

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JEANETTE MARTINEZ,
Plaintiff,

v.

ALBUQUERQUE PUBLIC SCHOOLS, by and
through the ALBUQUERQUE PUBLIC SCHOOLS
BOARD OF EDUCATION,
Defendant.

Case No. 1:26-cv-03098-JFR-LF

PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

Plaintiff Jeanette Martinez respectfully moves, under Federal Rule of Civil Procedure 65(a), for a preliminary injunction prohibiting Defendant Albuquerque Public Schools (“APS”) from enforcing Procedural Directive PJ30 or any other related policy, practice, custom, directive, training, or guidance (collectively, “PJ30”) insofar as it requires her to deceive parents and conceal from them the fact that APS is facilitating their child’s social transition at school—*i.e.*, enforcing the child’s use of a new name or pronouns consistent with the child’s asserted non-conforming gender identity, allowing the child to access facilities associated with the child’s asserted non-conforming gender identity, or allowing the child to access programs associated with the child’s asserted non-conforming gender identity—unless the state has temporarily or permanently removed the child from the parents’ custody. Ms. Martinez asks the Court to set this Motion for hearing at the earliest practicable time.

As grounds for this Motion, Ms. Martinez states as follows:

1. Ms. Martinez is employed by APS as a school social worker.
2. PJ30 requires APS employees to facilitate a child’s social transition upon the child’s request.

3. At the same time, PJ30 requires APS employees to deceive parents and conceal from them the fact that APS is facilitating their child's social transition, unless the child consents to disclosure or APS determines disclosure is legally required.

4. PJ30 compels Ms. Martinez's speech, is viewpoint discriminatory, and conflicts with Ms. Martinez's sincere religious beliefs.

5. Ms. Martinez is substantially likely to prevail on her claims that PJ30 violates her rights under the Speech and Free Exercise Clauses of the First Amendment.

6. Ms. Martinez is suffering irreparable injury. PJ30 burdens her First Amendment rights and forces her to choose between her religious beliefs and her employment.

7. The balance of equities and the public interest favor preliminary relief. APS has no legitimate interest in enforcing an unconstitutional policy, and the public has a strong interest in protecting First Amendment rights and ensuring that public schools do not force employees to deceive parents and conceal information from parents to which they have a right to notice.

8. No bond is required because the requested preliminary injunction protects constitutional rights and does not impose a quantifiable monetary injury on APS.

9. This Motion is supported by Plaintiff's Memorandum in Support of Motion for Preliminary Injunction, the Declaration of Jeanette Martinez and its exhibits, the Complaint and its exhibits, and the entire record in this matter.

10. Plaintiff requests that an in-person hearing be set on this Motion as soon as practicable.

11. Pursuant to D.N.M.LR-Civ. 7.1(a), counsel for Ms. Martinez sought APS's position on this Motion via e-mail on September 23, 2026. Counsel for APS responded on September 25, 2026, stating that APS opposes the Motion.

WHEREFORE, Ms. Martinez respectfully requests that this Court grant her Motion and

enter a preliminary injunction prohibiting APS, its officers, agents, employees, attorneys, successors, and all persons acting in concert with them from:

a. Requiring Ms. Martinez to deceive parents about the fact that APS is facilitating their minor child's social transition at school, including by requiring her to refer to the child by his or her legal name and birth-sex pronouns in conversations with their parents while requiring her to refer to the same child by different names and pronouns in conversations with others at school, unless the state has temporarily or permanently removed the child from the parents' custody;

b. Prohibiting Ms. Martinez from communicating truthfully with parents concerning the fact that APS is facilitating their minor child's social transition at school, unless the state has temporarily or permanently removed the child from the parents' custody; or

c. Disciplining, reprimanding, retaliating against, suspending, terminating, or otherwise taking adverse employment action against Ms. Martinez for communicating truthfully with parents as set forth in subparagraphs a and b, above.

Ms. Martinez also requests all other relief the Court deems just and proper.

Respectfully submitted,

Dated: September 25, 2026

/s/Joshua W. Dixon

JOSHUA W. DIXON

NMDC Bar ID: 26-565

COURTNEY CORBELLO

NMDC Bar ID: 26-316

CENTER FOR AMERICAN LIBERTY

2145 14th Avenue, Ste 8

Vero Beach, FL 32960

(703) 687-6200

jdixon@libertycenter.org

ccorbello@libertycenter.org

Attorneys for Jeanette Martinez

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2026, I electronically filed Plaintiff's Motion for Preliminary Injunction, Memorandum in Support and Declaration of Jeanette Martinez with the Clerk of Court using the CM/ECF system, which caused all counsel of record to be served electronically.

/s/ Joshua W. Dixon
JOSHUA W. DIXON

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PLAINTIFF’S MEMORANDUM IN SUPPORT OF PRELIMINARY INJUNCTION

Public school districts may not force their employees to deceive parents or conceal important information from them about their children. Yet that is exactly what Albuquerque Public Schools (“APS”) is doing. Under APS Procedural Directive PJ30, APS requires its employees to refer to children who assert a non-conforming gender identity by a new name and pronoun that the child requests. At the same time, PJ30 generally prohibits APS employees from telling parents that their child is using a new name and pronouns at school. Worse, while PJ30 requires APS employees to use a child’s *new* name and pronouns in communications at school, it generally requires employees to deceive parents by mandating that employees use the child’s *legal* name and *birth-sex* pronouns in communications with parents.

Jeanette Martinez, a licensed clinical social worker who works for APS, cannot participate in APS’s efforts to deceive parents and conceal important information from them. Her Christian religious beliefs—and her good conscience—forbid it.

Ms. Martinez does not have to betray either. Her job requires forthright communications with students, parents, and staff. She is not APS’s spokesperson on gender ideology, nor is it the job of a social worker to deceive parents or conceal important information about their children

from them. And APS cannot evade constitutional scrutiny by placing its preferred speech into a procedural directive, calling the speech “job duties,” and claiming that Ms. Martinez may not speak truthfully to parents when her professional judgment and faith require it.

PJ30 unduly restricts Ms. Martinez’s right to free speech and substantially burdens her religious exercise under the First Amendment. Because APS lacks a sufficient interest in forcing Ms. Martinez to violate her conscience as the price of maintaining her job, the Court should enjoin PJ30 as applied to her during this litigation.

STATEMENT OF FACTS

Background on Social Transition in Youth

Over the past several years, the debate over the best way to treat gender dysphoria in gender non-conforming youth has become one of the most widely discussed, legislated, and litigated issues in America. So-called “gender affirming” care is one treatment paradigm. *See The Cass Review: Independent review of gender identity services for children and young people* (April 10, 2024) at 68–70.¹ In general, this treatment paradigm is based on the idea that psychological distress caused by having a gender non-conforming identity is best alleviated by affirming that identity. *Id.*

This form of care includes “affirming” psychological interventions, like social transitioning. *Id.* at 158; *see also* United States Department of Health and Human Services, *Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices* (November 19, 2025) (“The DHHS Report”) at 89.² A social transition occurs when a gender non-conforming

¹ The referenced pages of *The Cass Review* are attached to the Complaint as Exhibit A. Compl. Exhibit A (Dkt. 1-2). The full report is available online at <https://bit.ly/4AfRxye>.

² The referenced page of The DHHS report is attached to the Complaint as Exhibit B. Compl. Exhibit B (Dkt. 1-3). The full report is available at <https://bit.ly/470w2DP>.

individual begins expressing their gender identity outwardly. *The Cass Review* at 158. In the school setting, it includes things like going by a new name or pronouns, wearing different clothing, using new facilities (like bathrooms or locker rooms), or using programs (like extracurricular activities or sports teams), all consistent with the student’s asserted gender identity. *Id.*³

There are other treatment paradigms for treating gender dysphoria in minors. *Id.* at 70. These other paradigms recognize that most gender non-conforming minors ultimately desist—that is, lose their non-conforming gender identity—by adulthood. *Id.* at 41, 158; *see also* Zucker, Kenneth, *The myth of persistence: Response to “A critical commentary on follow-up studies and ‘desistance’ theories about transgender and gender nonconforming children,”* International Journal of Transgenderism (2018).⁴ These treatment paradigms advocate for interventions—like psychotherapy—that do not risk solidifying the minor’s non-conforming gender identity or otherwise give rise to potentially lifelong consequences. *The Cass Review* at 70, 93, 150.

A social transition is not necessarily the appropriate course of action for every minor who asks to undergo a transition. *Id.* at 164. And in determining whether a minor should undergo a social transition, “parents should be actively involved in decision making unless there are strong grounds to believe that this may put the [minor] at risk.” *The Cass Review* at 164.

Jeanette Martinez

Jeanette Martinez is a licensed clinical social worker. *See* Martinez Decl. ¶ 3. She has

³ Not every child who asserts a non-conforming gender identity suffers from gender dysphoria. But as the Supreme Court concluded in *Mirabelli v. Bonta*, a child who asks to undergo a social transition is exhibiting a “symptom[]” of gender dysphoria, and the decision to socially transition a child directly affects the child’s “mental health.” 607 U.S. 492, 497 (2026).

⁴ The Zucker article is attached to the Complaint as Exhibit C. Compl. Exhibit C (Dkt. 1-4). It is also available online at <https://bit.ly/46gJAej>.

worked for APS for over 10 years. *Id.* In August 2026, APS reassigned her to Atrisco Heritage Academy High School, where she provides school social-work services to special-education students, including students with Individualized Education Programs (“IEPs”). *Id.* ¶ 5. Her duties include participating in multidisciplinary special-education meetings; ensuring parent participation in educational placement; maintaining communication with parents about students’ academic, social-emotional, and behavioral progress; providing assessments, counseling and interventions; and serving as a home-school-community liaison. *Id.*; *see also* Compl. Exhibit L (Dkt. 1-13).

As a Christian, Ms. Martinez holds sincere religious beliefs. *See* Martinez Decl. ¶ 21. She believes God created human beings male and female, that biological sex does not change, and that she cannot use her own words to affirm that a person belongs to a gender different from his or her biological sex. *Id.* Her faith also prohibits her from lying, including engaging in deceptive speech or concealing important information from others, including concealing important information from parents about their children. *Id.* ¶ 22.

Ms. Martinez does not seek to use her position to promote her religious beliefs. *Id.* ¶ 23. She wants only to do her job while speaking truthfully, avoiding speech she believes is false or misleading, and treating every student, parent, and colleague with dignity and compassion. *Id.*

Procedural Directive PJ30

APS’s Procedural Directive PJ30 makes that impossible. PJ30, entitled “Non-Discrimination for Students: Gender Identity and Expression,” governs how APS employees must refer to students who assert a gender identity that is different from their biological sex. *See* Compl. Exhibit E (Dkt. 1-6). It provides that students have the right to be called a preferred name and pronoun corresponding with their asserted gender identity, regardless of any legal name or sex

change. *Id.* at 7. It also requires staff to use students’ preferred names and pronouns in “all internal records, documents, and interactions.” *Id.* at 8. In other words, PJ30 requires APS to socially transition students upon their request.

PJ30 also dictates what employees may tell parents about the transition. PJ30 gives students the right to decide “when, with whom, and how much” to share this information, including with their parents. *Id.* at 7. Under PJ30, if a child is undergoing a social transition at school and the child does not want his or her parents to know, APS employees may not tell the parents, even in response to a direct question. *Id.* As PJ30’s interpretive guidance makes clear, the only exceptions to this rule are when (1) the child consents to parental disclosure or (2) such disclosure is “legally required.” Compl. Exhibit F (Dkt. 1-7) at 3. APS has never identified when—if ever—it believes disclosure is “legally required.”

While PJ30 requires employees to use a child’s *new* name and pronouns at school, it requires the opposite in communications with the child’s parents. *See* Compl. Exhibit E at 7. Staff must use the child’s *legal* name and *birth-sex* pronouns in communications with the parents, unless the child or a parent who already knows about the transition asks the employee to use the child’s new name and pronouns. *Id.*

APS reinforces PJ30 through mandatory training. On April 21, 2026, APS required employees, including Ms. Martinez, to attend a training called “Pronouns & Gender Neutral Language.” Martinez Decl. ¶ 17; *see also* Compl. Exhibits G–J (Dkts. 1-8 to 1-11). The training instructed employees that a person’s asserted gender identity, not biological sex, “dictates the language” employees must use to refer to them “all the time, twenty-four hours a day.” Compl. Exhibit H at 14. It told employees that using a person’s preferred pronouns communicates that “I see you the way you see yourself” and “I believe it and accept it.” *Id.* at 12.

The training also instructed employees not to disclose a child's new name and pronouns to parents unless the child consented. *Id.* at 17–18. The training warned that if staff “don’t know whether the parents are cool with it,” they should not use the child’s new name or pronouns “in front of their parents.” *Id.* at 18. According to the training, parental deception and concealment are necessary because some gender non-conforming students “are fearful of their parents for really good reason,” warning staff that “if the parent did find out this piece of information . . . , it could be very threatening” to the student. *Id.* In other words, PJ30’s parental deception and concealment requirement is predicated on the idea that, because *some* parents might abuse their children, parental deception and concealment are required in *all* cases unless the student authorizes disclosure. *See* Martinez Decl. ¶ 19.

APS backs PJ30 with discipline. APS’s Employee Handbook states that violation of any APS policy or procedural directive can result in discipline, up to and including termination. *See* Compl. Exhibit K (Dkt. 1-12).

APS fails to grant Ms. Martinez’s exemption from PJ30’s parental deception and concealment requirement

Ms. Martinez’s religious beliefs conflict with PJ30. *See* Martinez Decl. ¶¶ 27, 53–56, 60. Her job requires her to interact with students, create documentation, participate in special-education processes, and communicate with staff and parents in contexts PJ30 governs. *Id.* ¶¶ 5–6, 27; *see also* Compl. Exhibit L. Atrisco Heritage Academy High School has students who identify as gender non-conforming and who go by a new name and pronouns associated with that identity. *See* Martinez Decl. ¶ 26. Ms. Martinez’s duties require her to speak to and about students, colleagues, and parents in situations where PJ30 controls what she may say. *Id.* ¶¶ 27, 53–56, 60; *see also* Compl. Exhibit L.

Based on the conflict between PJ30 and Ms. Martinez’s religious beliefs, she sought an

accommodation from PJ30. On April 29, 2026, she asked APS to excuse her from using preferred names, pronouns, or other gendered language inconsistent with biological sex; to allow her to use pronouns corresponding to biological sex where her beliefs require truthful speech; and to excuse her from being required to deceive parents or conceal from them the fact that their child was undergoing a social transition at school. *See* Martinez Decl. ¶¶ 28–31; *see also* Compl. Exhibit M (Dkt. 1-14).

Over the next several months, APS and Ms. Martinez engaged in a dialogue regarding her accommodation request. *See* Martinez Decl. ¶¶ 32–52; *see also* Compl. Exhibits N–R (Dkts. 1-15 – 1-19). That dialogue culminated in correspondence from APS to Ms. Martinez on September 3, 2026, with the following result: As for PJ30’s preferred name and pronoun requirement, APS agreed that Ms. Martinez does not have to use preferred names and pronouns. Instead, she may use a last name, title, initials, agreed-upon nickname, or generic term such as “student,” “colleague,” or “friend.” Martinez Decl. ¶¶ 33–52; *see also* Compl. Exhibits N–R. Ms. Martinez may not, however, use any name or pronoun a person has rejected. *See* Martinez Decl. ¶¶ 33–52; *see also* Compl. Exhibits N–R. As for PJ30’s parental deception and concealment requirement, APS did not grant Ms. Martinez any accommodation. Instead, it said only PJ30 did not require employees to “lie to parents.” Martinez Decl. ¶¶ 34, 52; *see also* Compl. Exhibit N at 3.

In light of APS’s accommodation, Ms. Martinez does not currently assert a claim regarding PJ30’s preferred name and pronoun requirement.⁵ She does, however, challenge PJ30’s

⁵ Ms. Martinez does not concede that APS’s accommodation regarding PJ30’s preferred name and pronoun requirement is sufficient to satisfy either the Constitution or Title VII of the Civil Rights Act of 1964. In fact, Ms. Martinez has filed a Charge of Discrimination with the EEOC alleging that APS discriminated against her based on religion by failing to grant her accommodation request in full. Currently, however, Ms. Martinez does not assert a claim in this lawsuit pertaining to PJ30’s preferred name and pronoun requirement. She reserves the right to do so.

parental deception and concealment requirement. Unless this Court intervenes, Ms. Martinez risks job discipline, up to and including termination, for telling parents the truth about what APS is doing to their children at school.

ARGUMENT

Ms. Martinez is entitled to a preliminary injunction prohibiting APS from enforcing PJ30's requirement that she deceive parents and conceal their child's social transition from them. This requirement violates both the Speech and Free Exercise Clauses of the First Amendment.

Preliminary injunctive relief is appropriate where the movant shows "(1) that it has a substantial likelihood of prevailing on the merits; (2) that it will suffer irreparable harm unless the preliminary injunction is issued; (3) that the threatened injury outweighs the harm the preliminary injunction might cause the opposing party; and (4) that the preliminary injunction . . . will not adversely affect the public interest." *Prairie Band of Potawatomi Indians v. Pierce*, 253 F.3d 1234, 1246 (10th Cir. 2001). All four factors favor Ms. Martinez here.

I. MS. MARTINEZ IS SUBSTANTIALLY LIKELY TO PREVAIL ON THE MERITS

Ms. Martinez is substantially likely to prevail on the merits. While APS says it does not require Ms. Martinez to "lie to parents" directly, Compl. Exhibit N at 3, PJ30 nevertheless compels her to speak in a way that deceives parents and conceals their child's social transition from them. This requirement violates Ms. Martinez's rights under the Speech and Free Exercise Clauses.

A. *Mirabelli v. Bonta*

Before turning to the elements of Ms. Martinez's claims, it is important to consider the Supreme Court's recent decision in *Mirabelli v. Bonta*. There, California had adopted policies that "prevent[ed] schools from telling [parents] about their children's . . . gender transitioning at

school.” 607 U.S. 492, 493 (2026). Parents, among others, brought a claim alleging that the policies violated their rights under the Free Exercise and Substantive Due Process Clauses. *Id.* at 496–97. The district court entered a permanent injunction against the policies, but the Ninth Circuit stayed the injunction. *Id.* at 495. The parents appealed to the Supreme Court, and the Supreme Court lifted the stay—thus reinstating the injunction—concluding that the parents were likely to succeed on the merits of their claims. *Id.* at 496–97.

As for the parents’ free exercise claim, the Supreme Court held that the policies likely violated the parents’ right to be free from the “unconsented facilitation of a child’s gender transition” at school. *Id.* at 496. Moreover, the policies were unlikely to satisfy strict scrutiny because they “cut out the primary protectors of children’s best interests: their parents.” *Id.* at 496–97. As for the parents’ due process claim, the Supreme Court arrived at the same conclusion, noting that parents—not schools—are responsible for “the upbringing and education of [their] children.” *Id.* at 497 (cleaned up). By requiring parental concealment, the policies violated the parents’ due process right “not to be shut out of participation in decisions” regarding their children’s “gender transitioning” at school. *Id.* at 497.

Under *Mirabelli*, the law is now clear—parents have the right to be notified (at least) before a school facilitates the social transition of their child.⁶ APS must therefore notify parents before facilitating their child’s social transition. Concluding that Ms. Martinez has the right to speak truthfully with parents about the transition is simply a straightforward application of *Mirabelli* to the context of employee speech and religious exercise. Just as parents have the right to be notified before a school facilitates the social transition of their child, Ms. Martinez has the

⁶ Under *Mirabelli*, parents also have the right to opt out of policies that require schools to honor their child’s request to undergo a social transition. That holding of *Mirabelli* is not at issue in this Motion.

right to speak truthfully with parents about the transition.

B. PJ30 Likely Violates Ms. Martinez’s Right to Free Speech

Ms. Martinez is substantially likely to prevail on her claim that PJ30’s parental deception and concealment requirement violates her right to free speech.

“[A] state cannot condition public employment on a basis that infringes the employee’s constitutionally protected interest in freedom of expression.” *Connick v. Myers*, 461 U.S. 138, 142 (1983). In a pre-enforcement challenge, to determine whether the state—acting as an employer—violates an employee’s free-speech rights, courts engage in a three-part inquiry. First, the court must determine whether the employee undertakes the speech in question “pursuant to [her] official duties.” *Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006). If so, the speech is the government’s and there is no constitutional protection. *Id.* If the speech is outside the employee’s official duties—*i.e.*, if the employee is speaking as a private citizen—the court must next determine whether the speech deals with a matter of public concern. *Pickering v. Bd. of Educ. of Twp. High Sch. Dist. 205*, 391 U.S. 563, 574 (1968). If the speech does not deal with a matter of public concern, it is unprotected. *Id.* If the speech is of public concern, the court must finally determine whether the employee’s interest in speaking outweighs the state’s interest as an employer. *Id.* at 568.

Applying this test, PJ30 violates Ms. Martinez’s right to free speech.

1. PJ30 compels speech that is not part of Ms. Martinez’s “official duties.”

PJ30’s parental deception and concealment requirement is not part of Ms. Martinez’s “official duties.” In evaluating this issue, “[m]any facts may be relevant,” including “the tasks in an employee’s job description, the frequency with which an employee performs a task, the subject matter of the employee’s speech, the recipient of the employee’s speech, the legal obligation for the employee to speak.” *Knopf v. Williams*, 884 F.3d 939, 945 (10th Cir. 2018).

Here, Ms. Martinez is a school social worker. APS did not hire her to be a spokesperson regarding students' social transitions, nor is it within the scope of a social worker's job to deceive parents or conceal their child's social transition from them. *See* Martinez Decl. ¶¶ 5–6; *see also* Compl. Exhibit L. The speech in question thus falls outside the scope of Ms. Martinez's official duties. *See Timmins v. Plotkin*, 157 F.4th 1275, 1281 (10th Cir. 2025) (holding that general counsel's speech that "publicly criticize[d] the Board" was outside the scope of her duties); *Thomas v. City of Blanchard*, 548 F.3d 1317, 1325 (10th Cir. 2008) (concluding that "[t]hreatening to report [fraud] to law enforcement officials was not the type of activity Mr. Thomas was paid to do" (cleaned up)).

The fact that APS's Employee Handbook requires Ms. Martinez to comply with PJ30's parental deception and concealment requirement does not mean that her speech is within her official duties. A public employer may not simply put a speech command into a job description or policy manual and then call that command an "official duty." In *Garcetti* itself, the Supreme Court rejected "the suggestion that employers can restrict employees' rights by creating excessively broad job descriptions." 547 U.S. at 424. And as the Tenth Circuit has confirmed, "[m]erely because an employee's speech was made at work and about work does not necessarily remove that employee's speech from the ambit of constitutional protection." *Thomas*, 548 F.3d at 1323.

It is true that Ms. Martinez communicates with parents about their children in performing her job. But requiring her to use language designed to deceive parents about whether their child is undergoing a social transition is compelled speech that takes sides in a contentious public debate. It is a "cardinal constitutional command" that the government cannot constitutionally compel individuals to "mouth support" for religious, political, or ideological views that they do not believe. *Janus v. Am. Fed'n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878, 892 (2018); *see also*

Wooley v. Maynard, 430 U.S. 705, 714 (1977); *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). When “a public employer does not simply restrict potentially disruptive speech but commands that its employees mouth a message on its own behalf,” the employer is acting as regulator—not employer—and is not entitled to the same deference *Pickering* usually grants. *Janus*, 585 U.S. at 908.

Garcetti is easily distinguishable. In *Garcetti*, the speech in question was a prosecutor’s recommendation regarding the “proper disposition of a pending criminal case,” 547 U.S. at 422, speech that falls within the heartland of a prosecutor’s job duties. Here, by contrast, a social worker’s job duties do not include deceiving parents or concealing their child’s social transition from them. In addition, the government in *Garcetti* did not compel speech on one side of a contentious public debate. Here, PJ30’s parental deception and concealment requirement compels employees to use a child’s legal name and birth-sex pronouns in communications with parents while requiring the opposite at school. The Supreme Court has never applied the ordinary employee-speech test “[w]hen a public employer does not simply restrict potentially disruptive speech but commands that its employees mouth a message on its own behalf.” *Janus*, 585 U.S. at 908.

Even if PJ30’s parental deception and concealment requirement could somehow be considered part of Ms. Martinez’s official duties, she would still prevail. When speech is within an employee’s official duties, the employer may only require the employee to deliver a “lawful message.” *Id.* PJ30’s parental deception and concealment requirement fails this command. Under *Mirabelli*, school policies that “facilitate a degree of gender transitioning during school hours” and require school staff to “conceal that information from parents” violate parents’ constitutional rights to direct the “upbringing and education of [their] children.” 607 U.S. at 498. Because PJ30’s

parental deception and concealment requirement violates parents’ constitutional rights, the speech it requires of employees is not “lawful.” *Janus*, 585 U.S. at 892. It is thus unconstitutional as applied to Ms. Martinez.

2. PJ30 regulates speech that is of public concern.

The speech in which Ms. Martinez seeks to engage is of public concern. Speech is of public concern when “it can be fairly considered as relating to any matter of political, social, or other concern to the community” or is “a subject of general interest and of value and concern to the public.” *Snyder v. Phelps*, 562 U.S. 443, 453 (2011) (cleaned up). In determining whether speech satisfies this standard, courts must evaluate its “content, form, and context.” *Connick*, 461 U.S. at 147 (quotations omitted). Speech is of public concern when it “discloses . . . evidence of . . . impropriety . . . on the part of [government] officials” that is relevant to the public interest. *Conaway v. Smith*, 853 F.2d 789, 796 (10th Cir. 1988).

The speech at issue here is of public concern. Speech regarding “gender identity” is of public concern. *Janus*, 585 U.S. at 913. In addition, the pronouns a person uses “convey a powerful message implicating a sensitive topic of public concern.” *Meriwether v. Hartop*, 992 F.3d 492, 508 (6th Cir. 2021). Because Ms. Martinez seeks to inform APS parents that their children are undergoing a secret social transition at school—which, as *Mirabelli* makes clear, is government misconduct that violates parents’ constitutional rights—her speech is plainly of “concern to the community.” *Snyder*, 562 U.S. at 453; *see also Conaway*, 853 F.2d at 796.

3. The balance of interests favors Ms. Martinez.

Typically, the third analytic step of an employee speech claim involves balancing the employee’s interests against the employer’s interests. As discussed, however, PJ30’s parental deception and concealment requirement is not lawful under *Mirabelli* because it violates parents’

rights. *See supra* at 8–9, 12. Because the message PJ30 requires employees to deliver is not lawful, PJ30 is per se unconstitutional. *Janus*, 585 U.S. at 908 (noting that an employer may only compel a “lawful message”).

Even if the speech in question were “lawful” under *Janus*, Ms. Martinez still prevails.

a. *PJ30 fails strict scrutiny.*

Because PJ30’s parental deception and concealment requirement “compels speech,” strict scrutiny—and not *Pickering* balancing—applies. *Janus*, 585 U.S. at 908. To satisfy strict scrutiny, the government must demonstrate that its speech restriction is “narrowly tailored to promote a compelling Government interest.” *United States v. Playboy Entm’t Grp., Inc.*, 529 U.S. 803, 813 (2000). Under strict scrutiny, narrow tailoring requires the government to show that the regulation is the “least restrictive means” of achieving its interest. *Id.*

APS cannot make these showings. PJ30’s parental deception and concealment requirement appears to be grounded on two ideas: (1) children have a privacy right to keep their social transition secret from their parents and (2) parental deception and concealment protects children from child abuse. Both of these asserted interests fail strict scrutiny.

As an initial matter, as discussed, *Mirabelli* requires APS to notify parents before facilitating their child’s social transition. *See supra* at 8–9. Because APS is already required to disclose this information to parents, it has no interest whatsoever in requiring Ms. Martinez to deceive parents and conceal this information from them. It is irrational to preclude a school social worker from speaking with parents about information the school should already have told the parents.

Even putting that conclusion to the side, APS’s arguments fail. As for privacy, children do not have a privacy right to keep their social transition secret from their parents. Parents—not the

state, and not their children—have the “primary authority with respect to the upbringing and education of their children.” *Mirabelli*, 607 U.S. at 497 (quotations omitted). School policies that “facilitate a degree of gender transitioning” of children and require staff to “conceal that information from parents” violate this right. *Id.* Moreover, a right to privacy exists only when there is a “legitimate expectation of privacy” to the information in question. *Slayton v. Willingham*, 726 F.2d 631, 635 (10th Cir. 1984). “A student who announces the desire to be publicly known in school by a new name, gender, or pronoun and is referred to by teachers and students and others by said new name, gender, or pronoun, can hardly be said to have a reasonable expectation of privacy[.]” *Mirabelli v. Olson*, 691 F. Supp. 3d 1197, 1212 (S.D. Cal. 2023). For these reasons, student privacy is not a legitimate interest, much less a compelling one.

As for child abuse, preventing child abuse is obviously a compelling interest in the abstract. But the First Amendment does not allow the government to prevail on abstractions. *See Fulton v. City of Philadelphia*, 593 U.S. 522, 541 (2021) (concluding that “the First Amendment demands a . . . precise analysis” of the asserted government interest). And for the state to have a legitimate “interest . . . in protecting children from their parents,” it must have “evidence that [specific parents are] unfit and the child is in imminent danger.” *Wallis v. Spencer*, 202 F.3d 1126, 1142 n.14 (9th Cir. 2000); *Ricard v. USD 475 Geary Cnty., KS Sch. Bd.*, No. 5:22-cv-04015-HLT-GEB, 2022 WL 1471372, at *8 (D. Kan. May 9, 2022) (concluding that similar policy was not supported by a compelling interest because there was no “particularized and substantiated concern that disclosure to a parent could lead to child abuse”). Because PJ30 does not require this individualized determination before requiring parental deception and concealment, it impermissibly “cuts out the primary protectors of children’s best interests: their parents.” *Mirabelli*, 607 U.S. at 496.

For similar reasons, PJ30’s parental deception and concealment requirement is also not

narrowly tailored. Absent some individualized evidence that specific parents are abusive or neglectful, APS has no interest in precluding parental disclosure. The Supreme Court has squarely rejected the “statist notion” that the government may displace “parental authority in *all* cases because *some* parents abuse . . . [their] children.” *Parham v. J.R.*, 442 U.S. 584, 603 (1979) (emphasis in original); *see also Lee v. Poudre Sch. Dist. R-1*, 135 F.4th 924, 937 (10th Cir. 2025) (McHugh, J., concurring) (noting that a school “may not seize control of a child’s upbringing based on a simple disagreement about what is in the child’s best interests” (cleaned up)); *Ricard*, 2022 WL 1471372, at *8 (similar). Because PJ30 does not require that kind of individualized evidence before requiring parental deception and concealment, it is not narrowly tailored.

b. *PJ30 fails Pickering balancing.*

In the alternative, Ms. Martinez also prevails under *Pickering* balancing. Because this case involves a speech policy “with widespread impact”—and not just “a single supervisory decision”—the ordinary *Pickering* framework changes. *Janus*, 585 U.S. at 907. APS “must shoulder a . . . ‘heav[ier]’ burden” and the Court must grant APS “considerably less deference” than it ordinarily would. *Id.* at 907–08. In the end, this heightened *Pickering* balancing “more closely resembles exacting scrutiny than the traditional *Pickering* analysis.” *Id.* at 908. For the same reasons PJ30 fails strict scrutiny, it also fails heightened *Pickering* balancing.

Finally, PJ30’s parental deception and concealment requirement would fail even ordinary *Pickering* balancing. APS does not have a legitimate interest in preventing social workers from communicating with parents about information APS should already have told them, nor does it have a legitimate interest in deceiving parents and concealing their child’s social transition from them. Ms. Martinez’s First Amendment free-speech rights thus easily outweigh APS’s interest. *See Thomas*, 548 F.3d at 1325 (concluding that *Pickering* balancing favors employee where employer

does not identify a legitimate interest).

C. PJ30 Likely Violates Ms. Martinez’s Free Exercise Rights

Ms. Martinez is also substantially likely to prevail on her claim that PJ30’s parental deception and concealment requirement violates her right to the free exercise of religion.

1. PJ30 is subject to strict scrutiny because it imposes an especially egregious burden on Ms. Martinez’s free exercise rights.

PJ30’s parental deception and concealment requirement is subject to strict scrutiny under the Free Exercise Clause. In *Mahmoud v. Taylor*, the Supreme Court reiterated that some government policies create such an “especially egregious” burden on religion that they trigger strict scrutiny without further inquiry. 606 U.S. 522, 548, 564–65 (2025). There, the policy in question denied parents notice and the right to opt their children out of classroom instruction involving “‘LGBTQ+-inclusive’ storybooks.” *Id.* at 533. Considering the significant burden the policy imposed on parents’ free exercise rights, the Supreme Court concluded it was unnecessary to “ask whether the [policy] . . . is neutral or generally applicable before proceeding to strict scrutiny.” *Id.* at 564.

Similarly, PJ30’s parental deception and concealment requirement imposes an especially egregious burden on Ms. Martinez’s religious exercise. Whereas the school district in *Mahmoud* was attempting to conceal the contents of children’s classroom instruction from their parents, PJ30 attempts to conceal “a child’s gender transition” from their parents. *Mirabelli*, 607 U.S. at 496. PJ30 thus imposes an even “greater” “intrusion on parents’ free exercise rights” than the policy in *Mahmoud*. *Id.* And while Ms. Martinez is not asserting her rights as a parent, PJ30 operates through the “direct coercion” of her speech that—contrary to her religious beliefs—is designed to keep this important information secret from parents. *Mahmoud*, 606 U.S. at 548 (discussing *Barnette*, 319 U.S. at 642). As with the parents in *Mirabelli*, the burden on Ms. Martinez’s free exercise rights is

especially egregious, subjecting PJ30 to strict scrutiny.

2. PJ30 is subject to strict scrutiny because it is neither generally applicable nor neutral.

PJ30’s parental deception and concealment requirement is also subject to strict scrutiny because it is neither “generally applicable” to religious and secular practices alike nor “neutral” toward religion. *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 544–46 (1993). General applicability evaluates the “effect” of a law in its actual operation, while neutrality evaluates the law’s “purpose.” *Id.* at 533–46. “Failing either . . . is sufficient to trigger strict scrutiny.” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 526 (2022). PJ30’s parental deception and concealment requirement fails both.

a. PJ30 is not generally applicable.

The “principle underlying the general applicability requirement” is that the government may not create a regulatory regime that allows it to “impose burdens only on conduct motivated by religious belief.” *Lukumi*, 508 U.S. at 543. A law can violate this principle in two ways. First, “[a] law . . . lacks general applicability if it prohibits religious conduct while permitting secular conduct that undermines the government’s asserted interests in a similar way.” *Fulton*, 593 U.S. at 534 (cleaned up). A law is not generally applicable when it treats “any comparable secular activity more favorably than religious exercise.” *Tandon v. Newsom*, 593 U.S. 61, 62 (2021) (emphasis added). Second, “[a] law is not generally applicable if it invites the government to consider the particular reasons for a person’s conduct by providing a mechanism for individualized exemptions.” *Fulton*, 593 U.S. at 533 (cleaned up). When the government is authorized to “grant exemptions based on the [individual] circumstances” underlying each exemption request, the law is not generally applicable. *Id.* at 534.

PJ30’s parental deception and concealment requirement violates both concepts. First, PJ30

contains two exceptions: (1) the student authorizes parental disclosure and (2) parental disclosure is “legally required.” Compl. Exhibit F at 3. PJ30 does not, however, contain an exception for religious belief. Because PJ30 treats secular activity—student authorization or APS’s determination that disclosure is “legally required”—“more favorably” than objecting employees’ religious exercise, it is not generally applicable. *Tandon*, 593 U.S. at 62; *see also Does 1-11 v. Bd. of Regents of Univ. of Colo.*, 100 F.4th 1251, 1277 (10th Cir. 2024) (concluding that vaccination policy was not generally applicable because it had “a lower threshold for denying religious exemptions”); *Ricard*, 2022 WL 1471372, at *8 n.12 (noting that an exception for “the secular purpose of complying with [the] law” without also allowing religious exceptions would render a similar policy not generally applicable).

Second, the “legally required” exception authorizes APS to decide—in its own unfettered discretion and in absolute secrecy from the outside world—whether the exception is satisfied on a case-by-case basis. A policy that “depends on [this kind of] undefined ad hoc determination” is not generally applicable. *Mirabelli*, 691 F. Supp. 3d at 1217; *see also Fellowship of Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 685 (9th Cir. 2023) (holding that “the mere existence of government discretion is enough to render a policy not generally applicable”), *overruled on other grounds by Ariz. All. for Retired Ams. v. Mayes*, 186 F.4th 622 (9th Cir. 2026).

b. PJ30 is not neutral.

While laws “targeting religious beliefs as such” are not neutral, laws that do not target religion may still fail neutrality. *Lukumi*, 508 U.S. at 533. “[I]f the object of a law is to infringe upon or restrict practices because of their religious motivation, the law is not neutral.” *Id.* Under this standard, laws are not neutral if they amount to the “covert suppression of particular religious beliefs,” like laws that uniquely “burden” religious objectors, favor secular conduct, or bar “more

religious conduct than is necessary to achieve [their] stated ends.” *Id.* at 534, 536, 538. Courts must “meticulously scrutinize irregularities to determine whether a law is being used to suppress religious beliefs.” *Meriwether*, 992 F.3d at 514 (citing *Lukumi*, 508 U.S. at 534–35).

While there are valid secular reasons to oppose PJ30’s parental deception and concealment requirement, as a practical matter, PJ30’s burden falls overwhelmingly on religious employees. *See Lukumi*, 508 U.S. at 536 (concluding law is not neutral when its “burden . . . in practical terms, falls on” religious objectors). Religious employees are far more likely than secular employees to be harmed by a requirement that they keep children’s social transitions secret from their parents.

The Ninth Circuit’s recent decision in *Bates v. Pakseresht* is instructive. 146 F.4th 772, 794–95 (9th Cir. 2025). There, Oregon denied an adoption application from a mother who could not, consistent with her faith, use biologically incorrect pronouns. *Id.* at 779–81. Although the court accepted that Oregon may have acted “in the best interests of children, and not out of hostility or animus toward religion,” it noted that a “facially neutral law need not exclusively burden religious persons to be regarded as non-neutral in operation.” *Id.* at 794–95. The court explained that policies conditioning government benefits on “assent to specific conceptions of sexuality and gender identity” implicate “uniquely religious matters” that stand “most obviously in opposition to more traditional understandings of sexuality and gender.” *Id.* at 794. For this reason, the court held that the policy was not neutral toward religion. *Id.* at 794–95.

PJ30’s parental deception and concealment requirement is similar. While Ms. Martinez does not challenge PJ30’s preferred name and pronoun requirement at this time, *see supra* note 5, that requirement nevertheless informs PJ30’s parental deception and concealment requirement. PJ30’s preferred name and pronoun requirement obligates APS employees to affirm children’s preferred names and pronouns to ensure the child is given the appropriate “respect.” Compl.

Exhibit E at 7; Compl. Exhibit F at 2; *see also* Compl. Exhibit H at 9 (“When we use someone’s pronouns, we’re saying, I see you the way you see yourself. Whatever it is you tell me about yourself, I believe it and accept it.”). And PJ30’s parental deception and concealment requirement ensures parents do not know about—and thus do not interfere with—their children’s efforts to undergo a social transition. Where, as here, a “policy as a whole stands most obviously in opposition to more traditional understandings of sexuality and gender . . . often held by persons with religious viewpoints,” the only reasonable conclusion is that the policy is inherently oppressive to those viewpoints. *Bates*, 146 F.4th at 794. PJ30’s parental deception and concealment requirement is thus not neutral.

3. PJ30 fails strict scrutiny.

PJ30’s parental deception and concealment requirement violates strict scrutiny in the free exercise context for the same reasons as discussed in the speech context. *See supra* at 14–15.

4. PJ30 lacks a rational basis.

Even if strict scrutiny did not apply, PJ30’s parental deception and concealment requirement would fail because it lacks a rational basis. Under rational basis review, a government policy must “bear a rational relationship to a legitimate government interest.” *Dias v. City & Cnty. of Denver*, 567 F.3d 1169, 1182 (10th Cir. 2009). As discussed, it is irrational for APS to preclude social workers from discussing information with parents that APS should already have disclosed. *See supra* at 14. Moreover, children do not have a privacy right to keep their social transition secret from their parents. *See supra* at 14. And while the prevention of child abuse is a legitimate interest in the abstract, PJ30 is irrationally overbroad because it is predicated on the assumption that all parents are child abusers. *See supra* at 15. PJ30’s parental deception and concealment requirement thus fails rational basis review. *See Mirabelli*, 691 F. Supp. 3d at 1217 (“The reasons proffered by

the defendants [for precluding parental notice do not] pass . . . the rational basis test[.]”); *Ricard*, 2022 WL 1471372, at *8 n.12 (concluding that similar policy was unlikely to “satisfy . . . rational basis” review).

II. MS. MARTINEZ IS SUFFERING IRREPARABLE INJURY

“[A]ny potential loss of First Amendment freedoms—however small— . . . establishes irreparable injury.” *Pryor v. Sch. Dist. No. 1*, 99 F.4th 1243, 1254 (10th Cir. 2024) (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Because Ms. Martinez has shown that she is substantially likely to prevail on the merits, she has also established irreparable injury. *See Utah Licensed Beverage Ass’n v. Leavitt*, 256 F.3d 1061, 1076 (10th Cir. 2001).

III. MS. MARTINEZ’S HARM FAR OUTWEIGHS ANY HARM TO APS

Similarly, because Ms. Martinez is likely to succeed on the merits, APS will not be harmed by a preliminary injunction. *See Pryor*, 99 F.4th at 1254. APS has no interest in enforcing “what appears to be an unconstitutional [policy].” *ACLU v. Johnson*, 194 F.3d 1149, 1163 (10th Cir. 1999).

IV. THE PUBLIC INTEREST WILL BE SERVED BY ENJOINING PJ30

“It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Pryor*, 99 F.4th at 1254 (citation omitted); *see also Leavitt*, 256 F.3d at 1076.

Moreover, parents and children will benefit from a preliminary injunction prohibiting APS from enforcing PJ30’s unconstitutional parental deception and concealment requirement against Ms. Martinez. Parents’ constitutional rights will be honored, and the injunction will “promote[] child safety by guaranteeing fit parents a role in [one] of the most consequential decisions in their children’s lives.” *Mirabelli*, 607 U.S. at 497–98. Indeed, as discussed, *Mirabelli* already requires APS to notify parents before facilitating their child’s social transition. *See supra* at 8–9. Ms. Martinez’s proposed preliminary injunction seeks nothing more than to apply that preexisting rule

to her speech and religious exercise.

V. THE COURT SHOULD NOT REQUIRE A BOND

Courts “have ‘wide discretion under Rule 65(c) in determining whether to require security.’” *RoDa Drilling Co. v. Siegal*, 552 F.3d 1203, 1215 (10th Cir. 2009) (quoting *Winnebago Tribe of Neb. v. Stovall*, 341 F.3d 1202, 1206 (10th Cir. 2003)). “A bond is not required to obtain preliminary injunctive relief when a plaintiff is seeking to prevent a government entity from violating the First Amendment.” *Voter Reference Found., LLC v. Balderas*, 616 F. Supp. 3d 1132, 1274 (D.N.M. 2022) (citation omitted).

This Court should not require Ms. Martinez to pay a fee to exercise her First Amendment rights to speech and religion. And her proposed injunction would not harm APS in any way. The Court should thus not require a bond.

CONCLUSION

The Court should grant Ms. Martinez a preliminary injunction enjoining APS from enforcing PJ30’s parental deception and concealment requirement against her.

Respectfully submitted,

Dated: September 25, 2026

/s/ Joshua W. Dixon

JOSHUA W. DIXON

NMDC Bar ID: 26-565

COURTNEY CORBELLO

NMDC Bar ID: 26-316

CENTER FOR AMERICAN LIBERTY

2145 14th Avenue, Ste 8

Vero Beach, FL 32960

(703) 687-6200

jdixon@libertycenter.org

ccorbello@libertycenter.org

Attorneys for Jeanette Martinez

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JEANETTE MARTINEZ,
Plaintiff,

v.

ALBUQUERQUE PUBLIC SCHOOLS, by and
through the ALBUQUERQUE PUBLIC SCHOOLS
BOARD OF EDUCATION,
Defendant.

Case No. 1:26-cv-03098-JFR-LF

**PLAINTIFF JEANETTE MARTINEZ’S DECLARATION
IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

I, Jeanette Martinez, declare as follows:

1. I am the Plaintiff in this action. I am over the age of eighteen, I have personal knowledge of the facts stated in this declaration and, if called as a witness, I could and would testify competently to them.

2. I submit this declaration in support of my Motion for Preliminary Injunction. I make this declaration to explain my background and current position with Albuquerque Public Schools (“APS”), Procedural Directive PJ30 (“PJ30”), APS’s training on PJ30, how PJ30 conflicts with my religious and professional beliefs, my request for a religious accommodation, and the way APS’s policies and decision on my request affect my speech, religious beliefs, and ability to perform my job.

Background and Current Position

3. I am employed by APS as a school social worker. I am a licensed clinical social worker and have been licensed as a social worker since 2015. For over 10 years, I have provided social-work services to APS students, including students with special-education Individualized

Education Programs (“IEPs”) and students involved in sensitive safety-related matters.

4. From approximately August 2025 to August 2026, I served on APS’s Integrated Support Team and participated in APS’s district-wide Student Threat Assessment Process. In that role, I worked with students, staff, administrators, and others to assess risk, de-escalate situations, and help protect individual students and the broader school community. That work required professional judgment, accurate communication, documentation, and trust in sensitive and often high-stakes situations.

5. In August 2026, APS reassigned me to serve as a school social worker at Atrisco Heritage Academy High School. In my current role, I provide school social-work services to special-education students, including students with IEPs. My duties include participating in multidisciplinary special-education meetings, ensuring parent participation in educational placement, maintaining communication with parents regarding students’ academic, social-emotional, and behavioral progress, providing school social-work assessments and counseling or interventions, and serving as a home-school-community liaison. *See* Compl. Exhibit L (Dkt. 1-13).

6. My job requires me to communicate truthfully with students, parents, staff, administrators, and other professionals. It also requires me to create and maintain professional documentation.

7. APS also expects school social workers, including me, to comply with APS administrative directives, procedural directives, and board policies.

Procedural Directive PJ30

8. PJ30 applies to all APS employees. *See* Compl. Exhibit E (Dkt. 1-6).

9. PJ30 prohibits discrimination against “transgender and gender non-conforming student[s].” PJ30 defines a student’s “gender identity” as an “internal sense of gender” that may

differ from the student's biological sex.

10. Under PJ30, students may use restrooms, locker rooms, and other school programs consistent with their asserted gender identity.

11. PJ30 also imposes a comprehensive, mandatory framework governing how those in the school environment—administrators, staff, and other students—must speak about students' asserted gender identity.

12. At the student's request, PJ30 requires the use at school of a student's preferred name and pronouns that reflect his or her asserted gender identity, including in internal records, documents, and interactions.

13. In other words, at the student's request, PJ30 requires employees to facilitate a student's social transition.

14. While PJ30 requires employees to use a student's new name and pronouns in conversations with the student and school personnel, it generally requires employees to use the student's legal name and birth-sex pronouns in conversations with the student's parents. In practice, that requirement deceives parents about the fact that APS is facilitating their child's social transition at school.

15. PJ30 also generally prohibits employees from otherwise telling parents that APS is facilitating their child's social transition at school. *See* Compl. Exhibit F (Dkt. 1-7).

16. I also understand PJ30 to prohibit employees from truthfully answering a parent who directly asks whether APS is calling the parent's child by a different name or pronouns at school, unless the child has authorized disclosure or APS determines disclosure is legally required. While APS does not require staff to "lie to parents" directly, PJ30 nevertheless precludes staff from telling parents the truth, and it contains no exception for the situation in which parents ask staff a

direct question.

APS's Training on PJ30

17. On April 21, 2026, APS required me to attend a “Pronouns & Gender Neutral Language” training presented by the Transgender Resource Center of New Mexico. *See* Compl. Exhibits G–J (Dkts. 1-8 to 1-11).

18. During that training, APS instructed employees that a person’s asserted gender identity controls the language employees must use to refer to that person. APS also instructed employees that preferred names and pronouns should be used consistently, including outside the presence of the person being discussed.

19. The training also instructed employees not to disclose a student’s social transition to parents absent the student’s consent. The training warned that if staff did not know whether parents were “cool with” the student’s social transition, staff should not use the student’s new name or pronouns in front of the parents. The training also stated that some students are “fearful of their parents for really good reason” and that if a parent learned this information, “it could be very threatening” to the student. *See* Compl. Exhibit H (Dkt. 1-9). In other words, because disclosure to some parents may create safety concerns, PJ30 requires parental deception and concealment in all cases, unless the student authorizes disclosure or APS determines disclosure is legally required.

20. APS has never told me that PJ30 is required by any statute, regulation, licensing rule, professional standard, or court order.

PJ30's Effect on my Speech and Religious Exercise

21. I am a practicing Christian. My religious beliefs are sincere and central to how I live my life. I believe God created human beings male and female, that biological sex does not

change, and that I cannot use my own words to affirm that a person belongs to a gender different from his or her biological sex.

22. My faith also prohibits me from lying, including engaging in deceptive speech or concealing material information from parents about their children.

23. I do not seek to use my position to promote my religious beliefs to students, parents, staff, or anyone else. I want to do my job while speaking truthfully, avoiding speech I believe is false, deceptive, or misleading, and treating every student, parent, and colleague with dignity and compassion.

24. In my professional judgment, I believe that parents generally must be involved in significant decisions in their children's lives, including whether their children undergo a social transition at school. That decision has significant implications for the child's mental health, IEP, evaluation, placement, related services, behavioral supports, social-emotional progress, and future life course.

25. My role as a school social worker is complementary to, not a substitute for, the role of parents. In my professional judgment, parents are entitled, at a minimum, to notice before a school facilitates the social transition of their child unless the state has temporarily or permanently removed the child from the parents' custody.

26. Atrisco Heritage Academy High School has students who identify as gender non-conforming and who are undergoing a social transition at school. My school social-work duties require me to provide services, create documentation, participate in special-education processes, and communicate with students' parents in ways governed by PJ30.

27. Complying with PJ30's parental deception and concealment requirement would require me to participate in communications that are deceptive, false, and misleading, and that

conceal important information from parents, all in violation of my professional judgment and religious beliefs.

My Accommodation Request

28. On April 29, 2026, I submitted a written request for a religious accommodation from PJ30 to Shantail Miller, Teise Reiser, and Todd Torgerson. *See* Compl. Exhibit M (Dkt. 1-14).

29. I asked APS to excuse me from using a student's or staff member's preferred name, pronouns, or other gendered language inconsistent with that person's biological sex. I also asked APS to allow me to use pronouns corresponding to a student's or staff member's biological sex where my beliefs required truthful speech.

30. I further asked APS to excuse me from concealing, hiding, or withholding from parents, guardians, or education decision-makers material information concerning the name, pronouns, or gender identity being used for their child at school where disclosure is lawful.

31. In my request, I explained that PJ30's requirements conflicted with my religious and moral beliefs. I also made clear that I remained committed to treating every student and staff member with dignity and that I was willing to discuss other reasonable accommodations.

32. On May 8, 2026, I met with Ms. Miller, Ms. O'Connell, and other APS personnel to discuss my accommodation request. During that meeting, I explained the same religious conflicts I had described in my written request. Ms. O'Connell told me APS would provide a response within the next few days.

33. On May 15, 2026, Heather Cowan sent me an email responding to my accommodation request. *See* Compl. Exhibit N (Dkt. 1-15). APS told me I was not required to use preferred pronouns and that I could use alternatives such as a last name, title, agreed-upon

nickname, initials, or another moniker such as “colleague,” “student,” or “friend.” But APS also told me I could not use any name or pronoun a person had asked not to be used.

34. APS did not directly answer my request concerning parental disclosure. Instead, APS stated that “employees of APS will not lie to parents,” while referring me to my confidentiality obligations as a social worker and my duty to inform of potential harm or risk. APS’s May 15 response did not resolve my religious conflict.

35. On May 28, 2026, I wrote back to APS seeking clarification. *See* Compl. Exhibit O (Dkt. 1-16). I asked whether the restriction on my speech applied only when the student or staff member was present, or whether it also applied to internal documentation, case notes, threat-assessment materials, and other professional communications where the person was not present.

36. I also asked whether I retained professional discretion in counseling contexts, including discretion to engage in clinically appropriate discussion with a student regarding the student’s expressed feelings about gender identity.

37. Finally, I asked whether APS was barring me from disclosing a student’s asserted gender identity or preferred name and pronouns to parents without the student’s consent and, if so, what specific authority supported that position.

38. APS did not respond to my May 28 letter for more than two months. On August 3, 2026, Ms. O’Connell responded and again told me I was not required to use preferred pronouns. *See* Compl. Exhibit P (Dkt. 1-17).

39. But APS also told me that I was not to use names or pronouns for an individual that the individual had requested not be used. APS confirmed that this restriction applies whenever I am speaking to or referring to a person, whether the person is present or not.

40. APS stated that inadvertent slips or mistakes are not themselves grounds for

discipline. But APS also stated that any individual in the APS community can initiate a complaint to APS's Equal Opportunity Services, and that APS could not guarantee that slips or mistakes concerning names and pronouns would not lead to complaints or investigations.

41. APS still did not directly answer whether it was requiring me to withhold information from parents about a child's asserted gender identity, preferred name, or preferred pronouns absent student consent. Instead, APS referred me to my licensure, my supervisor, and APS's social-work department for standards regarding confidentiality. APS did not identify any statute, regulation, licensing rule, professional standard, or ethical obligation that categorically requires me to keep parents uninformed about their child's use of a different name or pronouns at school.

42. On August 11, 2026, I responded to APS and summarized my understanding of APS's position. *See* Compl. Exhibit Q (Dkt. 1-18).

43. I understood APS's position to be that I was not required to use a person's preferred name or pronouns, but that APS was not granting my request to use biologically accurate pronouns, legal names, or sex-based terminology that the person had requested not be used in any circumstance, whether in or outside the person's presence.

44. I further understood APS's position to be that it was not granting me an accommodation exempting me from withholding a student's asserted gender identity, preferred name, or preferred pronouns from parents absent the student's consent.

45. I asked APS to correct anything inaccurate in my understanding. I also expressly stated that I was not conceding that APS's accommodation resolved the conflict with my religious beliefs, and I told APS I remained willing to continue the interactive process.

46. On August 17, 2026, Ms. O'Connell responded to my August 11 email. *See* Compl.

Exhibit R (Dkt. 1-19). APS confirmed my understanding regarding the use of preferred names and pronouns and the prohibition on using biologically accurate language when a person has requested otherwise.

47. As to parental disclosure, APS did not provide a substantive answer to my concerns. APS instead referred me back to its prior correspondence and stated that the accommodation provided me a way to perform my responsibilities without using preferred names or pronouns contrary to my sincerely held beliefs. In short, therefore, APS denied my request for an accommodation to be exempted from PJ30's parental deception and concealment requirement.

48. APS copied Human Resources personnel and supervisory personnel on communications about my accommodation. Those personnel include individuals responsible for implementing or enforcing my accommodation in the workplace.

49. As a result, my supervisors and Human Resources are aware of the limits APS has placed on my speech, and I understand that APS expects me to follow those limits in my work.

50. APS reassigned me to Atrisco Heritage Academy High School on August 27, 2026.

51. On September 1, 2026, I asked APS to confirm whether its position on my religious accommodation remained the same in my new role.

52. On September 3, 2026, APS confirmed that the accommodation remained unchanged. APS is therefore continuing to require me to comply with PJ30's parental deception and concealment requirement in my current position.

Ongoing Burden and Need for Relief

53. APS's accommodation does not resolve the conflict between PJ30 and my religious exercise. Although I am not currently seeking preliminary injunctive relief concerning PJ30's preferred name and pronoun requirement, I am seeking preliminary injunctive relief regarding

PJ30's parental deception and concealment requirement.

54. By my motion, I am not asking for the Court's authorization to tell parents about their child's social transition in every case. I do not seek to tell parents about their child's social transition when the state has temporarily or permanently removed the child from the parents' custody.

55. I am also not asking for the Court's authorization to tell parents information that students have told me confidentially in a clinical setting. My motion pertains only to the situation in which APS is facilitating children's social transition under PJ30, which is open and obvious to everyone in the school environment.

56. I am simply asking to be able to perform my job without being forced by PJ30's parental deception and concealment requirement to deceive parents or to withhold, obscure, or misstate material information from parents without such an individualized determination by a court. I want to be able to perform my job without being forced to speak deceptive words and to conceal material information from parents, both of which violate my religious beliefs.

57. I can perform the essential functions of my job while refraining from deceiving parents or concealing their child's social transition from them.

58. APS already requires parental notice (and consent) in a host of situations, including organized sports, the administration of medication, student directories, and the use of APS's computer network. *See, e.g., Albuquerque Public Schools Athletic Participation Consent Form*, attached hereto as Exhibit 1;¹ *Albuquerque Public Schools Provider Order and Medication*

¹ This document is also available online at <https://www.aps.edu/athletics/documents/athletic-participation-consent-form>.

Authorization Form, attached hereto as Exhibit 2;² *Albuquerque Public Schools: FERPA Notice*, attached hereto as Exhibit 3;³ *Albuquerque Public Schools: PJ40 Student Acceptable Use of Technology*, attached hereto as Exhibit 4.⁴ Accordingly, there are no practical impediments to APS providing parental notice when a student seeks to undergo a social transition at school.

59. I am a mandated reporter of child abuse and neglect under New Mexico law. If I have information that a child faces a reportable risk of parental abuse or neglect, I will report that information consistent with my legal obligations. Nothing I seek in this case would prevent me from complying with those obligations.

60. Without relief from this Court, I face an ongoing choice. If I comply with PJ30's parental deception and concealment requirement, I must participate in communications with parents that I believe are wrong. If I speak according to my religious beliefs, I risk a complaint, investigation, discipline, and termination. That choice places an ongoing burden on my conscience and interferes with my ability to perform my job according to my professional judgment.

² This document is also available online at <https://www.aps.edu/about-us/administration/operations/nursing-services/nursing-forms/medication-forms/provider-order-for-medication>.

³ This document is also available online at <https://www.aps.edu/schools/student-handbook/ferpa-notice>.

⁴ This document is also available online at <https://www.aps.edu/about-us/policies-and-procedures/procedural-directives/j.-students/student-acceptable-use-of-personal-electronic-devices>.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on September 25, 2026, in Albuquerque, New Mexico.


Jeanette Martinez