

No. 26-8

IN THE
Supreme Court of the United States

KIMBERLY ANN POLK,
Petitioner,

v.

MONTGOMERY COUNTY PUBLIC SCHOOLS;
MONTGOMERY COUNTY BOARD OF EDUCATION;
SHEBRA L. EVANS, MONIQUE FELDER, LYNNE
HARRIS, GRACE RIVERA-OVEN, KARLA SILVESTRE,
REBECCA SMONDROWSKI, BRENDA WOLFF, AND
JULIE YANG, INDIVIDUALLY & IN THEIR OFFICIAL
CAPACITIES AS MEMBERS OF THE MONTGOMERY
COUNTY BOARD OF EDUCATION,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

**BRIEF OF *AMICI CURIAE* CHRISTIAN
EDUCATORS ASSOCIATION INTERNATIONAL,
DR. NICHOLAS MERIWETHER, JOHN KLUGE,
KATHY MCCORD, MONICA GILL, KIM WRIGHT,
TANNER CROSS, AND PETER VLAMING
IN SUPPORT OF PETITIONER**

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INTEREST OF *AMICI CURIAE*¹

Amicus curiae Christian Educators Association International is a 501(c)(3) organization committed to representing and resourcing professionals who integrate faith with their teaching in the public arena. The group is composed primarily of public school teachers who join Christian Educators to receive support, networking, and even legal protections through things such as liability insurance and access to consultations with legal professionals. While those educators insist that all students—including those identifying as LGBTQ—should be treated with dignity and respect, they are unwilling to sacrifice their First Amendment religious and free speech rights in the face of school policies demanding adoption of speech that would violate their beliefs. *Amicus* monitors policies (such as the one at issue in the school system here) that raise challenges for people of faith working in public schools while still remaining true to their sincerely held religious beliefs. Christian Educators has recently conducted nationwide surveys indicating the prevalence of the issue raised by the petition for *certiorari* and are well-positioned to provide the Court with an important perspective about the nationwide effect these policies are having on Christians working in America’s public schools.

Amicus curiae Dr. Nicholas Meriwether is a philosophy professor at Shawnee State University in Ohio who—similar to the Petitioner here—was punished

1. Rule 37 Statement: No attorney for any party authored any part of this brief, and no one apart from *amicus curiae* and its counsel made any financial contribution toward the preparation or submission of this brief. Additionally, notice of this filing was timely provided to counsel of record for the parties.

for declining a biologically male student's demand to be referred to as a woman with feminine titles and pronouns. Although Dr. Meriwether offered to use the student's preferred first or last name, the University gave him a written warning and threatened "further corrective actions" unless he agreed to speech that would be contrary to his philosophical and religious convictions.

Amicus curiae John Kluge is another educator faced with a similar dilemma: follow a school district's mandated use of preferred gender pronouns and names or face punishment. Mr. Kluge was a music and orchestra teacher for the Brownsburg Community School Corporation in Indiana. When the high school began its new policy, Mr. Kluge sought a religious accommodation under Title VII of the Civil Rights Act. After being allowed for a year to refer to students by their last names only, the school district revoked the accommodation and forced him to resign, ending his teaching career.

Amicus curiae Kathy McCord was a 37-year veteran of the education field who was fired by the South Madison Community School Corporation in Indiana after speaking about the school district's gender identity policy. Ms. McCord was a counselor who was required not only to use names and pronouns for students that did not match their sex but also to hide those new names and pronouns from parents in certain situations. After a journalist learned of the new school policy, he asked to meet with Ms. McCord, who confirmed the details of the policy; the school board voted to fire her for speaking to the journalist.

Amici curiae Monica Gill, Kim Wright, and Tanner Cross are teachers in the public schools of Loudoun County, Virginia. When the school board attempted to

enact a policy forcing teachers to deny biological sex and use whatever pronouns students specified, Mr. Cross offered comments at a public board meeting against the policy and was subsequently suspended. After the policy had been enacted, Ms. Gill and Ms. Wright joined Mr. Cross in a legal challenge regarding the compelled speech.

Amicus curiae Peter Vlaming—a high school French teacher—was fired from his job in West Point, Virginia after refusing to refer to a female student with male pronouns (even though he consistently accommodated the student using their preferred name rather than their given name).

Amici (including Christian Educators’ members) have all been caught on the horns of the same dilemma Petitioner faced in this case: follow their school’s political dictates or lose their jobs. Not only is this an unacceptable choice that violates the First Amendment, it highlights the danger faced across the country where teachers holding dissenting viewpoints will be driven from the classroom, leaving only the echo chamber of those unwilling or unable to challenge the prevailing orthodoxy of the day.

SUMMARY OF ARGUMENT

Schools used to teach students the Hans Christian Andersen tale about the boy who exposed the blunt truth: “The Emperor has no clothes!” It was an important lesson extolling the virtue of standing up for what one believed was true—even against the power of the government and even when everyone else was saying the opposite. The story underscored the importance of both free speech and the moral courage to use it. But in Montgomery County’s schools, that kind of courage gets you fired.

Sadly, this is not an isolated incident. *Amici* offer this Court another blunt truth: the gender pronoun issue at the heart of the Court of Appeals’ attack on the First Amendment here is rampant and actively harming students, parents, and teachers across the country. *Amici* have experienced firsthand—either directly or through members—the real-life attacks on the Constitutional rights that would have been anathema just a few years ago. And while some of them have had legal success in securing their rights, others do not live in such enlightened areas.

This isn’t *Garcetti*; this is forced orthodoxy on an important political question. See *Polk v. Montgomery County Pub. Schools*, 166 F.4th 400, 425–27 (4th Cir. 2026) (Wilkinson, J., dissenting) (discussing *Garcetti v. Ceballos*, 547 U.S. 410 (2006)). It becomes a tool for coercive social manipulation, silencing otherwise protected freedoms. And to claim otherwise merely seeks to do an end-run around *Tinker*’s long-standing command that “state-operated schools may not be enclaves of totalitarianism.” *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511 (1969). Critically, teachers should not be forced to lie to their students and say things they believe to be both wrong and immoral. (And that would be so even if the “scientific” support for treating children different from their biological sex was not crumbling daily.) The First Amendment is more valuable than that. Neither should there be two tiers of educators where the second-class ones are forced to check their Constitutional rights at the schoolhouse gate—and, indeed, have less rights than their students—simply because they live in the wrong judicial circuit.

The petition for a writ of certiorari should be granted.

ARGUMENT

The problem faced by Petitioner here is commonplace across the country. *Amici* can attest to the widespread nature of the underlying problem caused by the school district’s forced speech regime. *Amici*’s experiences also demonstrate that educators’ constitutional rights—like real estate—currently vary with location, location, location.

I. The Questions Raised By The Petition Are Seen Across The Country On A Daily Basis.

A. *Amicus* Christian Educators Have Survey Data Evincing the Widespread Nature of Educators Being Compelled to Follow Speech Codes Regarding Gender Issues.

Amicus Christian Educators spends a significant amount of time and resources each year tracking the demographics, concerns, and issues faced by its thousands of members across the United States. As its 2025 Membership Survey demonstrates, “there is an army of educators serving in our public schools who actually enjoy their jobs, see teaching as a calling from the Lord, and are making a difference in the lives of students across the nation.” David Schmus, *Reasons for Hope: A National Survey of Christian Educators*, CHRISTIANEDUCATORS.ORG (May 30, 2025), <https://christianeducators.org/whats-new/may-fft-reasons-for-hope/>. Over 92% of the teachers believe their work is one way to “live out their Christian calling”, 85% receive a “great deal of satisfaction” from their work, and 94% believe they have a “strong positive impact” on their students. *Ibid.*

But there are difficult issues the members face. “Over 27% fear losing their jobs because of disagreements about LGBTQ policies—these are typically conflicts regarding names/pronouns and bathroom/locker room/sports team access for students experiencing gender identity confusion.” *Ibid.* While only 5% of the educators report having thus far experienced professional consequences—ranging from warnings to termination—that number is staggering and represents hundreds of teachers around the country when you consider the response is just among those in Christian Educators. See *ibid.* Already, almost half of the teachers have been asked to refer to a student by a different name or pronoun. *Ibid.* And that number has doubled in just the past six years. *Ibid.* Absent clarification of teacher rights from this Court, the number of teachers experiencing negative effects from forced speech regimes will continue to swell.

B. *Amici* Educators’ Stories Also Reveal the Widespread Effects and Legal Uncertainty Tied to Gender Speech Codes at Public Schools.

The harmful consequences of school policies regarding forced speech goes beyond just faceless survey data, though. The *Amici* teachers here can attest to the real-world effect these policies have had on their lives. And while *Amici* here have been able to win significant victories on behalf of the First Amendment, even their wins demonstrate the need for this Court to speak with a clear voice that teachers cannot be punished in this Country for refusing to kneel to the political demands of school administrators.

Amicus Dr. Nicholas Meriwether was punished for declining a biologically male student’s demand to be referred to as a woman with feminine titles and pronouns. Although Dr. Meriwether offered to use the student’s preferred first or last name, his University threatened “further corrective actions” (beyond a written warning) unless he agreed to speech that would be contrary to his convictions. After a federal judge initially dismissed his case against the school, the Sixth Circuit reversed and held in favor of Dr. Meriwether’s First Amendment rights. *Meriwether v. Hartop*, 992 F.3d 492, 498, 506 (6th Cir. 2021) (“If professors lacked free-speech protections when teaching, a university would wield alarming power to compel ideological conformity. A university president could require a pacifist to declare that war is just, a civil rights icon to condemn the Freedom Riders, a believer to deny the existence of God, or a Soviet émigré to address his students as ‘comrades.’ That cannot be.”).

Amicus John Kluge is another teacher forced to follow a school district’s mandated use of preferred gender pronouns and names. After being allowed for a year to refer to students by their last names only, the school district revoked his religious accommodation and forced him to resign, ending his teaching career. After a divided Seventh Circuit panel upheld the dismissal of Mr. Kluge’s case, the en banc Court vacated that decision and remanded for the district court to apply this Court’s decision in *Groff v. DeJoy*, 600 U.S. 447 (2023). *Kluge v. Brownsburg Community School Corp.*, 2023 WL 4842324 (7th Cir. July 28, 2023). The district court again granted summary judgment to the school, but the Seventh Circuit reversed, noting that the “legal landscape has changed markedly under *Groff*.” *Kluge v. Brownsburg Community School Corp.*, 150 F.4th 792, 803 (7th Cir. 2025).

Amicus Kathy McCord was fired merely for speaking about her school district's gender identity policy. Ms. McCord was a counselor who was required not only to use names and pronouns for students that did not match their sex but also to hide those new names and pronouns from parents in certain situations. After a journalist learned of the new school policy, he asked to meet with Ms. McCord, who confirmed the details of the policy; the school board then fired her for speaking to the journalist. The district court dismissed Ms. McCord's retaliation and compelled speech claims, but it did allow her free exercise and state RFRA claims to go forward. *McCord v. S. Madison Comm. Sch. Corp.*, Case No. 1:23-cv-00866-RLY-CSW (Aug. 15, 2025), ECF No. 68 at 38. Though the district court's analysis was incorrect on several grounds, the case did not have an opportunity to be heard by the Seventh Circuit as the parties recently settled the case. *McCord v. S. Madison Comm. Sch. Corp.*, Case No. 1:23-cv-00866-RLY-CSW (Apr. 13, 2026), ECF No. 94.

Amicus Monica Gill is a teacher in the public schools of Loudoun County, Virginia. *Amici* Kim Wright and Tanner Cross previously taught in the district. When the school board attempted to enact a policy forcing teachers to deny biological sex and use whatever pronouns students specified, Mr. Cross offered comments at a public board meeting against the policy and was subsequently suspended. *Loudoun Cnty. Sch. Bd., et al. v. Cross*, Circuit Court Case No. CL21003254-00 (Va. Sup. Ct. Aug. 30, 2021), at 1. The Virginia Supreme Court—unlike the Fourth Circuit in this case—recognized the Constitutional infirmity of governmental actors compelling speech from faculty members and upheld the lower court's preliminary injunction against the school district suspending Mr. Cross. *Ibid.* *Amici* Ms. Gill and Ms. Wright were also

subject to the policy and subsequently joined the legal challenge in the interim. The school district, however, later changed its position to no longer require teachers to violate their beliefs and the case was rendered moot—the school district began to allow teachers to “refrain from using any pronouns” for students. *Gill v. Loudoun Cnty. Sch. Bd., et al.*, Circuit Court Case No. CL21003254-00 (July 16, 2025).

Amicus Peter Vlaming was fired after refusing to refer to a female student—whom Mr. Vlaming taught the previous year when the student was identifying consistently with her biological sex—using male pronouns (even though he consistently accommodated the student using her preferred name). *Vlaming v. W. Point Sch. Bd., et al.*, Record No. 211061 (Va. Sup. Ct. Dec. 14, 2023), at 1. After the county circuit court dismissed the case, the Virginia Supreme Court reinstated it, holding that Mr. Vlaming had a right under Virginia law not to be forced to express messages that violate his beliefs. *Ibid.* (finding that the school board’s order for Mr. Vlaming “to use government-mandated pronouns in addition to using the student’s preferred name” created a viable cause of action). The parties then settled the case and the school board cleared Mr. Vlaming’s record along with changing its policy. See *Vlaming v. W. Point Sch. Bd., et al.*, Case No. CL19-454 (King William Cnty. Circuit Court Sept. 30, 2024).

While *Amici* were able to obtain mostly successful outcomes, the toll that it took on each of them was substantial. They were forced to endure scrutiny of their beliefs by their employers, deal with constant negative attention from the public, and ultimately be willing—

as Petitioner here—to sacrifice their careers in service of their free speech and free exercise rights. It was only after years of court cases and appeals that most of them were able to get a win for what would have previously been an unremarkable position: that an educator cannot be forced to affirm that a biological male student is really a female student. While some may disagree about that position, it cannot be the case that teachers lose their First Amendment rights to speak the truth simply because school administrators wish them to fall into line with the political orthodoxy of a certain jurisdiction.

II. Absent This Court’s Intervention, Educators’ First Amendment Rights Will Continue To Vary Dramatically—Demonstrating A Need For Resolution Rather Than Further Percolation.

The petition for *certiorari* lays out multiple ways in which the decision here conflicts with other circuits. See, e.g., Pet. at 21–30. Given the widespread nature of the issue now before the Court, see Part I.A *supra*, resolution of the question(s) presented is vital now. The problem has already been addressed by circuit and state courts alike so there is no need for further percolation. Moreover, as the Fourth Circuit demonstrated here, the contrasting positions on educators’ First Amendment rights are entrenched. Allowing the issue to continue unresolved will only lead to more teachers being targeted by school policies and, likely, drive those voices (especially religious voices) from the marketplace of ideas in the very jurisdictions that are most in need of dissenting viewpoints.

Amici further highlight the ongoing confusion in the lower courts. Even where *Amici* prevailed in their legal challenge to a compelled speech regime, it was for different reasons as courts across the country end up in different places on the question of whether school administrators may compel speech that goes against both the truth claims and the religious beliefs of teachers. See Part I.B *supra*.

Given the erratic attempts of lower courts to reconcile First Amendment jurisprudence with the varying political views about gender speech codes, the questions before the Court are ripe for adjudication and should be answered now. Educators are vital participants in the American experience and are entitled to certainty in the protection of their Constitutional rights.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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