

SCHOOL LAW

INFORMATION MEMO

MARCH 3, 2026

Supreme Court Lifts Stay and Signals Likely Constitutional Violation in School Gender-Disclosure Policy

On March 2, 2026, the United States Supreme Court issued a *per curiam* decision (an unsigned collective decision not attributed to a particular justice) in the *Mirabelli v. Bonta* case. In the case, which originated in the United States District Court, Southern District of California, the plaintiffs challenged the constitutionality of a California law (and local school district policy implementing that law) that required school districts to obtain the consent of the child before disclosing to the child's parents that the child is undergoing a gender transition at school. The District Court issued a permanent injunction following discovery on behalf of a class of all California parents who objected to public school gender policies. The Ninth Circuit stayed the injunction and the Supreme Court issued a *per curiam* decision lifting the stay.

The six justice majority of the United States Supreme Court held that the California parents were likely to succeed on the merits of their claims on *both* First Amendment (free exercise) and Fourteenth Amendment (substantive due process) grounds. The Court held that the challenged gender policy triggers strict scrutiny, and that any parent who objects to their child using a different gender, name or pronoun in school is likely to succeed on a claim alleging a constitutional violation regardless of whether the parent's objection is religious or secular. The *per curiam* decision also holds that a policy requiring student consent to inform parents about gender transition likely constitutes an infringement of a parent's constitutional rights to freely exercise their religion and to participate in decisions regarding their children's mental health.

Guidance issued by the New York State Education Department in 2023 recommends that school districts defer to the wishes of the transgender student in the event that the student does not wish to disclose their gender transition to their parent. We recommend that you consult with your BOND School Attorney regarding your district's obligations in light of the Supreme Court's decision in *Mirabelli*.

If you have any questions regarding this information memo, please contact [Kate I. Reid](#), any attorney in Bond's [school law practice](#) or the attorney at the firm with whom you regularly communicate.

