

No. 24-297

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**In the Supreme Court of the United States**

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TAMER MAHMOUD, ET AL.,  
*Petitioners,*

v.

THOMAS W. TAYLOR, ET AL.,  
*Respondents.*

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*ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE FOURTH CIRCUIT*

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**BRIEF OF AMICUS CURIAE  
ETHICS AND PUBLIC POLICY CENTER  
IN SUPPORT OF PETITIONERS**

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

The Ethics and Public Policy Center (“EPPC”) is a nonprofit research institution applying the Judeo-Christian moral tradition to critical issues of public policy, law, culture, and politics. In pursuit of its mission, EPPC equips Americans to address today’s ethical, political, and cultural questions with firm commitment to human dignity, natural law, and our constitutional freedoms.

With stunning speed, gender ideology has permeated American culture, influencing medicine, business, media, government, and education. The results are far-reaching, threatening religious liberty and parental rights, stifling free speech, and driving an unprecedented rise in youth “transgender” identification. Gender ideology is sowing confusion and undermining personal well-being, creating an urgent need for clarity, education, and compassionate guidance.

EPPC Fellows write and advocate on issues related to gender ideology.<sup>2</sup> EPPC Senior Fellow Mary Rice

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<sup>1</sup> Pursuant to Rule 37.6, no counsel for any party authored this brief in whole or in part, nor did any such counsel or party make any monetary contribution intended to fund the preparation or submission of this brief.

<sup>2</sup> Relevant publications from EPPC Fellows include:

- Ryan T. Anderson, *When Harry Became Sally* (2018);
- Andrew T. Walker, *God and the Transgender Debate* (2017);
- Carl R. Trueman, *Strange New World: How Thinkers and Activists Redefined Identity and Sparked the Sexual Revolution* (2022);
- Theresa Farnan, *Our World Has Lost the Catholic Understanding of Human Anthropology*, Our Sunday



Hasson launched EPPC’s Person and Identity Project<sup>3</sup> to equip parents and faith-based institutions to promote the truth of the human person and to meet the challenges of gender ideology.

*Amicus* files this brief to show the ideological nature of Respondents’ challenged curriculum and the fundamental conflict between gender ideology and the Christian faith regarding the nature of the human person, thus explaining why the Board’s refusal to honor parental opt-out requests substantially burdens Petitioners’ religious exercise.

## INTRODUCTION AND SUMMARY OF ARGUMENT

Respondents—the Montgomery County Board of Education and its officials (“the Board”)—deny that compelling Petitioners’ children to participate in its use of “LGBTQ-inclusive” storybooks burdens Petitioners’ religious exercise. Respondents’ denial rests heavily on the Board’s claim that its sexuality and gender curriculum does not take a position on gender ideology at all—it merely “promotes equity, respect, and civility,” fosters “a student’s ability to empathize, connect, and collaborate with diverse peers,” and “encourage[s] respect for all.”

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Visitor, June 2, 2023,  
<https://www.oursundayvisitor.com/our-world-has-lost-the-catholic-understanding-of-human-anthropology>;

- Amicus briefs on gender identity authored by EPPC fellows are available at EPPC, *Amicus Briefs: “Gender Transition” Interventions*, <https://eppc.org/amicus-briefs/#16-%E2%80%9Cgender-transition%E2%80%9D-interventions->.

<sup>3</sup> Person and Identity Project, *About Us*, <https://personandidentity.com/about/>.

Pet.App.589a, 640a. This case would look very different were that true. But it is not.

Judge Quattlebaum, in his dissent from the decision below, got it right: the Board's sexuality and gender curriculum "goes far beyond mere exposure to objectionable viewpoints." Pet.App.64a–65a. The Board has mandated the use of books written by LGBTQ+ activists that present gender ideology as fact. These books teach elementary school children that children may decide for themselves whether they are boys or girls based on what they "feel like." Pet.App.470a. This claim is presented as true, something children are expected to affirm and apply to themselves. Moreover, the Board instructs children that Petitioners' religions (which teach children that their bodies are good and should be received as a gift) are "wrong" and "harmful."

This brief draws on the expertise and scholarship of *Amicus*' Person and Identity Project to highlight, in the words of Justice Blacklock of the Texas Supreme Court, the "irreconcilably conflicting visions" of the human person that lie at the heart of this case. That is, the conflict between the Transgender Vision of the person, taught by the Board's curriculum, and the Traditional Vision, taught by Petitioners' religions.

Part I shows that the Board's curriculum does more than just "focus on tolerance, empathy, and respect for different views." It teaches radical claims about the human person and morality as true. It tells children that anyone who opposes this new anthropology (including Petitioners) is "wrong" and motivated by "fear," "ignorance," or "hate." Moreover, Board members' comments reveal their animus towards

those who, like Petitioners, sought an opt-out for religious reasons.

Part II demonstrates that the Board's curriculum fits squarely within "gender ideology," a radical worldview promoted in the academy, popular culture, and political discourse but strongly opposed by scientists, religious leaders, and parents.

Finally, Part III counters the Board's claim that religious opposition to gender ideology is xenophobic and reflexive. To the contrary, Petitioners' opposition and desire for an opt out reflects these parents' sincere religious convictions about the human person. *Amicus* offers a brief overview of Christian anthropology and Catholic teaching to illuminate why, from the faith perspective of the Christian Petitioners, the gender ideology embedded in the Board's curriculum is "an anthropology opposed to faith and to right reason" and why forced exposure to this curriculum substantially burdens their religious exercise.

## ARGUMENT

### **I. The Board's curriculum does more than "encourage respect" for others; it teaches radical claims as true and good.**

According to the Board, its sexuality and gender curriculum doesn't seek to indoctrinate at all—it merely strives to "provide a culturally responsive curriculum that promotes equity, respect, and civility" and to "prepare students to confront and eliminate stereotypes related to individuals' actual or perceived characteristics, including gender identity and sexual orientation." Pet.App.589a (cleaned up). Its curriculum merely "creates and normalizes a fully inclusive environment for all students," helping them

“empathize, connect, and collaborate with diverse peers and encourag[ing] respect for all.” Pet.App.278a.

But the Board’s chosen LGBTQ+ children’s books, its instructions to teachers, and its directors’ derogatory comments about objecting religious parents tell a different story. The gender ideology curriculum is not neutral or “inclusive.” It reinforces rather than confronts gender “stereotypes.” More importantly, the Board’s curriculum teaches children that gender ideology is true, good, and loving. It sends a clear message that those who oppose this anthropology, for personal or religious reasons, are ignorant, bigoted, and even hateful.

**A. The Board has chosen books that teach gender ideology as true.**

There are plenty of books available that teach children to respect people who look, act, and believe differently than they do. The Board’s “Newly Approved LGBTQ-Inclusive Texts,” Pet.App.234a–253a, have a different goal: their purpose and effect is to teach children that gender ideology is true and loving, while traditional and religious convictions about identity, sexual difference, sexuality, and marriage are false and “hurtful.” Pet.App. 630a, 635a.

Two picture books (*My Rainbow* and *Born Ready*), which were approved by the Board for kindergarten classrooms, show this most clearly:

*My Rainbow* shares the personal story of author DeShanna Neal and DeShanna’s child Trinity. Pet.App.357a–389a. DeShanna Neal is “a nationally

known transgender rights champion,”<sup>4</sup> uses they/their pronouns, and in 2022 became “the first out nonbinary person elected to the Delaware legislature.”<sup>5</sup>

According to one interview with Neal, Trinity “was classified as male at birth based on anatomy, but \* \* \* [h]er true self emerged a few years later, when the 3-year-old announced, ‘I am a girl.’”<sup>6</sup> Trinity is also autistic.<sup>7</sup> According to Neal, “The day my daughter’s therapist asked us to choose between a happy little girl and a dead little boy, we knew what had to be done.”<sup>8</sup> Neal has expressed significant animus toward parents and politicians who advocate for treating children according to their sex.<sup>9</sup>

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<sup>4</sup> Natalie Pompilo, *How One Woman Became an ‘Accidental Advocate’ for Transgender Rights*, Delaware Today, Oct. 10, 2017, <https://delawaretoday.com/life-style/how-one-woman-became-an-accidental-advocate-for-transgender-rights/>.

<sup>5</sup> Team LPAC, *Deshanna Neal*, <https://www.teamlpac.com/our-candidates/deshanna-neal> (last visited March 8, 2025).

<sup>6</sup> Pompilo, *How One Woman Became an ‘Accidental Advocate’ for Transgender Rights*.

<sup>7</sup> *Ibid.* There is a significant “correlation between gender diversity, gender dysphoria, and autism.” Lindsay Weisner, Psy.D., *The Link Between Autism and Gender Diversity*, Psychology Today, Aug. 7, 2023, <https://www.psychologytoday.com/us/blog/the-venn-diagram-life/202307/the-link-between-autism-and-gender-diversity> (summarizing recent studies).

<sup>8</sup> *Ibid.* But see Tr. of OA at 88:9–14, *United States v. Skrmetti*, No. 23-477 (Dec. 4, 2024) (J. Alito noting that “on page 195 of the Cass report, it says: There is no evidence that gender-affirmative treatments reduce suicide”).

<sup>9</sup> See *Ibid.* In the interview, DeShanna offered an impression of people who “oppos[e] equality issues”: DeShanna “sh[ook] her arms in the air and yell[ed]” in her “Kermit the Frog” voice, “No!

*My Rainbow* seems calculated to catch children off guard, to confuse and disorient them. On the first page, Trinity is wearing earrings and a baby blue dress. Pet.App.361a. The first sentence of the book introduces Trinity with female pronouns. Pet.App.362a. Nothing prepares children for Trinity's lament, a few pages in, that "I can't be a girl;" Trinity's mother seems caught off guard as well: "Why is that?" Pet.App.365a.

Children are caught off guard again on the next page, where Trinity says, "I don't think you understand, Mom. I'm a transgender girl." Pet.App.367a. Trinity's mom "blinked with surprise." Pet.App.370a. Mom and brother look perplexed—the same look the Board's kindergarten teachers likely saw on their students' faces. Pet.App.367a, 269a.

*My Rainbow* does not tell the reader how Trinity learned the phrase "transgender girl" or what it means—or how a "transgender girl" differs from "a girl" or a boy (although the book does convey that there's a difference between a "transgender girl" and a "cisgender girl" Pet.App.371a).

But one message comes through loud and clear: a "transgender" identity should be celebrated. The family affirms Trinity's transgender identity by using female pronouns, letting Trinity wear dresses, and making Trinity a rainbow-colored wig. Pet.App.379a–387a. *My Rainbow* tells the reader that "Trinity's gender" is "part of what made her a masterpiece, just

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No! We hate it! We hate it!" *Ibid.* When DeShanna mimics Senator Ted Cruz's advocacy for sex-separated school bathrooms, DeShanna "gives the Texas Republican a nasal, whining voice and makes rodent-like hand gestures." *Ibid.*

like her autism and her Black skin.” Pet.App.370a. In other words, a “transgender girl” is a “masterpiece.”

The characters in the book uniformly treat Trinity as a girl. Most young children probably wouldn’t understand that Trinity was male until after the book is over, after the teacher answers students’ questions about what “transgender girl” and “cisgender girl” mean. It is easy to predict that children would feel pressured by their public school teacher to accept the storyline that “transgender” is a “masterpiece” and that sex can change. It is easy to predict that children who hadn’t already been indoctrinated by gender ideology would be confused and embarrassed about what their parents had taught them, at home and at church.

***Born Ready: The True Story of a Boy Named Penelope*** was written by Jodie Patterson. Pet.App.448a–482a. Patterson is an LGBT human rights activist and the immediate past chair of the Human Rights Campaign.<sup>10</sup> Patterson “is the mother of five children, two of whom are self-proclaimed gender nonconformists—one transgender and another genderqueer.” Pet.App.481a. Patterson promised her transgender child, “I’ll make sure the world moves out of your way so that you can be you.”<sup>11</sup>

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<sup>10</sup> Jodi Patterson, *Born Ready: The True Story of a Boy Named Penelope* (Charnelle Pinkney Barlow illust. 2021), <https://www.penguinrandomhouse.com/books/611926/born-ready-by-jodie-patterson-illustrated-by-charnelle-pinkney-barlow/>.

<sup>11</sup> Human Rights Campaign, *Moms for Equality: Jodie Patterson on How Her Trans Son Changed Her Life*, May 11, 2018, <https://www.hrc.org/news/moms-for-equality-jodie-patterson-on-how-her-trans-son-changed-her-life>.

*Born Ready* reflects this promise. The book tells the story of a five-year-old girl who identifies as a boy. In the book, Penelope gets angry “[b]ecause everybody thinks I’m a girl.” Penelope tells her mom, “Inside I’m a boy. When I close my eyes and dream, I’m a boy.” Pet.App.454a. “I don’t feel like a boy. I AM a boy.” Pet.App.458a. So she asks her mom, “Help me be a boy.” Pet.App.459a. Penelope’s mom responds, “We will make a plan to tell everyone we love what we know. \* \* \* You are a boy.” Pet.App.461a.

Penelope’s teacher also models the “correct” way to respond to such a child:

“Your parents told me you are a boy. Is that true?”

“I think like a boy. I feel like a boy. I might look different from other boys, but yes, I’m sure I’m a boy.”

“Well, Penelope . . . today you’re my teacher!”

Pet.App.470a.

In contrast, Penelope’s “Big Brother” (who “acts like he knows everything,” Pet.App.451a) teaches children the “wrong” way to respond. Big Brother objects to Mom’s announcement: “This doesn’t make sense. You can’t become a boy. You have to be born one.” Pet.App.465a. But Mom corrects Big Brother: “Not everything *needs* to make sense. *This is about love.*” Pet.App.465a.

\* \* \*

What lessons do these books teach to impressionable children? That children can decide whether they are boys or girls based on how they feel and it is wrong to get in their way. That it is wrong to



believe that people are “born” either boys or girls and that this biological fact is beyond a child’s power to change. In other words, the authoritative message the impressionable child receives from the state (in the person of a public school teacher) is that gender ideology is good and true and traditional religious beliefs about sexual difference are bad and false.

**B. The Board’s guidance to educators teaches that gender ideology is true.**

The Board’s “Sample Student Call-Ins” document instructs teachers on how to respond to a student, like Penelope’s “Big Brother,” who says, “You can’t become a boy. You have to be born one.” Teachers should say this is a “hurtful” observation that “shouldn’t” be made in class. Pet.App.630a. Teachers are to tell children, “Sometimes when we learn information that’s different from what we always thought it can be confusing and hard to process.” Pet.App.630a.

When we’re born, people make a guess about our gender and label us “boy” or “girl” based on our body parts. **Sometimes they’re right and sometimes they’re wrong. When someone’s transgender, they guessed wrong; when someone’s cisgender, they guessed right. Our body parts do not decide our gender.** Our gender comes from our inside—we might feel different than what people tell us we are. We know ourselves best. When someone tells us what their gender is, we believe them because they are the experts on themselves.

Pet.App.630a–631a (emphases added).

Teaching that a biological male can “be” a female, that subjective beliefs or wishes override biological

reality, and that “body parts” have no meaning is not merely advancing “diversity” and “inclusion”; it is teaching that “gender ideology” is true, that refusing to acquiesce is hurtful and wrong, and that faith traditions that teach otherwise are also wrong.

**C. Board members’ comments reflect animus toward parents who oppose gender ideology.**

The Board’s commitment to gender ideology is also reflected in its animus towards parents, including Petitioners, who sought to protect their children from the Board’s LGBTQ+ curriculum. In justifying their refusal to honor parents’ requests to opt out from their gender ideology curriculum, Board members maligned these parents’ integrity and goodwill:

- Board Member Harris claimed that parents requesting a religious opt-out were “just telling [their child], ‘here’s another reason to hate another person’” and likened them to “white supremacists” and “xenophobes.” Pet.App.187a, 107a.
- Harris accused a student supporting opt-outs of “parroting” his parents’ “dogma.” Pet.App.106a.
- At the January 12, 2023 board meeting, one parent expressed concern that the Board’s approach “implied that parents’ religious and family traditions are wrong.” Pet.App.100a. Two weeks later, a District elementary school principal claimed that requests for an accommodation were motivated not by sincere religious convictions but by “fears.” Pet.App.186a.

- The same principal also claimed that a parent asking that his or her child not be exposed to the District’s gender ideology curriculum was no different from a parent opposing books with Jewish, Muslim, and African-American characters. Pet.App.484a.
- Another Board member said that parents’ concerns about the District’s gender ideology curriculum confirm that “ignorance and hate does exist within our community.” Pet.App.102a.

As these comments demonstrate, the Board tacitly concedes that—at least on this point—the Board and Petitioners agree: the Board’s curriculum promoting gender ideology is fundamentally incompatible with Petitioners’ religious convictions about human nature and human flourishing. The Board believes that its curriculum is correct and good, and that students and parents who oppose it are hateful xenophobes. And it believes that the children of parents who hold the “wrong” beliefs need to be exposed to the Board’s ideological take on human nature.

Board members are entitled to their personal convictions about religious parents in Montgomery County and what major world religions teach about the human person. But “[t]he Constitution ‘commits government itself to religious tolerance, and upon even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices, all officials must pause to remember their own high duty to the Constitution and to the rights it secures.’” *Masterpiece Cakeshop, Ltd. v. Colorado C.R. Comm’n*, 584 U.S. 614, 638-639 (2018) (quoting *Church of Lukumi Babalu Aye, Inc. v.*

*Hialeah*, 508 U.S. 520, 547 (1993)). “The Free Exercise Clause bars even ‘subtle departures from neutrality’ on matters of religion.” *Id.* at 638 (quoting *Lukumi*, 508 U.S. at 534). The Board’s comments and conduct fall short of this constitutional bar.

## **II. The challenged curriculum aligns with “gender ideology.”**

At the heart of this lawsuit is a conflict between two different views of what it means to be a human person. Last summer, Justice Blacklock of the Supreme Court of Texas penned a concurrence in *State v. Loe*, 692 S.W.3d 215, 239 (Tex. 2024) to describe these contrasting views:

The first vision—call it the Traditional Vision—holds that a boy is a boy, a girl is a girl, and neither feelings and desires nor drugs and surgery can change this immutable genetic truth, which binds us all. Within the Traditional Vision, human males and females do not “identify” as men and women. We *are* men and women, irreducibly and inescapably, no matter how we feel. \* \* \*

The second vision—call it the Transgender Vision—holds that we all have a “sex assigned at birth,” which usually corresponds to our physical traits but which may or may not correspond to our inwardly felt or outwardly expressed “gender identity.” It holds that a person’s gender identity is a constitutive part of his or her humanity and that when a person’s biological sex and gender identity diverge, often gender identity should be given priority.

*Loe*, S.W.3d at 239–240. Justice Blacklock emphasized that these two anthropologies paint “irreconcilably conflicting visions” of what it means to be a human person and how we—individually, and as a society—ought to respond to “children experiencing confusion and distress about the normal biological development of their bodies.” *Id.* at 239.

**A. Gender ideology has a problematic intellectual pedigree.**

To understand the conflict at the heart of this lawsuit, it is important to understand gender ideology’s history and central claims. Gender ideology developed over the latter half of the twentieth century. In 1949, French existentialist philosopher Simone de Beauvoir wrote, “One is not born, but rather becomes, woman,” foreshadowing second-wave feminism and the coming gender revolution.<sup>12</sup> Psychologist John Money, who worked with transsexuals in the 1950s and ’60s, popularized the use of the term “gender” to denote behavioral (as opposed to biological) differences between males and females.<sup>13</sup> Money and his colleague Robert Stoller theorized that it was possible for an individual to have a social identity, a “gender” identity that diverged from the biological reality of the person’s sexed body.<sup>14</sup> Furthermore, Money “believed that if you were a biological male and believed yourself to be

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<sup>12</sup> Simone de Beauvoir, *The Second Sex* 283 (Constance Border & Sheila Malovany-Chevallier, trans., 2011).

<sup>13</sup> Terry Goldie, *The Man Who Invented Gender: Engaging the Ideas of John Money* (2014).

<sup>14</sup> Richard Green, *Robert Stoller’s Sex and Gender: 40 Years On*, 39 *Archiv. Sex. Behav.* 1457 (2010). <https://pubmed.ncbi.nlm.nih.gov/20703787/>.

a female that it was an *idée fixe*—it was so important to you as a person that it could not be contradicted.”<sup>15</sup> *Under this worldview, it is less violent and more “affirming” to help the patient change his or her body than to help the patient change his or her mind.*

The Board’s curriculum reflects gender ideology’s move from academia to school classrooms.<sup>16</sup> The Board’s “LGBTQ+ Information” webpage<sup>17</sup> links to a “Gender Inclusive Schools Toolkit” produced by Gender Spectrum, an organization formed to promote gender ideology and “gender-inclusive puberty education.”

Sex ed that is “gender-inclusive” avoids the terms “males” and “females,” and instead refers to “bodies with a penis and testicles or bodies with a vulva and ovaries” so teachers can talk about sex “without assuming that there are only two sexes.”<sup>18</sup>

No longer content with proposing their novel ideas for consideration, gender ideologues now claim that a biologically-based definition of sex is *not only incorrect*

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<sup>15</sup> Rachel Giese & Chris Wodskou, *The Story of John Money: Controversial Sexologist Grappled with the Concept of Gender*, CBC NEWS, July 5, 2015, <https://www.cbc.ca/news/canada/the-story-of-john-money-controversial-sexologist-grappled-with-the-concept-of-gender-1.3137670>.

<sup>16</sup> G.K. Marinov, *In Humans, Sex Is Binary and Immutable*, 33 Acad. Questions 279 (2020), <https://www.nas.org/academic-questions/33/2/in-humans-sex-is-binary-and-immutable>.

<sup>17</sup> Montgomery County Public School, *LGBTQ+ Information (For Students and Staff)*, <https://www2.montgomeryschoolsmd.org/LGBTQ/>.

<sup>18</sup> Gender Spectrum, *Principles of Gender-Inclusive Puberty and Health Education* 12 (2019), <https://bit.ly/45NP9i2>.

*but oppressive.* The online “Trans Language Primer” defines “sex” as:

A binary system (wo/man) set by the medical establishment to reinforce white supremacy and gender oppression, usually based on genitals and sometimes chromosomes.<sup>19</sup>

Gender ideology is a radical construct built on radical philosophical and metaphysical presuppositions. David Crawford and Michael Hanby, professors at the Pontifical John Paul II Institute for Studies on Marriage & Family at the Catholic University of America, unfolded these presuppositions in an essay for the Wall Street Journal:

The unstated premise [of gender ideology] is that the relationship between our embodiment as male and female and our personal subjectivity (as expressed in “identity”) is essentially arbitrary. \* \* \* These assumptions further imply that \* \* \* to be a woman is a mental state, that we really are Cartesian “ghosts in the machine.” \* \* \*

**These are metaphysical judgments** \* \* \* highly questionable philosophical propositions with [profound] implications for society [because] [i]t is impossible to redefine human nature for only one person. When a fourth-grade girl is required to affirm in thought, word and deed that a boy in her class is now a girl, **this does not simply affirm the classmate’s**

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<sup>19</sup> *The Transgender Language Primer*, <https://web.archive.org/web/20210304155343/https://www.translanguageprimer.org/primer/#sex>.

**right to self-expression. It calls into question the meaning of “boy” and “girl” as such. \* \* \*** If each of us is defined by a “gender identity” only arbitrarily related to our male and female bodies \* \* \* then there is no longer any such thing as man or woman[.] \* \* \*

What we are dealing with is nothing less than a war on reality itself. \* \* \* There is no totalitarianism so total as that which claims authority over the meaning of nature.<sup>20</sup>

EPPC’s Mary Rice Hasson has likewise stated that gender ideology “has become a government-promoted anthropology, an alternative belief system that proposes its own (false) ‘truth’ about the human person.”<sup>21</sup> As Hasson notes, public schools have been a chief means through which government has advanced this “alternative belief system”:

Public schools in most states have been deeply engaged in promoting gender ideology for over a decade already through anti-bullying initiatives, diversity and inclusion programs, LGBTQ-inclusive sex education and, in a few states, LGBTQ curriculum mandates. The teachers’ unions, state schools of education, and the education establishment have all embraced

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<sup>20</sup> David Crawford & Michael Hanby, *The Abolition of Man and Woman*, WSJ, June 24, 2020 (emphases added), <https://www.wsj.com/articles/the-abolition-of-man-and-woman-11593017500>.

<sup>21</sup> Mary Rice Hasson, *Erasing Females in Language and Law*, 11 J. Christian Legal Thought 44, 46 (2021), available at <https://eppc.org/publication/erasing-females-in-language-and-law/>.



the LGBTQ agenda for years. Except for a few brave holdouts here and there, local school boards have toppled like dominoes, caving under intense pressure (and threats of lawsuits from the ACLU, Lambda Legal, and other activist litigators) to enact transgender-inclusive policies and “gender identity” protections.

*Id.* at 48.

**B. Gender ideology is not based in science.**

Gender identity advocates claim that the “best science” is on their side. L.W. Br. at 38, *United States v. Skrmetti*, No. 23-477 (Aug. 27, 2024). However, the “accepted standards of care” trans-activists rely on, issued by WPATH, are based on “ideology, not science.” *Eknes-Tucker v. Governor of Ala.*, 114 F.3th 1241, 1261 (11th Cir. 2024) (Lagoa, J., concurring in the denial of rehearing en banc).

Were a debate between these two anthropologies to come down to matters of science, there is little doubt the Traditional Vision of the human person would win. The Traditional Vision is rooted in science, common experience, and reason; the Transgender Vision is rooted in feelings and stereotypes. See Br. for EPPC as *Amicus Curiae* at 16–23, *United States v. Skrmetti*, No. 23-477 (Oct. 15, 2024). As such, whatever *Edwards v. Aguillard*, 482 U.S. 578 (1987) and *Mozert v. Hawkins Cnty. Bd. of Educ.*, 827 F.2d 1058 (6th Cir. 1987) might have to say about religious liberty claims against public school *science* curricula, they have no bearing here. Unlike those cases, Petitioners here are not challenging a science curriculum, but an ideology that demonizes long-held beliefs (scientific, cultural,

and religious) about human nature and sexual difference—in short, about what it means to be a human person. Furthermore, this ideology is not merely in tension with what Petitioners believe and have a religious duty to impart to their children; the Board’s LGBTQ+ curriculum teaches that Petitioners’ religious convictions are ignorant, hateful, and bigoted.

### **C. Gender ideology is rejected by the American people.**

The Board knew full well that its “LGBTQ-inclusive” storybooks were not popular with District parents. It believed that allowing parents to opt out would result in “high student absenteeism.” Pet.App.98a. It feared the opt outs would be so pronounced that remaining students would suffer “social stigma and isolation.” *Ibid.* After the Board announced its about-face, over 1,000 parents signed a petition asking the Board to restore their notice and opt-out rights. Pet.Br.14.

The District parents’ concerns are shared by American parents broadly. A recent survey, released January 2025, found that 74% of American parents oppose “teachers providing instruction on sexual orientation and gender identity in elementary school.”<sup>22</sup> Such opposition has grown over the past

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<sup>22</sup> *Poll: Majority of Parents Oppose Transgender Ideology in Schools*, Decision Magazine, January 13, 2025. <https://decisionmagazine.com/poll-majority-of-parents-oppose-transgender-ideology-in-schools/>; Press Release, Parents Defending Education, Parents Defending Education Poll: Parents Support Girls-Only Spaces in Schools, Oppose Parental Exclusion Policies and Grading for Equity (Jan. 6, 2025), <https://defending.org/press-releases/parents-defending->

year, building on a strong, consistent base of opposition from parents and teachers who object to teaching children about “sexual orientation and gender identity” in elementary school.

In 2024, Pew Research conducted extensive polling on this issue among both teachers and parents.<sup>23</sup> Pew found that the “majority of elementary school teachers (62%) say elementary school students should not learn about gender identity in school,” and 55% of elementary teachers say “parents *should* be able to opt their children out of learning” about “sexual orientation or gender identity.”<sup>24</sup> In 2022, another Pew survey found that parents of K-12 children either want their children to learn that being a boy or a girl “is determined by the sex they were assigned at birth” (31%) or not to learn about “gender identity” at all in school (37%).<sup>25</sup> That’s a consensus of 68% opposing gender ideology in schools, with only 31% of parents

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education-poll-parents-support-girls-only-spaces-in-schools-oppose-parental-exclusion-policies-and-grading-for-equity/.

<sup>23</sup> Luona Lin et al., *Race and LGBTQ Issues in K-12 Schools*, Pew Research, February 22, 2024. <https://www.pewresearch.org/social-trends/2024/02/22/race-and-lgbtq-issues-in-k-12-schools/>.

<sup>24</sup> Luona Lin et al., *Race and LGBTQ Issues in the Classroom*, Pew Research, Feb. 22, 2024, <https://www.pewresearch.org/social-trends/2024/02/22/race-and-lgbtq-issues-in-the-classroom/>.

<sup>25</sup> Juliana Menasce Horowitz, *Parents Differ Sharply by Party Over What Their K-12 Children Should Learn in School*, Pew Research, October 26, 2022, <https://www.pewresearch.org/social-trends/2022/10/26/parents-differ-sharply-by-party-over-what-their-k-12-children-should-learn-in-school/#no-consensus-among-parents-about-what-they-want-their-children-to-learn-about-gender-identity-or-slavery>.

seeking classroom instruction for their children in “gender identity” content similar to the Board’s curriculum.<sup>26</sup>

More generally, 54% of Americans overall “say parents should be able to opt their children out of learning about sexual orientation or gender identity.”<sup>27</sup> This is not surprising. Common sense says that parents should have the right to opt their children out from sensitive, controversial content like gender ideology.

### **III. Gender ideology is radically at odds with Catholic teaching on the human person.**

Petitioners’ brief ably expresses the parents’ sincere religious objections to the Board’s LGBTQ+ curriculum. Pet.Br.16–18. This final section of this *amicus* brief complements Petitioners’ arguments and testimony by demonstrating that religious opposition to gender ideology is neither xenophobic nor a reflexive reaction to something new and different. Rather, this religious opposition is based on religious convictions about the nature of the human person that have been held by each Petitioner’s religious tradition for millennia. As one Christian leader explained:

[O]ne need not agree with Christians or Muslims or Orthodox Jews or others on marriage and sexuality to see that such views are not incidental to their belief systems. They did not emerge out of a political debate, and they won’t be undone by political power. \* \* \*  
One cannot simply uproot them and expect

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<sup>26</sup> *Ibid.*

<sup>27</sup> Lin et al., *Race and LGBTQ Issues in K-12 Schools*.

these people to adjust their consciences to fit the new cultural expectation.<sup>28</sup>

Each of the religious traditions represented by Petitioners has a compelling story to tell. However, this part of the brief focuses on the Catholic Church's teaching on the human person. *Amicus* draws upon the expertise of its Person & Identity Project, whose mission is "to assist the Catholic Church in promoting the Catholic vision of the human person and responding to the challenges of gender ideology."<sup>29</sup>

Affirming the importance and goodness of the human body has always been central to the Catholic faith. In the second century A.D., bishops condemned "Gnosticism," a philosophy that taught people to seek happiness and salvation through transcending their material bodies.<sup>30</sup> In response, the early Christian Church affirmed that Jesus Christ was both truly God and truly man, and that implicit in the Incarnation is the good news that our bodies are *good* and an *essential* part of what it means to be a human person.<sup>31</sup> As St. Athanasius of Alexandria taught in his treatise, *On the Incarnation*,

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<sup>28</sup> Russell Moore, *Just How Secular Should America Be?*, N.Y. Times, June 18, 2020, <https://www.nytimes.com/2020/06/18/opinion/supreme-court-religious-freedom.html>.

<sup>29</sup> Person and Identity Project, *About Us*, <https://personandidentity.com/about/>.

<sup>30</sup> See Jarislav Pelikan, *The Christian Tradition, Vol. 1: The Emergence of the Catholic Tradition (100-600)* 81-97 (1975).

<sup>31</sup> See John B. Buescher, *Gnosticism vs. The Incarnation: The Ancient Battle Renewed*, Catholic World Report, June 8, 2015, <https://www.catholicworldreport.com/2015/06/08/gnosticism-vs-the-incarnation-the-ancient-battle-renewed/>.

For we were the purpose of his embodiment,  
and for our salvation he so loved human beings  
as to come to be and appear in a human body.<sup>32</sup>

This teaching on the dignity of the human person and the goodness of the human body remains foundational to Catholic teaching.<sup>33</sup> The Catholic faith embraces each person's sexual identity, male or female, as a gift from God: "Male and female he created them."<sup>34</sup> "Equal in dignity" but complementary, the Catholic Church teaches that man and woman exist in a "reciprocal relationship," a gift to one another, "entrusted [with] not only the work of procreation and family life, but the creation of history itself."<sup>35</sup>

Throughout its history, the Catholic Church has developed its doctrine to address the challenges that each age brings. Today, the Church sees the world "undergoing a profound anthropological crisis, a crisis of meaning."<sup>36</sup> As such, Pope Francis, the United States Catholic Conference of Bishops (USCCB), and dozens of American bishops have expounded on the Christian view of the human person and why it is

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<sup>32</sup> Athanasius of Alexandria, *On the Incarnation* § 4, available at <https://ccel.org/ccel/athanasius/incarnation/incarnation.ii.html>.

<sup>33</sup> See Pontifical Council of Justice and Peace, *Compendium of the Social Doctrine of the Church* ¶ 144 (2006) ("Compendium").

<sup>34</sup> *Genesis* 5:2.

<sup>35</sup> *Compendium* ¶¶ 146, 147.

<sup>36</sup> Junno Arocho Esteves, *World in 'Profound Anthropological Crisis,' Pope Says*, Catholic News Service, May 19, 2022, <https://cruxnow.com/vatican/2022/05/world-in-profound-anthropological-crisis-pope-says>.

incompatible with gender ideology—the belief system endorsed and promoted by the Board.

**Pope Francis** calls gender ideology “one of the most dangerous ideological colonizations” today.<sup>37</sup> He sees this “anthropology of gender” as “extremely dangerous because it eliminates differences, and that erases humanity, the richness of humanity, both personal, cultural, and social.” *Ibid.* Attempts to erase biological differences are part of “a Gnostic heresy.”<sup>38</sup> Pope Francis’ encyclical letter *Laudato Si* compares gender ideology with human failures to respect the environment, the natural order:

Human ecology also implies another profound reality: the relationship between human life and the moral law, which is inscribed in our nature and is necessary for the creation of a more dignified environment. Pope Benedict XVI spoke of an “ecology of man”, based on the fact that **“man too has a nature that he must respect and that he cannot manipulate at will.”** It is enough to recognize that our body itself establishes us in a direct relationship with the environment and with other living beings. The acceptance of our bodies as God’s gift is

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<sup>37</sup> Courtney Mares, *Pope Francis: Gender Ideology Is ‘One of the Most Dangerous Ideological Colonizations’ Today*, Catholic News Agency, March 11, 2023, <https://www.catholicnewsagency.com/news/253845/pope-francis-gender-ideology-is-one-of-the-most-dangerous-ideological-colonizations-today>.

<sup>38</sup> *Pope Francis: ‘I prayed for Peace in Fatima Without Publicity,’* Vatican News, Aug. 6, 2023, <https://www.vaticannews.va/en/pope/news/2023-08/pope-francis-portugal-wyd-inflight-press-conference.html>.

vital for welcoming and accepting the entire world as a gift from the Father and our common home, whereas **thinking that we enjoy absolute power over our own bodies turns, often subtly, into thinking that we enjoy absolute power over creation.** Learning to accept our body, to care for it and to respect its fullest meaning, is an essential element of any genuine human ecology. Also, valuing one's own body in its femininity or masculinity is necessary if I am going to be able to recognize myself in an encounter with someone who is different. In this way we can joyfully accept the specific gifts of another man or woman, the work of God the Creator, and find mutual enrichment. It is not a healthy attitude which would seek "to cancel out sexual difference because it no longer knows how to confront it."<sup>39</sup>

Under Pope Francis' leadership, the Vatican's Congregation for Catholic Education in 2019 published *Male and Female He Created Them: Towards a Path of Dialogue on the Question of Gender Theory in Education*.<sup>40</sup> The document seeks to help educators respond to the "educational crisis" caused by gender ideology, which it calls "an anthropology

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<sup>39</sup> Pope Francis, *Laudato Si* ¶155 (2015) (emphases added) (citations omitted), [https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco\\_20150524\\_enciclica-laudato-si.html](https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html).

<sup>40</sup> Congregation for Catholic Education, *Male and Female He Created Them: Toward a Path of Dialogue on the Question of Gender Theory in Education* (2019), [https://www.vatican.va/roman\\_curia/congregations/ccatheduc/documents/rc\\_con\\_ccatheduc\\_doc\\_20190202\\_maschio-e-femmina\\_en.pdf](https://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_20190202_maschio-e-femmina_en.pdf).



opposed to faith and to right reason.” *Id.* ¶ 1. It recognizes the challenge of pursuing “dialogue” with “ideologies of gender” that seek “to assert themselves as absolute and unquestionable, even dictating how children should be raised.” *Id.* ¶ 6.

The Congregation implores Catholics to respond “to anthropologies characterized by fragmentation and provisionality” with the Christian tradition’s own “*integral anthropology*, capable of harmonizing the human person’s physical, psychic and spiritual and identity.” *Id.* ¶ 55.

In 2024, the Vatican’s Dicastery for the Doctrine of the Faith released a document on human dignity, which describes the claims of gender ideology as a profound rejection of God’s authority and goodness. Gender ideology contradicts and undermines the central feature of the Christian faith: the individual’s relationship with God. “Desiring a personal self-determination, as gender theory prescribes, apart from this fundamental truth that human life is a gift, amounts to a concession to the age-old temptation to make oneself God, entering into competition with the true God of love revealed to us in the Gospel.”<sup>41</sup>

**The United States Conference of Catholic Bishops** (USCCB) has likewise warned Catholics that gender ideology conflicts with God’s design for creation. In 2017, USCCB committee chairmen led an interreligious coalition of Christian and Muslim leaders that published “Created Male and Female: An

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<sup>41</sup> Dicastery for the Doctrine of the Faith, *Dignitas Infinita: On Human Dignity*, April 2, 2024, [https://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_ddf\\_doc\\_20240402\\_dignitas-infinita\\_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_ddf_doc_20240402_dignitas-infinita_en.html).

Open Letter from Religious Leaders.” That statement reads, in part:

We acknowledge and affirm that all human beings are created by God and thereby have an inherent dignity. We also believe that God created each person male or female; therefore, sexual difference is not an accident or a flaw—it is a gift from God that helps draw us closer to each other and to God. What God has created is good. “God created mankind in his image; in the image of God he created them; male and female he created them” (Gen. 1:27).

A person’s discomfort with his or her sex, or the desire to be identified as the other sex, is a complicated reality that needs to be addressed with sensitivity and truth. Each person deserves to be heard and treated with respect; it is our responsibility to respond to their concerns with compassion, mercy and honesty. As religious leaders, we express our commitment to urge the members of our communities to also respond to those wrestling with this challenge with patience and love.

Children especially are harmed when they are told that they can “change” their sex or, further, given hormones that will affect their development and possibly render them infertile as adults. Parents deserve better guidance on these important decisions, and we urge our medical institutions to honor the basic medical principle of “first, do no harm.” Gender ideology harms individuals and societies by sowing confusion and self-doubt. The state itself has a compelling interest, therefore, in maintaining

policies that uphold the scientific fact of human biology and supporting the social institutions and norms that surround it.

The movement today to enforce the false idea—that a man can be or become a woman or vice versa—is deeply troubling. It compels people to either go against reason—that is, to agree with something that is not true—or face ridicule, marginalization, and other forms of retaliation.

We desire the health and happiness of all men, women, and children. Therefore, we call for policies that uphold the truth of a person's sexual identity as male or female, and the privacy and safety of all. We hope for renewed appreciation of the beauty of sexual difference in our culture and for authentic support of those who experience conflict with their God-given sexual identity.<sup>42</sup>

In 2019, the USCCB released a collection of “Select Teaching Resources” from popes and other authorities to help educators and pastors deal with gender ideology.<sup>43</sup>

Finally, in March 2023, the USCCB’s Committee on Doctrine published a document “On the Moral Limits to Technological Manipulation of the Human

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<sup>42</sup> USCCB, *Created Male and Female: An Open Letter from Religious Leaders*, Dec. 15, 2017, <https://www.usccb.org/topics/promotion-defense-marriage/created-male-and-female>.

<sup>43</sup> USCCB, “*Gender theory*”/“*Gender ideology*” – *Select Teaching Resources*, [https://www.usccb.org/resources/Gender-Ideology-Select-Teaching-Resources\\_0.pdf](https://www.usccb.org/resources/Gender-Ideology-Select-Teaching-Resources_0.pdf).

Body,” expressing Catholic moral teaching on so-called “gender affirmation” surgeries.<sup>44</sup>

**Individual Catholic Bishops** have developed their own pastoral documents and policies related to gender ideology. The Person & Identity Project’s website hosts statements from over forty dioceses in the United States alongside related statements from the Vatican, the USCCB, and bishops around the world.<sup>45</sup>

In some of these documents, bishops explain that the duty to resist gender ideology is itself a duty to love those struggling with their gender identity. For example, the pastoral letter from the Bishop of Arlington, Virginia states as follows:

Those asserting a transgender identity and/or seeking to “transition” often adopt new names and pronouns that reflect their desired identity and insist that others must use the chosen names and pronouns. **Such use might seem innocuous** and even appear to be an innocent way of signaling love and acceptance of a person. In reality, **however, it presents a profound crisis: We can never say something contrary to what we know to be true.** To use names and pronouns that

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<sup>44</sup> USCCB, Committee on Doctrine, *Doctrinal Note on the Moral Limits to Technological Manipulation of the Human Body*, March 20, 2023, <https://www.usccb.org/resources/Doctrinal%20Note%202023-03-20.pdf>.

<sup>45</sup> EPPC, Person & Identity Project, *Catholic Teaching, Church Documents, and Diocesan Policies*, <https://personandidentity.com/resources/church-documents/>.

contradict the person’s God-given identity is to speak falsely.

The faithful should avoid using “gender-affirming” terms or pronouns that convey approval of or reinforce the person’s rejection of the truth. It is not harsh or judgmental to decline to use such language. In the broader culture, Catholics may experience significant pressure to adopt culturally-approved terminology. However, in no circumstances should anyone be compelled to use language contrary to the truth. The right to speak the truth inheres in the human person and cannot be taken away by any human institution. Attempts by the state, corporations, or employers to compel such language, particularly by threats of legal action or job loss, are unjust. We must love in the truth, and truth must be accurately conveyed by our words. At the same time, **clarity must always be at the service of charity**, as part of a broader desire to move people towards the fulness of the truth.<sup>46</sup>

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The Board’s curriculum teaches impressionable elementary school children—those young enough to be read to from a picture book—that if a boy *says* he is girl, then he *is* a girl, and if a girl *says* she is a boy,

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<sup>46</sup> Catholic Diocese of Arlington, *A Catechesis on the Human Person & Gender Ideology* (2021) (emphases added), <https://personandidentity.com/wp-content/uploads/2021/08/Catholic-Diocese-of-Arlington-A-Catechesis-on-the-Human-Person-and-Gender-Ideology.pdf>.

then she *is* a boy. This moral command must be followed even if it “doesn’t make sense,” because “[n]ot everything *needs* to make sense. *This is about love.*” Pet.App.465a.

As shown above, Catholic teaching on these matters is diametrically opposed to the affirmations the Board aims to ingrain in Petitioners’ children. The Catholic Church teaches that “to love is to will the good of the other,”<sup>47</sup> and that one does not will the good of the other by affirming or cooperating in something one knows to be harmful and false. Contrary to Board members’ claims and to what its curriculum teaches, these religious convictions are neither hateful nor xenophobic. They reflect deeply held religious convictions about the truth of the human person and, by extension, the best way to love people suffering from gender dysphoria.

### CONCLUSION

The Board is not just promoting inclusion and diversity. It is endeavoring to teach as true an ideological belief system about what it means to be human. The Board’s claims are based on propositions that the Catholic Church has for nearly two thousand years taught as wrong and dangerous. The Board’s decision to compel elementary school students to participate in its instruction on gender and sexuality puts Petitioners to a Hobson’s choice: They must either let the local public system teach their children that what their parents and church say about what it means to be human is false—and bigoted—or else withdraw their children and find an alternative schooling option that will not demonize their

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<sup>47</sup> *Catechism of the Catholic Church* (1992) ¶ 1766.

convictions. That is not right. The First Amendment demands more.

The decision below should be reversed.

Respectfully submitted.

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