No. 24-11239-D

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

KATIE WOOD, *Plaintiff-Appellee*,
AV SCHWANDES, *et al.*, *Plaintiffs*,

v.

FLORIDA DEPARTMENT OF EDUCATION, FLORIDA STATE BOARD OF EDUCATION, COMMISSIONER OF EDUCATION, EDUCATION PRACTICES COMMISSION, MONESIA BROWN, *in their official capacity as member of Defendant Education Practices Commission*, *et al.*, *Defendant-Appellants*,

HILLSBOROUGH COUNTY SCHOOL BOARD, *et al.*, *Defendants*.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 4:23-cv-00526-MW-MAF

BRIEF OF AMICI CURIAE PUBLIC JUSTICE, LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC., HUMAN RIGHTS CAMPAIGN FOUNDATION, AND CENTER FOR CONSTITUTIONAL RIGHTS IN SUPPORT OF APPELLEE AND AFFIRMANCE

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CERTIFICATE OF INTERSTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Eleventh Circuit Rule 26.1-1-2, and Federal Rules of Appellate Procedure 29(a)(4)(A), the undersigned *Amici Curiae* ("*Amici*") certify that to the best of their knowledge, the Certificate of Interested Persons set forth in Appellee's Brief is complete, subject to the following amendments:

1. Brodsky, Alexandra, Attorney for *Amici Curiae*
2. Center for Constitutional Rights, *Amici Curiae*
3. Human Rights Campaign Foundation, *Amici Curiae*
4. Lambda Legal Defense and Education Fund, Inc., *Amici Curiae*
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Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1 through 26.1-3, each *amici curiae* certifies that it has no parent corporation and that no publicly held corporation owns 10% or more of the stock.

Amici curiae further certify that they are not aware of any publicly traded company or corporation that has an interest in the outcome of this case or appeal.

Dated: July 31, 2024

/s/ Sean Ouellette
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INTERESTS OF AMICI CURIAE[1]

Lambda Legal Defense and Education Fund, Inc. ("Lambda Legal") is the nation's oldest and largest legal organization committed to achieving full recognition of the civil rights of lesbian, gay, bisexual, and transgender people (LGBT) and everyone living with HIV through impact litigation, education, and policy advocacy. As both party counsel and *amicus curiae*, Lambda Legal has litigated the constitutionality of civil rights protections barring discrimination against LGBT people, including defenses based on government speech, which constitute the focus of this brief. Lambda Legal also regularly receives reports from community members in Florida and across the country of discrimination based on their gender identity or sexual orientation in schools and other contexts. The outcome of this appeal implicates the constitutionality of civil rights protections relied upon by the communities that Lambda Legal serves.

Public Justice is a national public interest advocacy organization that has, for decades, litigated and advocated on behalf of individuals who experience discrimination. Its Students' Civil Rights Project is

[1] Amici Curiae's counsel authored this brief. No party's counsel authored this brief in whole or in part, and no party beyond *amicus* contributed any money toward the brief. *See* Fed. R. App. P. 29(a)(4)(E).

dedicated to protecting students' rights to learn and thrive in school in equal and inclusive environments, free from discrimination based on race or sex. From its significant experience, Public Justice recognizes that laws that discriminate against transgender teachers and limit their right to express their gender identities harm both teachers and students.

Human Rights Campaign Foundation ("HRC Foundation") is the educational arm of the Human Rights Campaign, America's largest civil rights organization working to achieve equality without exception. Through its programs and publications, the HRC Foundation works towards an America where LGBTQ+ people are ensured of their basic equal rights, and can be open, honest, and safe at home, at work, and in the community. Among those basic rights is freedom from discrimination and access to equal opportunity.

Center for Constitutional Rights ("CCR") is a national not-for-profit legal, educational, and advocacy organization dedicated to protecting and advancing rights guaranteed by the United States Constitution and international law. Founded in 1966 to represent civil rights activists in the South, CCR has litigated numerous landmark civil and human rights cases on behalf of individuals impacted by arbitrary and

discriminatory policies, including policies that disproportionately impact LGBTQIA+ communities of color and policies that violate the First Amendment's protection of speech. A recent example of the Center for Constitutional Rights' LGBTQIA+ legal advocacy includes its litigation of *Women in Struggle v. Bain*, No. 6:23-cv-01887 (M.D. Fla. 2023), which challenged Florida's "Bathroom Ban" as an impermissible suppression of one's gender expression in violation of the First Amendment, similar to the legal and factual issues in this appeal.

INTRODUCTION

Florida Statute § 1000.071(3) ("Subsection 3") bans transgender teachers from using the pronouns and titles that best express who they are because the State believes that trans people's identities are "false." Appellant's Br. at 2, 7, 9, 45, 48, 52. In doing so, the law violates the First Amendment and harms both students and teachers.

As the parties agree, the First Amendment protects teachers' right to speak (1) for themselves as citizens (rather than for State); (2) on matters of public concern; (3) when the state's interest in suppressing the speech does not outweigh the First Amendment interests surrounding it. *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 517–18, 528 (2022) (citing *Garcetti v. Ceballos*, 547 U.S. 410 (2006) and *Pickering v. Bd. of Educ. of Twp. High Sch. Dist. 205*, 391 U.S. 563, 568 (1968)). That three-part test plainly protects the speech in which Ms. Wood seeks to engage.

The pronouns and titles Ms. Wood uses to express her identity in every aspect of her life do not "'owe [their] existence' to [her] responsibilities" as a teacher, and her high school students would not understand them as a "government-created message." *Kennedy*, 597 U.S. at 529-30. Everyone uses pronouns, whether at home or at school, whether they are

teachers or students, and whether they are cisgender or transgender. And "secondary school students are mature enough . . . to understand that a school does not endorse . . . speech that it merely permits on a nondiscriminatory basis." *Id.* at 538-39 (citation omitted). In identifying *herself*, a teacher plainly does not speak for the state.

This brief elaborates on why Ms. Wood's speech satisfies the last two elements of the *Garcetti-Pickering* test. ***First***, the law regulates speech on a matter of public concern. Although a person's use of pronouns to refer to themselves is not generally a matter of public concern, Florida passed legislation that targeted transgender teachers to suppress their identities, banned them from using their own pronouns and titles through a blanket prohibition, and transformed such self-expression into a "politically controversial viewpoint." *Mahanoy Area Sch. Dist. v. B. L. ex rel. Levy*, 594 U.S. 180, 205 (2021) (Alito, J., concurring) (quoting *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 347 (1995)). The law censors Ms. Wood's use of feminine pronouns and titles *because* they send a message (that Ms. Woods is a woman) that controverts Florida's official view and "undermines" its efforts to program future voters to believe that trans women do not exist. Appellant's Br. at 2, 52. In doing so, Florida's

blanket ban chills all trans teachers' speech and implicates the core reason the First Amendment protects employee speech related to public concerns: to prevent the suppression of speech that challenges existing state policies and could lead to calls for change.

Second, no State interest justifies Florida's decision to single out trans teachers and force them to repudiate their realities. Rather than benefit the school community, the law actively harms it: it disrupts classrooms and promotes hostile environments for both teachers and students.

ARGUMENT

I. Transgender Teachers' Use of Their Pronouns and Titles Expresses a Viewpoint on a Matter of Public Concern.

"Speech involves matters of public concern 'when it can be fairly considered as relating to any matter of political, social, or other concern to the community.'" *Lane v. Franks*, 573 U.S. 228, 241 (2014) (citation omitted). Speech most plainly implicates such matters when it expresses "a politically controversial viewpoint." *Mahanoy*, 594 U.S. at 205 (Alito, J., concurring) (quoting *McIntyre*, 514 U.S. at 347). When a state law singles out and censors views that challenge the State's public policies so that only those who conform may be heard, it strikes "at the heart of the First Amendment's protection." *Id.* (citing *Lane*, 573 U.S. at 235).

That is exactly what Florida's law does here. A person's gender identity should not be a matter of public concern; in using their pronouns and titles, teachers simply seek to express who they are. But in response to a "passionate political and social debate" about gender identity, Appellant's Br. at 40, Florida has made it a State "policy" that trans women are not real women, and "that it is false to ascribe to a person a pronoun that does not correspond" to the "sex" the state assigned them at birth. Appellant's Br. at 2 (quoting Fla. Stat. §1000.071(1)). The law prohibits Ms. Wood from using her pronouns and titles *because* they "express views that contravene [those State] policies." *Id.* at 47. In conveying the very idea that so concerned Florida's public officials—that she, like other transgender women, is a woman—Ms. Wood's pronouns thus "convey a powerful message implicating a sensitive topic of public concern." *Meriwether v. Hartop*, 992 F.3d 492, 508-09 (6th Cir. 2021).

Subsection 3 is especially offensive to the First Amendment because it requires Ms. Wood to flatly contradict her own personal identity. "Forcing free and independent individuals to endorse ideas that they find objectionable is always demeaning." *Janus v. Am. Fed'n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878, 893, 914 (2018). When the state

"forces an individual, as part of [her] daily life … in public view[,] to be an instrument for fostering public adherence to an ideological point of view [she] finds unacceptable," it "'invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control.'" *Wooley v. Maynard*, 430 U.S. 705, 715 (1977) (quoting *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943)). But Florida's law goes further. By forcing all transgender school employees to distort their own identities, it raises a concern that is especially "central" to both the First and Fourteenth Amendments. *See Roberts v. U.S. Jaycees*, 468 U.S. 609, 619 (1984) ("[T]he ability independently to define one's identity . . . is central to any concept of liberty."); *see Procunier v. Martinez*, 416 U.S. 396, 427 (1974) (Marshall, J., concurring) (explaining that the First Amendment protects self-expression as "an integral part of . . . a sense of identity"); *see also Obergefell v. Hodges*, 576 U.S. 644, 651–52 (2015) (explaining that the Constitution protects an individual's right "to define and express their identity").

Accordingly, "numerous courts have found that otherwise 'personal' statements of ethnic, racial or religious identity or expressions of sexual orientation constitute speech touching on matters of public concern,"

especially when the speaker expresses those identities "in the face of controversy and suppression." *Maldonado v. City of Altus*, 433 F.3d 1294, 1323 (10th Cir. 2006) (Seymour, J., concurring in part and dissenting in part).[2] Expressions of gender identity are no different. *See*, *e.g.*, *Monegain v. Dep't of Motor Vehicles*, 491 F.Supp.3d 117, 135 (E.D. Va. 2020) (holding that transgender employee's self-expression as a woman in the face of anti-transgender harassment was a "thoughtful ultimate expression of her gender identity to society" and implicated an issue of public concern). A contrary rule would be incompatible with *Kennedy*, where the Free Speech Clause protected a school employee's prayers—a "private, personal" expression of his religion—because everyone agreed it involved "a matter of public concern." 597 U.S. at 517–18, 528.

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[2] *See Tucker v. State of California Dep't of Educ.*, 97 F.3d 1204, 1210 (9th Cir. 1996) (holding that state employee's "religious expression"—the use of a moniker that identified him as a Christian—was "obviously of public concern"); *Nichol v. ARIN Intermediate Unit 28*, 268 F. Supp. 2d 536, 557, 559-60 (W.D. Pa. 2003) (holding that "there is little doubt that . . . the visible wearing of a cross or star of David is symbolic or expressive speech by the wearer which conveys her personal religious beliefs or affiliations," and rule that regulates an employee's "expression of her personal religious convictions and viewpoint" regulates a matter of "public concern"); *Weaver v. Nebo Sch. Dist.,* 29 F.Supp.2d 1279, 1284 (D. Utah 1998) (holding in line with "[s]everal legal authorities" that coming-out speech with respect to sexual orientation "is inherently a matter of public concern" in the context of an "ongoing public debate" regarding LGBTQ rights).

Ms. Wood's "personal interest" in identifying herself correctly does not leave her dissenting message unprotected, any more than Kennedy's personal interest in his religious expression allowed the state to regulate it. Florida passed a law prohibiting transgender teachers from introducing themselves to students in a manner consistent with their core identity, and Ms. Wood, a transgender teacher, stepped forward to challenge the law. Florida calls that a disqualifying personal interest, but to those familiar with constitutional law, it is a prerequisite for standing.

Ms. Wood's motive for speaking—simply to express who she is—does not license Florida to suppress her speech along with that of all other transgender teachers in the State. Generally, "a speaker's motivation is entirely irrelevant to the question of constitutional protection." *Fed. Election Comm'n v. Wisconsin Right To Life, Inc.*, 551 U.S. 449, 468 (2007) (Roberts, C.J.). Although this Court has made a limited exception and looked to motive when a supervisor punishes a single employee for a grievance about work, *see* Response Br. at 38, even in those cases, it has made clear that "content," not purpose, "is the most important factor in assessing whether particular speech touches on a matter of public concern": the state may not suppress a politically controversial opinion

simply because it serves a "personal interest." *O'Laughlin v. Palm Beach Cnty.*, 30 F.4th 1045, 1052-53 (11th Cir. 2022) (citation omitted); *see Mitchell v. Hillsborough Cnty.*, 468 F.3d 1276, 1285 (11th Cir. 2006) (holding that when a public employee's speech "contain[s] . . . matters of public interest," its "personal nature" does not remove its protection). And when the State enacts a "blanket" speech ban with "'widespread impact'" that "chills" the speech of a "broad categor[y] of employees," that "'gives rise to far more serious concerns than could any single supervisory decision.'" *Janus*, 585 U.S. at 907 (quoting *United States v. Nat'l Treasury Emps. Union*, 513 U.S. 454, 468 (1995)). An individual speaker's motives do not diminish the concerns that such a blanket ban raises.

This makes sense because the First Amendment's special protection for speech on public issues seeks to do more than honor an individual speaker's wishes. ***First***, it ensures that the government does not use its power to "'prescribe what shall be orthodox in politics, nationalism, religion'" or other matters of political or social significance. *Janus*, 585 U.S. at 892 (quoting *W. Virginia Bd. of Educ.*, 319 U.S. at 642); *see also Keyishian v. Bd. of Regents of Univ. of State of New York*, 385 U.S. 589, 603 (1967) ("[T]he First Amendment . . . does not tolerate laws that cast a pall

of orthodoxy over the classroom."). Indeed, "[i]f there is any fixed star in our constitutional constellation," it is that the State may not use its coercive power to dictate "political truth." *303 Creative LLC v. Elenis*, 600 U.S. 570, 584–85 (2023) (citations omitted). As a prior restraint that bars all transgender teachers from using their titles and pronouns in service of the state's edict that transgender people's identities are "false," Response Br. 41-44, Florida's law does just that.

Second, the First Amendment shields speech relating to public issues to preserve the "public's interest in receiving [state employees'] informed opinion," *Lane*, 573 U.S. at 236, which facilitates the robust "interchange of ideas for the bringing about of political and social changes desired by the People." *Connick v. Myers,* 461 U.S. 138, 145 (1983); *accord Mahanoy*, 594 U.S. at 190 (The "free exchange of ideas facilitates an informed public opinion" that translates to "laws that reflect the People's will."). That interest in free exchange is "nowhere more vital" than in "the classroom," which "is peculiarly the 'marketplace of ideas.'" *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 512 (1969). To safeguard a teacher's right to speak is to protect students' "right to receive information and ideas" so that *they* can contribute to public debate in a

"meaningful manner." *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 867 (1982) (plurality).

Forcing teachers to hide their gender, ethnic, or religious identities can only frustrate that goal. It deprives students of interactions that could shape how they think about the "sensitive political topics" bound up with them—including society's treatment of minority groups. *Janus*, 585 U.S. at 913–14. Indeed, Florida admits that it passed the Act because it believed a transgender teacher's use of pronouns and titles might prompt students to question the government's declared views. Appellant's Br. 47-48. In promoting the State's views by suppressing those in dissent, the law undermines a core purpose of the First Amendment in American schools: to educate future "leaders . . . through wide exposure to that robust exchange of ideas which discovers truth 'out of a multitude of tongues, (rather) than through any kind of authoritative selection.'" *Tinker*, 393 U.S. at 512 (citation omitted). It discourages interactions that would break down stereotypes, foster understanding about gender identity, and inform students' opinions about equitable treatment. *See*, *e.g.*, Sara J. Smith, et al., *The Effects of Contact on Sexual Prejudice: A Meta-Analysis*, 61(3) Sex Roles 178-191 (2009) (explaining that "positive

contact with a member of a negatively stereotyped group can lead to more positive attitudes" toward the group by, among other things, "giving individuals new information that may challenge stereotypes" about its members). In doing so, Florida's law short-circuits the democratic processes that the First Amendment was designed to foster.

II. Florida's Law Actively Harms Students and Teachers.

The State Defendants argue that Florida's infringement on Ms. Wood's speech is justified in part because, they say, Subsection 3 benefits school communities. *See* Appellant's Br. Part I.C. Not so. Subsection 3 harms teachers and students not only by limiting free expression, but also by promoting hostile school environments.

A. Subsection 3 Harms Teachers.

As Ms. Wood's experience demonstrates, Subsection 3 harms transgender and nonbinary teachers. First—and centrally to the First Amendment claim on appeal in this case—it infringes on their free expression. Response Br. Part I.C.3. Subsection 3 both limits Ms. Wood's ability to express her identity at school and requires her to endorse Florida's views, "which she finds repugnant." *Id.* at 41.

Second, Subsection 3 promotes work environments hostile for transgender and nonbinary teachers. As this Court has recognized, when workers refer to a colleague using pronouns or terms that do not match the colleague's gender identity, they may create a hostile environment actionable under Title VII. *See Copeland v. Georgia Dep't of Corr.*, 97 F.4th 766, 774-80 (11th Cir. 2024). That hostile environment can "negatively interfere[ ] with [transgender workers'] job performance," *id.* at 780, and cause them depression and anxiety, *see* Kevin McLemore, *A Minority Stress Perspective on Transgender Individuals' Experiences with Misgendering*, 3(1) Stigma & Health 53–64 (2018) (reflecting data that "misgendering is associated with psychological distress," including depression and anxiety).[3]

[3] Conversely, studies have shown that affirming trans people's gender identities, including by using appropriate names, pronouns, and titles, improves their mental and physical health *See*, *e.g.*, Corina Lelutiu-Weinberger, et al., *The Roles of Gender Affirmation and Discrimination in the Resilience of Transgender Individuals in the US*, 46 (3-4) Behavioral Medicine, 175–188 (2020) ("Gender affirmation on a structural and interpersonal level was significantly associated with outcomes on the individual level: higher odds of past-year healthcare engagement and HIV-testing, and lower odds of past-year suicidal ideation and psychological distress."); Tiffany R. Glynn, et al., *The role of gender affirmation in psychological well-being among transgender women*, 3(3) Psychology of Sexual Orientation and Gender Diversity, 336–344 (2016) (explaining that

Yet Subsection 3 encourages—and, in some circumstances, *requires*—school communities to misgender teachers by prohibiting transgender and nonbinary teachers from sharing information about their "preferred personal title or pronouns." Fla. Stat. § 1000.071(3). Put simply, if teachers cannot communicate what pronouns or titles they use, their colleagues and students are less likely to get it right. And even if those colleagues and students otherwise discern what pronouns and honorifics a teacher prefers, they may nonetheless be less likely to use those, and more likely to misgender the teacher, because of the straightforward message of Subsection 3: that transgender and nonbinary people should not be addressed with language consistent with their gender identities.

Moreover, Subsection 3 is likely to force some teachers to "out" themselves as transgender, exposing them to more discrimination. Consider a transgender teacher who begins work at a school and uses she/her

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affirmation across social, psychological, and medical realms among transgender women is associated with lower depression and higher self-esteem); Jaclyn M. W. Hughto, et al., *Social and Medical Gender Affirmation Experiences Are Inversely Associated with Mental Health Problems in a U.S. Non-Probability Sample of Transgender Adults*, 49(7) Archives of Sexual Behavior, 2635–2647 (2020) ("[S]ocial and medical gender affirmation experiences may be protective against mental health problems in transgender adults.").

pronouns and the title "Ms. Doe" with students and colleagues. She identifies herself as a woman but does not reveal she is transgender—a reasonable decision, given that nearly half of transgender employees face workplace discrimination. *See* Brad Sears, et al., The Williams Institute, *LGBT People's Experiences of Workplace Discrimination and Harassment* 12 (2021). https://williamsinstitute.law.ucla.edu/wp-content/uploads/Workplace-Discrimination-Sep-2021.pdf. So everyone at school knows her only as a woman. Florida's law would require that teacher to suddenly switch to he/him pronouns and the title "Mr." to match the sex the State assigned to her—or to use a gender-neutral word (like "Teacher"), setting her apart from cisgender women colleagues who continue to use feminine pronouns. As a result, the law would expose her as a trans woman to her students and colleagues against her wishes, putting her at higher risk of harassment and other discrimination.

B. Subsection 3 Harms Students.

Teachers are not the only ones who suffer under Florida's law. Although Florida claims that Subsection 3 will help students, its rationale does not hold water, and it overlooks the significant harm the law poses to students—especially those who are transgender or nonbinary.

As Ms. Wood explains, Florida's purported student-protective justification for the law—that it reduces "disruption" and "confusion"—makes no sense. *See* Response Br. at 47-51. Legislative history demonstrates that students are not confused by "common pronouns." *Id.* at 47 (citing Fla. H.R. Comm. On Educ. & Emp., recording of proceedings, at 1:26:51-1:26:58 (Mar. 23, 2023, 8:00 AM)), https://bit.ly/4bXHa5F). Instead, because Ms. Wood's students previously called her "Ms. Wood," "she," and "her," they "are now confused" about what to call her "and use a variety of pronouns for her." *Id.* at 48 (citing R.11-1 ¶ 15). So "it is actually [S]ubsection 3 that is disrupting her classroom and causing confusion." *Id.*

Subsection 3 also contributes to a hostile environment for transgender and non-binary students. Just as a teacher may experience a hostile environment when referred to by the wrong pronoun or title, a transgender or nonbinary student may feel unwelcome at school when they hear a transgender or nonbinary teacher misgendered day in and day out. After all, as this Court has held, sex-based comments may create a hostile environment "even if the words are not directed specifically at the plaintiff." *See Reeves v. C.H. Robinson Worldwide, Inc.*, 594 F.3d 798, 811 (11th Cir. 2010) (en banc).

Plus, by encouraging school staff and students to misgender teachers, Subsection 3 will almost surely encourage them to misgender students as well: A young person who learns his state and school do not respect teachers' preferred pronouns is likely to learn he should not respect his classmates', either. And, by limiting the views to which students are exposed, Subsection 3 limits students' opportunities to "learn[] how to live in a pluralistic society" and "tolerate diverse expressive activities"—limiting their growth and their empathy for others unlike them. *Kennedy*, 597 U.S. at 541 (quoting *Lee v. Weisman*, 505 U.S. 577, 590 (1992)).

Hostile environments caused or exacerbated by subsection 3 will compound the mental health crisis transgender and nonbinary students already face. "[T]ransgender children who are supported in their gender identity have developmentally normative levels of depression . . . ." Katherine Olson, et al., *Mental Health of Transgender Children Who Are Supported in Their Identities*, 137(3) Pediatrics 1-8 (Mar. 2016). Yet when surveyed in 2022, 54% of transgender and nonbinary youth in Florida had seriously considered suicide in the past year, and a fifth had attempted suicide over that period. The Trevor Project, *2022 National Survey on LGBTQ Mental Health by State* 55 (2022),

https://www.thetrevorproject.org/wp-content/uploads/2022/12/The-Trevor-Project-2022-National-Survey-on-LGBTQ-Youth-Mental-Health-by-State.pdf. And transgender and nonbinary young people are significantly more likely to attempt suicide if they are surrounded by people who do not respect their pronouns. *See* The Trevor Project, *2024 U.S. National Survey on the Mental Health of LGBTQ+ Young People* 26 (2024), https://www.thetrevorproject.org/survey-2024/assets/static/TTP_2024_National_Survey.pdf (reflecting that transgender and nonbinary adolescents who reported that no one in their households respected their pronouns reported higher rates of attempting suicide). Data suggests, then, that Subsection 3 will cause grave harm to students' mental health and wellbeing, and that self-harm and suicidality among transgender and nonbinary students in Florida will increase as a result of the law.

* * *

Given that Subsection 3 will hurt, not help, school communities, the statute serves no legitimate interests, let alone one that could outweigh Ms. Wood's substantial interests in free expression.

CONCLUSION

The Court should affirm the preliminary injunction.

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**Pro Hac Vice* application pending

CERTIFICATE OF COMPLIANCE

In accordance with Federal Rule of Appellate Procedure 32(g)(1), I certify that this brief:

(i) complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) because it contains 4,042 words, including footnotes and excluding the parts of the brief exempted by Rule 32(f)); and

(ii) complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared using Microsoft Word for Office 365, Version 2405, set in Century Schoolbook 14-point type.

/s/ Sean Ouellette
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CERTIFICATE OF SERVICE

I certify that on July 31, 2024, this brief was filed using the Court's CM/ECF system. All participants in the case are registered CM/ECF users and will be served electronically via that system.

/s/ Sean Ouellette
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