior.").

[5] Cass Review, *supra* note 3, at 122.

[6] *Id.* at 109 (internal citations omitted).

[7] See Mia Hughes, *The WPATH Files* 36 (2024) (WPATH's model is "gender-affirming care"), https://tinyurl.com/bdzeax3n.

[8] Eli Coleman et al., *Standards of Care for the Health of Transgender and Gender Divers People: Version 8,* 23 Int'l J. Transgender Health S1, S45 (2022).

there is concern for possible excessive peer and social media influence on a young person's current self-gender concept."[9]

But school staff who facilitate the social transition of minor children in secret or against parents' instructions are ignoring such "critical context." And that studied ignorance will disproportionately harm young women and girls, who are more likely to be subject to such influences.

B. Social transition of young women and girls prevents them from becoming comfortable with their sex.

Moreover, the central feature of "social transitioning"—using a boy's name and male pronouns to refer to a girl—is no kindness. Rather, it endorses the girl's false belief that she is or can be a boy. And the harms of perpetuating such an impossibility are manifold: Such misguided encouragement generally leads to continued suffering caused by gender dysphoria and pushing to a lifelong path of chemical and surgical procedures.

By contrast, numerous studies demonstrate that the vast majority of children who express discomfort with their sex at the start of puberty express no gender discomfort after going through puberty.[10] As the HHS

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[9] *Id.* at S60.

[10] See*, e.g.*, William Byne et al., *Report of the APA Task Force on Treatment of Gender Identity Disorder*, 169 Am. J. Psych., Suppl., 1, 4 (2012) (observing that "only a minority * * * will identify as transsexual or transgender in adulthood (a phenomenon termed *persistence*), while the majority will become comfortable with their natal gender over time (a phenomenon called *desistance*"); Peggy T. Cohen-Kettenis et al., *The Treatment*

Report recognized, "most cases of childhood [gender dysphoria] resolved naturally by the end of puberty, with the majority of patients having a homosexual sexual orientation in adulthood."[11]

But young people are likely to become comfortable with their natal sex only in the absence of social transition. Indeed, research has shown that children who undergo social transition are much more likely to continue to feel uncomfortable with their bodies.[12] One researcher, for example, observed that social transition prior to puberty "proved to be a unique predictor of persistence" of gender dysphoria.[13] In other words, social transition *entrenches* gender

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of Adolescent Transsexuals: Changing Insights, 5 J. Sexual Med. 1892, 1893, 1895 (2008) ("80–95% of the prepubertal children with [gender identity disorder, a term previously used for gender dysphoria] will no longer experience a [gender identity disorder] in adolescence.").

[11] HHS Report, *supra* note 2, at 68.

[12] See*, e.g.*, Pien Rawee et al., *Development of Gender Non-Contentedness During Adolescence and Early Adulthood*, 53 Archives of Sexual Behav. 1813, 1814 (2024), doi.org/10.1007/s10508-024-02817-5 ("[C]hildren who socially transitioned in early childhood were more likely to have persisting feelings of gender dysphoria." (citation omitted)); Carly Guss et al., *Transgender and Gender Nonconforming Adolescent Care: Psychosocial and Medical Considerations*, 26 Current Opinion in Pediatrics 421, 422 (2015) ("The gender identity affirmed during puberty appears to predict the gender identity that will persist into adulthood.").

[13] Devita Singh et al., *A Follow-Up Study of Boys with Gender Identity Disorder*, 12 Frontiers in Psych. 632784, at 14 (2021), doi:10.3389/fpsyt.2021.632784.

dysphoria—the very mental health condition it purports to treat.[14]

Moreover, as the American Psychological Association warned in 2014, social transition might be "challenging to reverse" even if the person is no longer suffering from gender dysphoria.[15] Similarly, the Endocrine Society recognized that "[i]f children have completely socially transitioned, they may have great difficulty in returning to the original gender role upon entering puberty."[16] Further, by increasing the persistence of gender dysphoria, social transition almost inevitably leads to puberty blockers, cross-sex hormones, and even cross-sex surgery.[17] And the only systematic review of evidence to date reports an "absence of robust evidence of the benefits or harms of

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[14] See*, e.g.*, Kenneth J. Zucker, *Different Strokes for Different Folks*, 25 Child & Adolescent Mental Health 36, 36-37 (2020), https://tinyurl.com/bdtr3fpy (concluding that social transition is a course of treatment for gender dysphoria).

[15] Walter O. Bockting, *Chapter 24: Transgender Identity Development in*, Am. Psych. Ass'n, *APA Handbook of Sexuality and Psychology* 750 (Deborah L. Tolman & Lisa M. Diamond eds. 2014) (citations omitted); see also *id.* at 744 (warning that "[e]arly social transition * * * should be approached with caution to avoid foreclosing this stage of (trans)gender identity development.").

[16] Wylie C. Hembree et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, 102 J. Clinical Endocrinology & Metabolism 3869, 3879 (2017).

[17] See Cass Review, *supra* note 3, at 31 (noting that "those who had socially transitioned at an earlier age and/or prior to being seen in a clinic were more likely to proceed to a medical pathway").

social transition for children and adolescents."[18] The HHS Report similarly recognized that "[s]ignificant evidence gaps remain in the evaluation of social transition as an intervention for children and adolescents with [gender dysphoria]."[19]

In short, by facilitating social transition, school staff push young people onto a path resulting in lifelong, irreversible chemical and surgical interventions—all without any evidence that social transition improves the mental health of those—especially young women and girls—suffering from gender dysphoria.

C. Social transition prevents young women and girls from receiving treatment for underlying mental health issues.

In addition to not ameliorating the suffering caused by gender dysphoria, social transition often conceals comorbidities that require treatment.[20] As the Cass Review recognized, the general rates of mental health issues in children and adolescents have increased in recent years, with increases in anxiety

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[18] Ruth Hall et al., *Impact of Social Transition in Relation to Gender for Children and Adolescents: A Systematic Review*, 109 Arch. Disease Childhood s12, s12 (2024).

[19] HHS Report, *supra* note 2, at 84.

[20] Sari L. Reisner et al., *Mental Health of Transgender Youth in Care at an Adolescent Urban Community Health Center: A Matched Retrospective Cohort Study*, 56 J. Adolescent Health 274, 276-277 & tbl. 2 (2015) (finding that young persons aged 12-29 who identified as transgender had elevated risk of depression, anxiety, suicidal ideation, suicide attempts, and self-harm without lethal intent).

and depression most evident in adolescent girls.[21] Unsurprisingly, those with gender dysphoria frequently have comorbidities such as anxiety, depression, autism spectrum disorder, and trauma.[22]

This reality is widely recognized by researchers across the spectrum. For example, Dr. Erica Anderson, the first transgender president of USPATH and a former board member of WPATH, noted that gender transition "doesn't cure depression, doesn't cure anxiety disorders, doesn't cure autism-spectrum disorder, [and] doesn't cure ADHD."[23] Indeed, Dr. Anderson has called social transition "one of the most difficult psychological changes a person can experience." *Mirabelli* v. *Olson*, 691 F. Supp. 3d 1197, 1208 (S.D. Cal. 2023).

In fact, gender dysphoria is more likely to present in the most vulnerable populations. Research has

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[21] See Cass Review, *supra* note 3, at 111.

[22] Rawee, *supra* note 12, at 1822 (citations omitted); see also Riittakerttu Kaltiala-Heino et al., *Two Years of Gender Identity Service for Minors: Overrepresentation of Natal Girls with Severe Problems in Adolescent Development*, 9 Child & Adolescent Psych. & Mental Health 1, 5 (2015) (75% of adolescents seen for gender identity services were or had undergone psychiatric treatment for reasons other than gender dysphoria); Tracy A. Becerra-Culqui et al., *Mental Health of Transgender and Gender Nonconforming Youth Compared With Their Peers*, 141 Pediatrics e20173845, at 1 (2018) (study finding adolescents with gender non-conformity were significantly more likely to have underlying psychiatric disorders, psychiatric hospitalizations, and suicidal ideation than peers), https://tinyurl.com/kmtxydph.

[23] Lisa Davis, *A Trans Pioneer Explains Her Resignation from the US Professional Association for Transgender Health*, Quillette (Jan. 6, 2022), https://tinyurl.com/22nd38aa.

shown that those with gender dysphoria are two to three times more likely to have suffered from an adverse childhood event such as sexual abuse, emotional neglect, emotional abuse, or having a family member with mental illness.[24]

By nonetheless facilitating secret social transition in school, school staff deprive parents of information relevant to identify underlying mental health conditions and trauma. And that in turn prevents vulnerable minor children—especially young women and girls—from receiving professional treatment for both gender dysphoria and any comorbidities.

D. Social transition by school staff puts young women and girls at risk of grooming behavior.

In addition to entrenching gender dysphoria and preventing treatment for underlying mental health conditions, the facilitation of social transition by school staff may also increase the risk of grooming. Indeed, facilitating social transition can easily conceal grooming behaviors—by singling out children for special treatment, breaking down boundaries between children and school staff, portraying parents as threats, and suggesting that it is acceptable or necessary to keep secrets from parents.[25] In fact,

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[24] See, *e.g.*, Anna Austin et al., *Adverse Childhood Experiences Related to Poor Adult Health Among Lesbian, Gay, and Bisexual Individuals*, 106 Am. J. Pub. Health 314 (2016); Shelley L. Craig et al., *Frequencies and Patterns of Adverse Childhood Events in LGBTQ+ Youth*, 107 Child Abuse & Neglect 104623 (2020).

[25] See Georgia M. Winters et al., *Validation of the Sexual Grooming Model of Child Sexual Abusers*, 29 J. Child Sexual Abuse 855, 856 (2020).

facilitating these behaviors has *already* resulted in catastrophe for at least one teenage girl.[26]

CONCLUSION

Parents, not school staff, are constitutionally entrusted with the upbringing of their children—including the right and duty to make medical and mental health care decisions if their child is suffering from gender dysphoria. And when the State usurps the parental role with respect to the social transition of students in public schools, it threatens disproportionate, irreversible harm to vulnerable young women and girls. For that and the other reasons explained in the petition, the petition should be granted and the decision below reversed.

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[26] See Emmanuel A. Rondón, *Virginia Girl Ran Away from Home and Was a Victim of Sex Trafficking after her School Hid Her Gender Transition from Her Family*, Voz Media (Sept. 4, 2023), https://tinyurl.com/bc5ukh4f.

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