

No. 16-273

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IN THE  
**Supreme Court of the United States**

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GLOUCESTER COUNTY SCHOOL BOARD,  
*Petitioner,*

v.

G.G., BY HIS NEXT FRIEND  
AND MOTHER DEIRDRE GRIMM,  
*Respondent.*

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

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**BRIEF AMICUS CURIAE OF  
FOUNDATION FOR MORAL LAW  
IN SUPPORT OF PETITIONER**

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## INTEREST OF AMICUS CURIAE<sup>1</sup>

*Amicus Curiae* Foundation for Moral Law (“the Foundation”), is a national public-interest organization based in Montgomery, Alabama, dedicated to the defense of religious liberty and the strict interpretation of the Constitution as written and intended by its Framers.

The Foundation has an interest in this case because it believes Appellee G.G. is attempting to force the Appellant, the Gloucester County Board of Education (“the Board”), to adopt a policy that the Constitution does not require and that could result in great long-term harm to students and to society as a whole.

## SUMMARY OF ARGUMENT

Believing that the Constitution should be interpreted strictly according to its plain meaning as understood by its Framers, the Foundation fully endorses the legal and constitutional arguments of the Board and the amici who have filed in support of the Board. The Foundation agrees that the Constitution is silent on the issue of transgender

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<sup>1</sup> Pursuant to this Court’s Rule 37.3, all parties have consented to the filing of this brief. Pursuant to Rule 37.6, *amicus curiae* states that no party’s counsel authored this brief in whole or in part; no party or party’s counsel contributed money that was intended to fund preparing or submitting this brief; and no person other than the *amicus curiae*, its members, or its counsel, contributed money that was intended to fund preparing or submitting this brief.

identification and does not guarantee anyone the right to use facilities that are assigned to those of the opposite sex as determined from birth. The Foundation further agrees that the January 7, 2015 opinion letter of the U.S. Department of Education's Office for Civil Rights conflicts with the Department of Education's regulations (34 C.F.R. § 106.33) implementing Title X (20 U.S.C. § 1681(a)) and is therefore not entitled to the force of law.

However, rather than restating the legal arguments of the Board and other *amici*, the Foundation will focus instead upon the practical effects, short-term and long-term, of adopting the policies favored by G.G. The Foundation contends that those policies will encourage more young people to question their gender identity, likely causing confusion, trauma, turmoil, and other unfortunate consequences. At a time when so much turmoil, confusion, and uncertainty exists, not only among the general public but also among experts and policy-makers, courts should not force school boards and other governmental entities to adopt policies that encourage students to identify with other than their gender at birth.

## ARGUMENT

At least since *Brown v. Board of Education*, 347 U.S. 483 (1954), this Court has recognized that in deciding a case, the Justices must take into account the practical effects of its decision on the policies at issue in the case. If this Court decides that

transgender students are legally or constitutionally entitled to use facilities assigned to the opposite biological sex, the practical effects would be substantial and could be disastrous.

**I. If schools are required to allow transgender students to use facilities assigned to those of the opposite biological sex, the number of transgender students is likely to increase.**

No one knows how many students in the United States are transgender, but the recent focus on transgender policies has been accompanied by an increase in reported transgender cases.

The National Center for Transgender Equality recently released its 2015 U.S. Transgender Survey examining the lives of transgender people in the United States. The survey was conducted online by means of a website that was made known to transgender people. A total of 27,715 people from all fifty states, the District of Columbia, and U.S. territories took part in the survey—more than four times the number (6,456) who had participated in a similar survey conducted in 2008-09.<sup>2</sup>

Oakland, California developmental psychologist Diane Ehrensaft says her practice has seen a fourfold

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<sup>2</sup> The Report of the 2015 U.S. Transgender Survey, National Center for Transgender Equality (2016), pp. 4, 18, 21.

increase in the number of gender-questioning youths in recent years.<sup>3</sup>

Bren Fraser, a therapist who works with transgender clients age seven and up, says, “It’s become a specialty for me. ... I’ve seen much more growth in the last two years—even more in the last year.”<sup>4</sup>

As Margaret Wenthe says,

Suddenly transgender kids are everywhere—in the news, on Dr. Phil and in your neighborhood. School boards have developed detailed transgender policies. Clinics to treat transgender kids have sprung up. A condition that used to be vanishingly rare, perhaps one in 10,000 children or less, now seems common. In a random sampling of 6th- to 8th-graders in San Francisco, kids were asked if they identified as male, female or transgendered—1.3 per cent checked off the transgendered box.<sup>5</sup>

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<sup>3</sup> Nicholas Weiler, “Transgender Kinds: ‘Exploding’ Number of Children, Parents Seek Clinical Help,” *California News* June 5, 2015, updated August 12, 2016.

<sup>4</sup> Bren Fraser, quoted by Starshine Roshell, “The Sudden Surge of Transgender Teens: Trying to Understand Why So Many Young People Are Challenging Traditional Identities,” *Santa Barbara Independent*, November 30, 2016.

<sup>5</sup> Margaret Wenthe, “Transgender Kids: Have We Gone Too Far?,” *The Globe and Mail*, February 15, 2014. It should be noted that the proportion in San Francisco may not be representative of the nation as a whole.

Granted, this increase in transgender youths who come forward and seek help does not necessarily translate into an increase in the total number of transgender youths. In earlier times, youths who felt transgender urges were possibly more likely to keep quiet about them. Starshine Roshell, a California journalist, asks:

Were there always children who felt antsy in their assigned gender—but never safe saying so in a pre-Caitlyn Jenner world? Could the explosion of social awareness be enticing some angsty adolescents to “try out” gender nonconformity as an option they wouldn’t have considered before? *And is it insensitive to even ask that?*<sup>6</sup>

But it seems very likely that the attention which has recently been focused upon transgender youths has caused many to muse, “Maybe I’m really a girl in a boy’s body,” or the reverse. And many for whom transsexuality may have been at most a fleeting thought a generation earlier, might now start taking such thoughts very seriously and start acting upon them.

Government policies, especially federally-mandated government policies, that recognize, sanction, and provide special legal protection for transgendered persons, may cause such persons to

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<sup>6</sup> *Id.*



conclude that transgenderism is an acceptable lifestyle legally, morally, socially, and medically.

Legislators, school board members, and other policymaking officials may therefore reasonably conclude that publicizing transgender issues and adopting policies that facilitate transgender identification could have the effect of substantially increasing the number of students who seriously question their own gender identity and take steps to identify with a gender other than that to which they were born.

## **II. Many tragic aspects and consequences are associated with transsexualism.**

Radical transgender advocates don't want to acknowledge that some who undergo transition later have regrets or unpleasant results. They often cite a Swedish study that found that only 2.2 percent of transgenders suffered from sex change regret.<sup>7</sup>

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<sup>7</sup> "Regret Rates' Are Not the Sole Measure of Outcomes," <https://thirdwaytrans.com/tag/regrets/>. The author of this web article says, "This study shows a 'regret rate' of 2.2%. However what are they actually measuring? What they are actually measuring is the rate of 'legal detransition.' They measure what percentage of people who undergo a legal name and gender change then undergo a second legal name and gender change. They don't measure people who have regrets but don't detransition legally, or don't detransition at all. It is also possible to detransition and not regret the original transition." The author continues: "Because I transitioned 20 years ago, I know many MTF (male-to-female) transitioners that were in my cohort or even 5-10 years before. What I see is concerning. I am the only one of them that has detransitioned, and most of them would not say they regret their transition and continue to go by

Other studies, however, show that the percentage who experience regret is much higher. The *Guardian* reviewed one hundred studies of transgendered persons and concluded that twenty percent (20%) of transgendered persons regretted changing genders, and that many transgendered persons remain severely distressed and even suicidal.<sup>8</sup> As early as 1979 Dr. Charles Ihlenfeld, who had administered hormone therapy to about 500 transgendered persons, said simply: “There is too much unhappiness among people who have had the surgery. Too many of them end as suicides.”<sup>9</sup>

While accepting an ESPY Award in 2015, Bruce/Caitlyn Jenner told the audience that 41 percent of transgendered persons attempt suicide.<sup>10</sup>

Consider other evidence:

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feminine pronouns and feminine names. In terms of life outcomes, I would say economically they are mostly doing well. However, socially they are struggling. Most of them are alone. I see a lot of social anxiety, people being unwilling to leave the house. In addition, they still continue to deal with dysphoria and have emotional difficulties.”

<sup>8</sup> Walt Heyer, “Transgender Regret Is Real Even if the Media Tell You Otherwise,” [TheFederalist.com/2015/08/19/transgenderregret](http://TheFederalist.com/2015/08/19/transgenderregret). These studies, too, are subject to interpretation and disagreement, as a recent article demonstrates. See Brynn Tannehill titled “Myths About Transition Regrets” *Huffington Post*, November 18, 2014, [http://www.huffingtonpost.com/brynn-tannehill/myths-about-transition-regrets\\_b\\_6160626.html](http://www.huffingtonpost.com/brynn-tannehill/myths-about-transition-regrets_b_6160626.html).

<sup>9</sup> Dr. Charles Ihlenfeld, quoted by Heyer, op. cit.

<sup>10</sup> Bruce/Caitlyn Jenner, cited by Heyer, “Transgender Regret.”

A Swedish study of all 324 persons who had been sex-reassigned between 1973-2003 found that “[p]ersons with transsexualism, after sex-reassignment, have considerably higher risks for mortality, suicidal behaviour, and psychiatric morbidity than the general population.”<sup>11</sup>

A 2009 study conducted by the Case Western Reserve University Department of Psychiatry concluded that “90 percent of these diverse [transgendered] patients had at least one other significant form of psychopathology.”<sup>12</sup>

A 2003 Dutch survey of board-certified Dutch psychiatrists concluded that, of 359 patients treated for cross-gender identification, 61 percent had other psychiatric disorders and illnesses, notably personality, mood, dissociative, and psychotic disorders.<sup>13</sup>

In 2013 the University of Louisville conducted a study of 351 transgender individuals and found that the rates of depression and anxiety “far surpass the rates of those for the general population.”<sup>14</sup>

The 2015 Report of the U.S. Transgender Survey, cited earlier, revealed

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<sup>11</sup> Cecilia Dhejne et al., “Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden,” PLOS/ONE, Feb. 22, 2011. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3043071/>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

disturbing patterns of mistreatment and discrimination and startling disparities between transgender people in the survey and the US. population when it comes to the most basic elements of life, such as finding a job, having a place to live, accessing medical care, and enjoying the support of family and community. Survey respondents also experienced harassment and violence at alarmingly high rates.<sup>15</sup>

Survey respondents reported that 10 percent experienced family violence because of their transsexuality, 54 percent were verbally harassed in school, 24 percent were physically attacked in school, 13 percent were sexually assaulted in school, and 17 percent left school because of this treatment. Thirty percent reported having been fired, denied a promotion, or otherwise mistreated at work because of their gender identity. Twenty-nine percent were living in poverty, compared to 14 percent of the general population. Fifteen percent were unemployed, compared with 5 percent of the general population. Thirty percent have experienced homelessness; 39 percent have experienced serious psychological distress during the previous month compared to 5 percent of the population; and 40 percent have attempted suicide during their lifetime— nearly nine times the attempted suicide rate in the general population (4.6 percent). 1.4 percent reported living with HIV, compared with only

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<sup>15</sup> The Report of the U.S. Transgender Survey, 2015, National Center for Gender Equality, at 4.

0.3 percent of the general population.<sup>16</sup> Twenty percent have participated in the “underground economy” for income at some time, including “sex work, drug sales, and other currently criminalized work,” nine percent during the past year.<sup>17</sup>

The 2015 U.S. Transgender Survey results should be approached with some degree of caution. Although the number of respondents (27,715) is impressive, one may question whether those who volunteer to participate in an online survey are representative of the nation’s transgender population as a whole. That transgendered persons experience violence, suicide, and other problems on a level disproportionate to the general population does not mean their transgender status is the cause. Theoretically, it is possible that those persons would have experienced problems regardless of whether they were transgender. And the Survey seems to reflect the belief of many of its participants, that society’s attitudes toward transgenderism, rather than their own transgendered status, are the cause of the problem. But even though the cause-and-effect relationships may be disputed, the correlation between transgenderism and this host of problems is a legitimate cause for concern.

Nevertheless, the fact remains: The transgendered lifestyle is accompanied by many undesirable aspects. Courts and other governmental agencies should carefully consider this when deciding whether to recognize, and give encouragement to a

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<sup>16</sup> *Id.* at 4-6.

<sup>17</sup> *Id.* at 158.

lifestyle that has no constitutional sanction and could result in tragic consequences for many.

Of the twenty percent (by some estimates) who regret their transgender change, most are intimidated into silence, but some have spoken out. Walt Heyer, who underwent a male-to-female sex-change operation at age 42, became known as Laura Jensen for eight years and then transitioned back to male. His website is titled SexChangeRegret.com. He speaks regularly and has authored several books including *Gender, Lies and Suicide; Paper Genders; Perfected with Love*; and *A Transgender's Faith*.<sup>18</sup> Coming from a different perspective, ten women who stopped their transition from female to male joined to tell their stories in *Blood and Visions: Womyn Reconciling with Being Female*, published in 2015 by Autotomous Womyn's Press.<sup>19</sup>

Partially because of these consequences, but also because of competing ideologies, there is no consensus even among scholars within the LGBTQ community as to how to approach these matters. Whether gender transition surgery should be performed early or late, whether children should be given hormones to delay puberty so they can make the decision when they are older, or whether transgender children should be encouraged or allowed to become homosexuals instead, is a matter of heated debate. After examining the controversy, Sara Reardon, a biomedical reporter for *Nature*, concluded:

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<sup>18</sup> SexChangeRegret.com.

<sup>19</sup> autotomouswomyn.tumblr.com (spellings are as they appear).

The debate is so heated—and evidence so sparse—that the authors of the American Psychiatric Association’s 2013 *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)* were unable to reach a consensus. “People are making declarations of knowledge that are their belief systems, that aren’t also backed up by empirical research,” says Jack Drescher, a psychiatrist at the William Alanson White Institute in New York City.<sup>20</sup>

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<sup>20</sup> Sara Reardon, “Largest Ever Study of Transgender Teenagers Set to Kick Off,” *Nature*, March 29 2016, <http://www.nature.com/news/largest-ever-study-of-transgender-teenagers-set-to-kick-off-1.19637> See also Michael Cook, “Doing the Right Thing by Transgender Kids is Not Easy,” BioEdge, Apr. 2, 2016, <https://www.bioedge.org/bioethics/doing-the-right-thing-by-transgender-kids-is-not-easy/11815>. For further discussion of the impassioned infighting over this issue, see Alice Domurat Dreger (former Professor of Clinical Medical Humanities and Bioethics at the Feinberg School of Medicine, Northwestern University), “The Controversy Surrounding *The Man Who Would Be Queen*: A Case History of the Politics of Science, Identity, and Sex in the Internet Age,” 37 *Archives of Sexual Behavior* 366 (2008); Alice Domurat Dreger, “Gender Mad,” AliceDreger.com, Dec. 19, 2015; Julia Serano, “Alice Dreger’s Disingenuous Campaign Against Transgender Activism” <http://juliaserano.blogspot.com/2015/04/alice-dreger-and-making-evidence-fit.html>; Dale O’Leary, “Suppressing Puberty with a View to Sex-Change Surgery,” Feb. 2, 2009, [https://www.mercatornet.com/mobile/view/suppressing\\_puberty\\_with\\_a\\_view\\_to\\_sex\\_change\\_surgery](https://www.mercatornet.com/mobile/view/suppressing_puberty_with_a_view_to_sex_change_surgery); Primary Care Protocol for Transgender Patient Care, University of California, San Francisco, 2011, [www.medicaldaily.com/transgender-youth-are-puberty-blocking-drugs-appropriate-medical-intervention](http://www.medicaldaily.com/transgender-youth-are-puberty-blocking-drugs-appropriate-medical-intervention).

The issue of transgenderism in public schools cannot be divorced from issues of transgenderism elsewhere in society, most notably in the military and in prisons. The Department of Defense has issued DoD Instruction 1300.28, “In-Service Transition for Transgender Service Members,” effective 1 October 2016, to provide a “construct by which transgender Service members may transition gender while serving,” to specify medical treatment provisions for transgender persons including surgery, and to implement other policies and procedures.<sup>21</sup> But the armed forces must still deal with issues such as forming rules for restrooms and showers, providing Tricare medical benefits, dealing with those who join the service just to obtain transgender surgery, adjusting physical fitness requirements for transgendered men and women, and determining how soon after surgery they should allow transgendered persons to enlist in the armed forces.<sup>22</sup> How these policies will affect military discipline and military readiness remain to be seen.

Prisons likewise present a problem because inmates have little choice as to with whom they share

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<sup>21</sup> DOD Instruction 1300.28, “In-Service Transition for Transgender Service Members,” Office of the Under Secretary of Defense for Personnel and Readiness, Oct. 1, 2016.

<sup>22</sup> Dan Lamothe, “5 Issues Military Must Address About Transgender Service,” *Stars n Stripes*, July 1, 2016. There seems to be general agreement that a stability issue does exist during the transition period. The Army and Marine Corps wanted to make potential recruits wait 24 months after a doctor determined they were stable. The Air Force and the Navy wanted to wait 12 months. Secretary of Defense Ashton Carter split the difference at 18 months.



facilities. The National Inmate Survey, conducted by the federal Bureau of Justice Statistics 2011-12, concluded that 34.6% of transgender inmates in prisons and 34% in jails reported being sexually assaulted during the previous twelve months, compared to 4% (prison) and 3.2% (jail) of the general prison population.<sup>23</sup> Federal regulations require prisons and jails to consider transgender inmates' gender identity and personal views about where they would feel safest. New guidelines from the U.S. Department of Justice prohibit corrections agencies from placing prisoners solely based on their anatomy at birth. Most corrections agencies place inmates based on which gender they most closely resemble physically, rather than birth anatomy or gender preference.<sup>24</sup> But the problem remains. Long-term male prisoners, for instance, seeking a less harsh prison environment and the opportunity for companionship with females, may claim transgender status to win placement in a female facility.

This Court should avoid making sweeping pronouncements that have no basis in the Constitution, common law, or Title IX, and that violate the deeply-held religious convictions and moral beliefs of a large portion of the American people.

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<sup>23</sup> National Inmate Survey, U.S. Bureau of Justice Statistics, cited in Maria L. La Ganga, "US Prohibits Imprisoning Transgender Inmates in Cells Based on Birth Anatomy," *The Guardian*, March 24, 2016; cf. "Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12," U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

<sup>24</sup> La Ganga, *Id.*

**III. The transgender policies urged by G.G. and the U.S. Department of Education violate the rights of many Americans to free exercise of religion.**

Religious liberty is the first right guaranteed by the Bill of Rights to the United States Constitution. It is the foremost right because our relationship to God transcends all human relationships, and because God is the Source of all human rights. As Justice Douglas stated in *Zorach v. Clauson*, 343 U.S. 306, 313 (1952), “We are a religious people whose institutions presuppose a Supreme Being.” And as he stated in *McGowan v. Maryland*, 366 U.S. 420, 562 (1961) (dissenting opinion),

The institutions of our society are founded on the belief that there is an authority higher than the authority of the State; that there is a moral law which the State is powerless to alter; that the individual possesses rights, conferred by the Creator, which government must respect.

A right as basic as free exercise of religion should not be subordinated to a so-called right to gender preference. This Court has never recognized a “right” to choose one’s gender, even if it were possible to do so. The Constitution together with its amendments confers no such right, and the concept was utterly foreign to the Framers. Transgender activists have created this “right” out of thin air. The Opinion Letter of the U.S. Department of Education directs

local schools to accommodate gender preferences, but even this letter does not purport to elevate gender preference to the status of a constitutional right.

Any conflict between this purported right to gender identity and the God-given right to free exercise of religion expressly guaranteed by the First Amendment must be resolved in favor of free exercise of religion.

These policies do pose conflicts with the Free Exercise Clause. Many Americans believe that God created us male and female (Genesis 1:27), commands that marriage is to be between opposite-sex persons only (Genesis 2:23-24), forbids same-sex relations (Leviticus 18:22; Romans 1:24-27), and prohibits both men and women from wearing clothing that pertains to the opposite sex (Deuteronomy 22:5). Additionally, one is to practice sexual modesty in the presence of persons of the opposite sex (1 Timothy 2:9-10; Genesis 3:7, 3:21; Hosea 2:9; Leviticus 20:17). Not only Christianity but also Islam, Orthodox Judaism, and many other religions hold these beliefs as well some who profess no religion. The monotheistic faiths teach that sexual identity is fixed by God at conception (“male and female created he them,” Genesis 5:2) and cannot be changed by surgery, hormones, or a decision to identify with the opposite sex.

Allowing males to self-identify as females and use restrooms, dressing rooms, lockers, and other facilities assigned to girls, in effect forces girls to share these facilities with those who are biologically

male. That practice violates the free exercise rights of girls who have religious objections to sharing facilities in that manner.

A religious teacher or school staff person who believes that transgender policies encourage sexual immodesty which may lead to sexual promiscuity, may consider it a violation of his/her religious beliefs to be forced to assign a biological boy to a girls' restroom or locker room.

A teacher or staff person who believes gender identity is fixed by God at birth may consider it a violation of his/her religious beliefs if forced to identify as female a student whom God has created male or if forced to address a child who was born female by a male name. That issue is raised even by the caption of this case which identifies the Respondent as "G.G., by *his* next friend and mother" (emphasis added), even though G.G. was born female and has taken hormones but has not undergone sex reassignment surgery. An enactment of the New York City Commission on Human Rights now forbids addressing people by anything but their pronoun of choice. UCLA law professor Eugene Volokh explains:

We have to use "ze," a made-up word that carries an obvious political connotation (endorsement of the "non-binary" view of gender). We have to call people "him" and "her" even if we believe that people's genders are determined by

their biological sex and not by their self-perceptions.<sup>25</sup>

Forcing traditional Christians by legal compulsion to accept the radical teaching that one may find a new identity by becoming the opposite sex conflicts with Biblical principles. The Christian faith teaches that the yearning for an identity that transcends our physical nature finds fulfillment in Christ and his truth. “Therefore, if any man be in Christ, he is a new creature: old things are passed away; behold all things are become new.” 1 Corinthians 5:17. In Christ “there is neither male nor female; for ye are all one in Christ Jesus.” Galatians 3:28. See also *Romans* 12:2 (“[B]e ye transformed by the renewing of your mind”); 1 Corinthians 15:52 (“[W]e shall be changed”); Philippians 3:21 (“Who shall change our vile body that it may be fashioned like unto his glorious body”).

Anxieties about identity dissolve in Christ who makes us new creatures not defined by outward fleshly appearance, but by a new life in the spirit. “[T]hough our outer man perish, yet the inward man is renewed day by day.” 2 Corinthians 4:16. “[F]or man looketh on the outward appearance, but the lord looketh on the heart.” 1 Samuel 16:7. The true need of every person—male or female—is for an inner transformation. “It is the spirit that quickeneth; the flesh profiteth nothing.” John 6:63.

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<sup>25</sup> Eugene Volokh, “You Can Be Fined for not Calling People ‘Ze’ or ‘Hir,’ If That’s the Pronoun They Demand That You Use,” *Washington Post*, May 17, 2016.

In contrast to traditional Christian teaching, the transgender delusion is that a person may become a “new creature” by outward cutting of the flesh. But genital modification is unable to transform one’s identity. “For in Christ Jesus neither circumcision availeth any thing, nor uncircumcision, but a new creature.” Galatians 6:15. The instrument that creates this new creature in Christ is not a surgeon’s knife but “faith which worketh by love.” Galatians 5:6. The solution to a spiritual problem is not found in the flesh.

In contradicting the teaching of their faith and in a host of other ways, the transgender policies demanded by G.G. and mandated by the U.S. Department of Education may force people to violate their religious beliefs. Again, a conflict between free exercise of religion granted by God and guaranteed by the First Amendment and the self-proclaimed right to gender identity, must be resolved in favor of religious liberty. Because of the potential conflict between the Department of Education’s Opinion Letter and the religious rights of many Americans, this Court should not allow the Fourth Circuit to require the District Court to give “deference” to the Opinion Letter.

## CONCLUSION

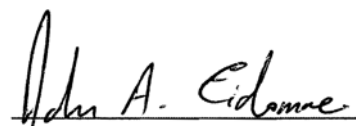
The Foundation recognizes that this is a most unusual brief. Because the legal and constitutional arguments have been capably presented by the Board and other *amici*, the Foundation concluded that it could better assist the Court, not by duplicating

arguments that have already been presented, but by focusing upon the potentially troubling consequences of the Court's decision.

Very little is known about the long-term consequences of the transgender lifestyle. The scholarship in this area is very incomplete, and much of it is produced by passionate partisans of the LGBT movement.

Courts cannot blind themselves to the practical consequences of their decisions. At least until more is known about the short-term and long-term consequences and effects of the transgender lifestyle, courts and federal agencies should be most reluctant to make sweeping pronouncements about a subject that has no grounding in the Constitution or in federal statutes. Instead, state and local agencies, such as the Gloucester County School Board, should be allowed to apply their best wisdom and common sense to the situation to tailor policies that fit the needs and values of the communities they represent.

Respectfully submitted,

  
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