

☐ EXPEDITE

☒ No hearing set

☐ Hearing is set

Date: _____

Time: _____

Judge: _____

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

GABRIEL GALBRAITH, LINDSAY
LOFSTROM, KHUSHDIP BRAR, PATRICIA
HUDDLESTON, RANDOLPH HAYDEN,
MISTY O'BRIEN, KYLE BAXTER, and
ALVIENA ROSS,

Plaintiffs,

v.

STATE OF WASHINGTON, the
WASHINGTON STATE LEGISLATURE,
BOB FERGUSON, sued in his official capacity
as governor of the state of Washington, the
WASHINGTON STATE OFFICE OF
SUPERINTENDENT OF PUBLIC
INSTRUCTION, and CHRIS REYKDAL, sued
in his official capacity as the Washington State
Superintendent of Public Instruction,

Defendants.

COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF

I. INTRODUCTION.

1. This lawsuit seeks a declaration that 2025's HB 1296, Laws of 2025 Chapter 369 ("the Act") is unconstitutional, and an injunction against its enforcement.

II. PARTIES.

1. Plaintiff Gabriel Galbraith is a school director for Kennewick School District. Galbraith is running for re-election in November 2025, and has children who attend public school in Kennewick.
2. Plaintiff Lindsay Lofstrom is a school director for Deer Park School District. Lofstrom is running unopposed for re-election in November 2025.
3. Plaintiff Khushdip Brar is a school director for Lynden School District. Brar intends to run for re-election in November 2027.
4. Plaintiff Patricia Huddleston is a school director for Woodland School District. Huddleston is running unopposed for re-election in November 2025.
5. Plaintiff Randolph Hayden is a school director for Darrington School District. Hayden is running unopposed for re-election in November 2025.
6. Plaintiff Misty O'Brien removed her son from Olympia School District when, pursuant to policies now mandated by HB 1296, but which were forbidden by I-2081, she was unable to opt him out of instruction about "gender identity." But for those policies which interfere with her ability to direct the upbringing of her son, O'Brien would forego the high cost of private school and enroll her son in Olympia School District.
7. Plaintiff Kyle Baxter has a child in Tumwater School District. Due to District policies conforming to the mandates of HB 1296, but which were forbidden by I-2081, he cannot opt his child out of instruction concerning sexuality and gender that conflict with how he wishes to direct the upbringing of his child.
8. Plaintiff Alviena Ross has three children in Olympia School District. Due to District policies conforming to the mandates of HB 1296, but which were forbidden by I-2081, she cannot opt her child out of instruction concerning sexuality and gender that conflict with how she wishes to direct the upbringing of her children.

1 10. Plaintiff Ross is also required, contrary to prior law, that in order to review curriculum to
2 elect whether to opt-out, she must physically go into the classroom to see the material that
3 might be presented.

4 11. Defendants are the State of Washington, the Washington State Legislature, Bob Ferguson,
5 sued in his official capacity as governor of the state of Washington, the Washington State
6 Office of Superintendent of Public Instruction, and Chris Reykdal, sued in his official
7 capacity as the Washington State Superintendent of Public Instruction.

8 **III. JURISDICTION AND VENUE.**

9 12. This Court has jurisdiction over this matter pursuant to chapter 2.08 RCW and chapter
10 7.24 RCW.

11 13. Venue is proper in this Court pursuant to RCW 4.92.010.

12 **IV. FACTS.**

13 **A. The Role Of School Directors.**

14 14. RCW 28A.315.005 provides that “[u]nder the constitutional framework and the laws of the
15 state of Washington, the governance structure for the state’s public common school system
16 is comprised of the following bodies: The legislature, the governor, the superintendent of
17 public instruction, the state board of education, the educational service district boards of
18 directors, and local school district boards of directors. The respective policy and
19 administrative roles of each body are determined by the state Constitution and statutes.”

20 15. That provision also provides that “[l]ocal school districts are political subdivisions of the
21 state and the organization of such districts, including the powers, duties, and boundaries
22 thereof, may be altered or abolished by laws of the state of Washington.”

23 16. State law vests in school directors “the final responsibility for the setting of policies
24 ensuring quality in the content and extent of its educational program and that such program
25 provide students with the opportunity to achieve those skills which are generally
26 recognized as requisite to learning.” RCW 28A.150.230. This broad duty includes the
27 responsibly to adopt policies that:

- “(a) Establish performance criteria and an evaluation process for its superintendent, classified staff, certificated personnel, including administrative staff, and for all programs constituting a part of such district’s curriculum. Each district shall report annually to the superintendent of public instruction the following for each employee group listed in this subsection (2)(a): (i) Evaluation criteria and rubrics; (ii) a description of each rating; and (iii) the number of staff in each rating;
- (b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs and data, based upon a plan to ensure that the assignment policy: (i) Supports the learning needs of all the students in the district; and (ii) gives specific attention to high-need schools and classrooms;
- (c) Provide information to the local community and its electorate describing the school district’s policies concerning hiring, assigning, terminating, and evaluating staff, including the criteria for evaluating teachers and principals;
- (d) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules of the state board of education;
- (e) Determine the allocation of staff time, whether certificated or classified;
- (f) Establish final curriculum standards consistent with law and rules of the superintendent of public instruction, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and
- (g) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, upon complaint by parents, guardians[,] or custodians of students who consider dissemination of such material to students objectionable in accordance with RCW 28A.320.235 and 28A.320.230.”

17. Prior to discharging their official duties, the elected or appointed school director must take an oath or affirmation to support the United States and Washington Constitutions and to faithfully discharge the duties of the office according to the best of their ability

B. I-2081 Was Adopted By An Overwhelming Legislative Majority.

18. In 2023, hundreds of thousands of Washington voters signed I-2081, which would enact into law the widely accepted policy that parents must be informed of the goings-on at public schools, including any medical attention given to their minor children and information about schools' decisions to address students with new or different names or pronouns.

19. This initiative was so popular, and so reflective of the public policy preferences of the vast majority of Washingtonians, that the legislature enacted it in 2024 by overwhelming legislative majorities.

C. HB 1296 Enacts A Cornucopia Of Policies.

20. The 2025 Legislature reversed the statutory rights enacted in I-2081, together with a set of policy changes intended to stop Washington school districts from continuing to implement common-sense policies protective of student privacy and parent's rights.

21. The result was 2025's HB 1296, enacted as Chapter 369, Laws of 2025.

22. HB 1296 reversed the parental rights established in I-2081, by deleting those words from the code.

23. HB 1296 codified OSPI's preferred contrary policies concerning teacher engagement with students on pronouns, as well as bans on school district employees informing parents of those choices by students.

24. It also created new ways for OSPI to penalize district leaders who stepped out of the OSPI-demanded line, while giving lip service to the importance of local control of schools.

25. It invented a new labyrinthine bureaucratic procedure for complaint processing, again, designed to force school districts to accept the OSPI line without questioning.

26. Third, HB 1296 recited a variety of rights of students.

27. It is possible that none of these rights are actually new, inasmuch as Washington law already has extensive protections for the rights of students in public schools.

28. Fourth, HB 1296 recited a variety of rights of public school employees.

29. As with the recited student rights, it does not appear that any of these rights are actually new, but merely add specific detail to existing employee rights.

30. Importantly, however, HB 1296 compels school districts to adopt OSPI's policies relating to individual student's statements about their gender, including OSPI's demand that district employees not inform parents about a child's choice of name, nickname, pronoun, etc., unless the parent will accept, affirm, and promote that minor's decision.

31. OSPI's policies, which HB 1296 effectively makes mandatory, embody the OSPI view that a parent's disagreement with a child's choice on this specific issue is alone sufficient to render the parent a "danger" to the child and therefore compels the district to ignore the parent's state and federal constitutional rights to direct the manner of the child's upbringing.

D. HB 1296 violates Family Educational Rights and Privacy Act.

32. The Family Educational Rights and Privacy Act or FERPA (20 U.S.C. § 1232g) provides certain rights for parents regarding their children's education records. FERPA gives these rights to custodial and noncustodial parents alike, unless there is a court order, legally binding document, or State law that specifically provides to the contrary.

33. Under FERPA, a school or state educational agency must provide a parent with an opportunity to inspect and review their child's education records within a reasonable period of time, but not more than 45 calendar days following receipt of a request.

34. Under FERPA, a parent has the right to seek amendment or correction of their child's education records that the parent believes to be inaccurate, misleading, or in violation of the child's rights of privacy. However, while a school is not required to amend an education record in accordance with a parent's request, a school is required to consider the request for amendment, to inform the parent of its decision, and, if the request is denied, to advise

1 the parent of his or her right to a hearing on the matter. If, as a result of the hearing, a school
2 decides not to amend the education records, then the parent has the right to insert a
3 statement in the record commenting on the contested information or stating why the parent
4 disagrees with the decision, or both. That statement must remain with the contested part
5 of the education record for as long as the record is maintained and be included whenever
6 the contested part is disclosed.

7 35. Under FERPA, a school generally may not disclose PII from a student's education records
8 to a third party unless the student's parent has provided prior written consent. *See, e.g.,*
9 United States Department Of Education Student Privacy Policy Office SPPO-21-04 A
10 Parent Guide to the Family Educational Rights and Privacy Act (FERPA)
11 [https://studentprivacy.ed.gov/sites/default/files/resource_document/file/A%20parent%](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/A%20parent%20guide%20to%20ferpa_508.pdf)
12 [20guide%20to%20ferpa_508.pdf](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/A%20parent%20guide%20to%20ferpa_508.pdf).

13 36. HB 1296 undermines these protections for parents by eliminating or modifying the rights
14 of parents to certain records that they would otherwise be entitled to receive under FERPA
15 or would be entitled to provide written consent prior to disclosure to a third party.

16 37. Examples of eliminated rights include the rights to:

- 17 • receive prior notification when medical services are being offered to their child,
18 except where emergency medical treatment is required;
- 19 • receive notification when any medical service or medications have been provided to
20 their child that could result in any financial impact to the parent's or legal
21 guardian's health insurance payments or copays; and
- 22 • receive notification when the school has arranged directly or indirectly for medical
23 treatment that results in follow-up care beyond normal school hours

24 38. Modified Rights. Examples of modified rights include the right to:

- 25 • access their child's classroom and school-sponsored activities to observe class
26 procedure, teaching materials, and class conduct, and to examine curriculum,
27 textbooks, instructional materials, and supplemental instructional materials in

1 accordance with locally adopted policies and procedures (rather than examining
2 textbooks, curriculum, and supplemental materials used in their child's classroom);

- 3 • inspect and review their child's education records and request and receive a copy
4 of those records within a reasonable period of time, but not more than 45 days, of
5 submitting a request under the federal Family Educational Rights and Privacy Act
6 as in effect on January 1, 2025, and as provided in requirements governing student
7 education records (rather than to inspect their child's public school records and
8 receive a copy within 10 days);
- 9 • not have their child removed from school grounds or buildings during school hours
10 without the authorization of a parent or legal guardian and according to statutory
11 provisions governing permitted school campus removals (rather than receive
12 immediate notification if their child is taken or removed from the public school
13 campus without parental permission, including to stay at a youth shelter or host
14 home);
- 15 • receive immediate notification upon receipt of a report that a criminal action is
16 alleged to have been committed against their child on school property during the
17 school day or a school-sponsored activity, including immediate notification if there
18 has been a shooting on school property, or their child has been detained based on
19 probable cause of involvement in criminal activity on school property during the
20 school day (rather than receiving immediate notification if a criminal action is
21 deemed to have been committed against or by their child);
- 22 • receive immediate notification, as required by state law, upon receipt of a report
23 that their child is alleged to be the victim, target, or recipient of physical or sexual
24 abuse, sexual misconduct, or assault by a school employee or school contractor
25 (rather than receiving immediate notification if a criminal action is deemed to have
26 been committed against or by their child); and

27

- in accordance with the federal law, receive written notice and opt their child out of any survey, analysis, or evaluation that reveals information concerning certain personal or family information (rather than to receive written notice and the option to opt their child out of any surveys, assignments, questionnaires, role-playing activities, recordings of their child, or other student engagements that include questions about specified personal or family information, and surveys, analyses, and evaluations subject to areas covered by the PPRA).

E. Federal Education Funding And Executive Orders Pursuant to FERPA.

39. The policies required by HB 1296 also contravene federal policies embodied in recent executive orders.

40. Specifically, the January 20, 2025 Executive Order “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”¹ and the January 29, 2025 Executive Order “Ending Radical Indoctrination in K-12 Schooling”² call for the federal government “to ensure that recipients of Federal funds providing K-12 education comply with all applicable laws prohibiting discrimination in various contexts and protecting parental rights, including Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. 2000d et seq.; Title IX, 20 U.S.C. 1681 et seq.; FERPA, 20 U.S.C. 1232g; and the PPRA, 20 U.S.C. 1232h.”

41. It calls for “the Secretary of Education ... [to] plan for: (i) eliminating Federal funding or support for illegal and discriminatory treatment and indoctrination in K-12 schools, including based on gender ideology and discriminatory equity ideology; and (ii) protecting parental rights, pursuant to FERPA, 20 U.S.C. 1232g, and the PPRA, 20 U.S.C. 1232h, with respect to any K-12 policies or conduct implicated by the purpose and policy of this order.”

¹ Available at <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>

² Available at <https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-indoctrination-in-k-12-schooling/>

42. These federal policies conflict with the policies of HB 1296, and thus any school district that complies with the mandates of HB 1296 risks losing federal education funding.

V. CAUSES OF ACTION.

A. The Act Violates Wash. Const. Art. II § 19.

43. Wash. Const. Art II § 19 requires that “No bill shall embrace more than one subject, and that shall be expressed in the title.”

44. HB 1296 comprised multiple subjects, with insufficient rational relationship among them to satisfy Wash. Const. Art II § 19.

45. Removing from the existing Code the protections of parents’ rights enacted by I-2081 is a different subject than reciting a list of purported students’ rights, a list of purported public employee rights, or creating a vast bureaucratic mechanism for delaying and preventing resolution of complaints about school employee conduct.

46. To whatever extent the set of rights listings are related, they are nonetheless unrelated to the complaint resolution mechanism in HB 1296.

47. HB 1296 therefore violates the single subject rule of Wash. Const. Art II § 19.

B. The Act Violates The State Constitutional Rights Of Parents To Direct The Upbringing Of Their Children.

48. “It is undisputed that parents have a fundamental right to autonomy in child rearing decisions.” *In re Custody of Smith*, 137 Wash. 2d 1 (1998).

49. “The family entity is the core element upon which modern civilization is founded. Traditionally, the integrity of the family unit has been zealously guarded by the courts. The safeguarding of familial bonds is an innate concomitant of the protective status accorded the family as a societal institution.” *Id.*

50. “A parent’s constitutionally protected right to rear his or her children without state interference, has been recognized as a fundamental liberty interest protected by the Fourteenth Amendment and also as a fundamental right derived from the privacy rights inherent in the constitution. Where a fundamental right is involved, state interference is

justified only if the state can show that it has a compelling interest and such interference is narrowly drawn to meet only the compelling state interest involved.” *Id.*

51. “This court has emphasized that a state can only intrude upon a family’s integrity pursuant to its *parens patriae* right when parental actions or decisions seriously conflict with the physical or mental health of the child.” *Id.*

52. Mandatory policies required of every school district in Washington by HB 1296, particularly those that forbid or even dissuade school employees from informing parents of a child’s request to change his or her name, pronouns, or gender, violate the parents’ fundamental right to autonomy in child rearing decisions.

53. Mandatory policies required of every school district in Washington by HB 1296, particularly those that forbid or even dissuade school employees from informing parents of a child’s request to change his or her name, pronouns, or gender, intentionally disrupt the integrity of the family unit and tear apart familial bonds.

54. Mandatory policies required of every school district in Washington by HB 1296, particularly those that forbid or even dissuade school employees from informing parents of a child’s request to change his or her name, pronouns, or gender, do not promote any compelling state interest.

55. Mandatory policies required of every school district in Washington by HB 1296, particularly those that forbid or even dissuade school employees from informing parents of a child’s request to change his or her name, pronouns, or gender, are not permitted by any state *parens patria* right.

56. HB 1296 is unconstitutional as violating parents’ fundamental rights under the state constitution because it requires school districts to adopt and enforce policies that violate those rights.

1 **C. The Act Violates The U.S. Constitution’s First And Fourteenth Amendment Rights Of**
2 **Parents.**

3 57. For the foregoing reasons, HB 1296 also demands that school districts adopt policies which
4 violate parents’ rights under the Fourteenth Amendment to the U.S. Constitution.

5 58. Those policies also violate free exercise rights protected by the First Amendment.

6 59. “Our Constitution proclaims that “Congress shall make no law prohibiting the free
7 exercise of religion. That restriction applies equally to the States by way of the Fourteenth
8 Amendment. And the right to free exercise, like other First Amendment rights, is not shed
9 at the schoolhouse gate. Government schools, like all government institutions, may not
10 place unconstitutional burdens on religious exercise.” *Mahmoud v. Taylor*, 145 S.Ct. 2332
11 (cleaned up).

12 60. More broadly, *Pierce v. Society of the Sisters of the Holy Names Of Jesus and Mary*, 268 U.S.
13 510 (1925), “stands as a charter of the rights of parents to direct the religious upbringing of
14 their children.” *Mahmoud* (Thomas, J., concurring).

15 61. “Public education is a public benefit, and the government cannot condition its availability
16 on parents’ willingness to accept a burden on their religious exercise.” *Mahmoud*.

17 62. Parents also have a guaranteed liberty “to direct the upbringing and education of children
18 under their control.” *Pierce v. Society of the Sisters of the Holy Names Of Jesus and Mary*.

19 63. Importantly, the right recognized in *Pierce* is a fundamental liberty interest of all parents,
20 not tethered to the First Amendment’s free exercise clause. Instead, it recognizes that
21 “The child is not the mere creature of the state; those who nurture him and direct his
22 destiny have the right, coupled with the high duty, to recognize and prepare him for
23 additional obligations.” *Id.*

24 64. Parents whose children attend public schools in Washington, including Kyle Baxter, hold
25 religious beliefs concerning human sexuality about which they intend to instruct their
26 children, in order to raise them in their respective faith traditions.
27

- 1 65. Their ability to do so will be undermined by the policies that HB 1296 requires school
2 districts to adopt and enforce.
- 3 66. Parents whose children attend public schools in Washington, including Gabriel Galbraith,
4 hold scientifically informed views on the fundamental biological basis of human sexual
5 reproduction, including the genetic basis of sex determination in humans and the definition
6 of male and female as reflecting the type of gamete produced by a sexually mature member
7 of the human species.
- 8 67. Those parents also intend to instruct their children in these basic tenets of human scientific
9 knowledge, and raise their children to understand and accept these scientific principles.
- 10 68. Their ability to do so will be undermined by the policies that HB 1296 requires school
11 districts to adopt and enforce.
- 12 69. The policies required by HB 1296 “have no reasonable relation to some purpose within the
13 competency of the state.” *Pierce*.

14 **D. The Act Violates FERPA.**

- 15 70. HB 1296 forbids schools from disclosing to parents records concerning their children that
16 FERPA requires the schools to disclose.
- 17 71. HB 1296 therefore violates FERPA.

18 **E. Complying With The Act Contravenes Executive Orders.**

- 19 72. HB 1296 requires school districts to adopt policies which contravene the Executive Orders
20 “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to
21 the Federal Government” and “Ending Radical Indoctrination in K-12 Schooling.”
- 22 73. By adopting policies required by HB 1296, a school district risks losing federal funding.

23 **VI. PRAYER FOR RELIEF.**

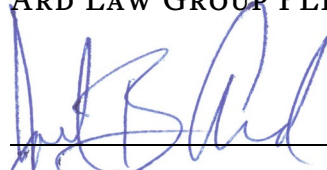
24 WHEREFORE, Plaintiffs pray for the following relief:

- 25 A. A declaration that HB 1296 is unconstitutional under Wash. Const. Art. II § 19 because it
26 contained multiple subjects;
- 27

- 1 B. A declaration that HB 1296 is unconstitutional under the Washington Constitution because
2 it unduly interferes with the rights of parents to direct the upbringing of their children;
3 C. A declaration that HB 1296 is unconstitutional under the United States Constitution
4 because it unduly interferes with the rights of parents to direct the upbringing of their
5 children, including their religious upbringing;
6 D.A declaration that HB 1296 violates FERPA;
7 E. A declaration that HB 1296 contravenes the Executive Orders;
8 F. An injunction barring the state, including OSPI, and any school district, from complying
9 with HB 1296; and
10 G. Such other relief as this Court finds just and proper.

11 October 23, 2025.
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