



LGBTQ+ organization files brief in 2022 Mt. Lebanon School District lawsuit on gender issues



MEGAN TOMASIC ✓
Pittsburgh Post-Gazette
mtomasic@post-gazette.com

FEB 15, 2024

8:18 AM

Nearly two years after a lawsuit was filed against the Mt. Lebanon School District alleging teacher misconduct on gender issues, an LGBTQ advocacy organization has issued a brief vouching for inclusive curriculum.

[The amicus brief](#) — filed Monday by [Lebo Pride](#), a Mt. Lebanon-based nonprofit that promotes queer and gender diverse education — supports the district’s right to implement inclusive curriculum, policies and practices while asserting its legal obligation to support all students.

“We can all agree that kids need to have an environment to be safe and where they can succeed,” Asta Kill, Lebo Pride’s president and transgender parent who has a child in the district, said in a statement. “Opting out of keeping all kids safe is not an option. We need to look beyond the hateful partisan ideology and selfish interests of a few isolated parents who are so blinded by an irrational fear that they cannot see the actual harm this does to all of our children.”

The brief was filed in response to a [2022 federal lawsuit in which three parents claimed misconduct](#) by their children’s first-grade teacher while suggesting the students were taught about several social issues such as gender dysphoria and transgender transitioning.

The suit said those lessons violated district policy and precedent, the Constitution and state law, and that their rights as parents were not respected by the Jefferson Elementary School teacher, the school board or administrators. At the time it sought to either prohibit the district from teaching about gender dysphoria and transgender transitioning or require district officials to allow parental control over the teaching of such subjects through existing policies.

Now, the [brief counters those claims](#), suggesting that “an order from this Court permitting students to leave the classroom when instruction turns to the subject of gender identity would send a harmful message to transgender students, their peers, and the school community that transgender students are not worthy of society’s equal respect and that

their classmates need to be protected from information about their very existence.”

It argues that the district has a “compelling interest” in protecting transgender students who face a greater risk of discrimination and harassment in school than other students. Officials in the brief cited a 2021 national survey of LGBTQ+ students that found over 40% felt unsafe at school because of their gender identity or expression, and nearly 60% had been verbally harassed, over 20% had been physically harassed and 8% were physically assaulted at school.

In response to those statistics, Lebo Pride officials said that one of the most effective methods for protecting transgender students is to integrate gender diversity and the representation of LGBTQ+ individuals into the standard curriculum.

And officials referenced a Third Circuit Court ruling stating that districts have a compelling interest in protecting transgender students from discrimination.

The brief also suggested that the plaintiffs have “dropped their original request that the Court stop all present and future ‘instruction in the District on gender dysphoria and transgender transitioning,’” and are now focusing on “parental notice and opt out.”

“Evidence shows that ‘opt out’ policies reduce both the reach and efficacy of LGBTQ-inclusive curriculum,” Dan Vitek, an attorney with the Community Justice Project and co-counsel for Lebo Pride, said in a statement.

“Enabling the opt out policy would undermine the whole purpose. It’s simple. People in charge of caring for children should not make respect and support for them conditional depending on how that child expresses their gender.”

David Berardinelli of DeForest Koscelnik & Berardinelli who is representing the plaintiffs said he cannot comment on a pending case. He pointed to a pleading filed in response, suggesting the amicus brief “proposes to inject new, non-record factual material into this case in support of one party’s position two-thirds of the way through briefing on summary judgment.”

They asked that a request to submit the brief be rejected.

But, according to Lebo Pride officials, the discussion highlights debates over the rights of LGBTQ+ students that have been ongoing across the country for several years. According to the American Civil Liberties Union, [425 bills targeting the LGBTQ+ community](#) have been introduced across the country so far this year.

“The effort to restrict access to an LGBTQ-inclusive curriculum defies medical expertise, public opinion, and the law,” Jackie Perlow, supervising attorney at Women’s Law Project and co-counsel for Lebo Pride, said in a statement. “Not only has the Third Circuit clearly held that school districts have a compelling state interest in supporting the physical and psychological wellbeing of transgender students, but school districts also have a statutory obligation under Title IX to ensure transgender students are not subject to discrimination on the basis of their sex.”

First Published February 14, 2024, 4:15pm

Limited Time Offer

8 weeks of unlimited access for only 99¢!

GET OFFER

Google Ad Manager

Preroll
6 Seconds

AdChoices ▶

Sp