

2023 Regular Session

HOUSE BILL NO. 81

BY REPRESENTATIVES CREWS, AMEDEE, AND GAROFALO

1 AN ACT

2 To enact R.S. 17:2122 and 3996(B)(75), relative to education; to require school employees  
3 to use certain names and pronouns for students unless parents have provided written  
4 permission to do otherwise; to provide that a school employee shall not be required  
5 to refer to any person by certain pronouns if contrary to the employee's religious or  
6 moral convictions; to require each public school governing authority to adopt  
7 policies; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. This Act shall be known and may be cited as the "Given Name Act".

10 Section 2.(A) The legislature finds that:

11 (1) The Fourteenth Amendment of the Constitution of the United States of  
12 America protects the right of parents to direct the care, upbringing, education, and  
13 welfare of their children.

14 (2) The United States Supreme Court has held that: "[T]he Due Process  
15 Clause does not permit a State to infringe on the fundamental right of parents to  
16 make child rearing decisions simply because a state judge believes a 'better' decision  
17 could be made". *Troxel v. Granville*, 530 U.S. 57, at 72-73 (plurality op.).

18 (3) The United States Supreme Court has explained that the liberty specially  
19 protected by the Due Process Clause of the Fourteenth Amendment of the  
20 Constitution of the United States of America includes the right "to direct the  
21 education and upbringing of one's children". *Washington v. Glucksberg*, 521 U.S.  
22 702, 720 (1997).

1 (4) In *Garcetti v. Ceballos*, 547 U.S. 410 (2006), the United States Supreme  
 2 Court has held that public employees do not retain First Amendment protection for  
 3 speech uttered in the context of their official duties as they are not speaking as public  
 4 citizens.

5 (5) Individuals under the age of eighteen are minors, and the courts have  
 6 recognized their immaturity and the unique nature of the public school setting.

7 (B) It is the intent of the legislature that the public education system uphold  
 8 the constitutional and long-recognized rights of parents and that appropriate  
 9 limitations be set on employee speech within the context of public education.

10 Section 3. R.S. 17:2122 and 3996(B)(75) are hereby enacted to read as follows:

11 §2122. Pronouns and names; biological sex; parental permission; policies

12 A. As used in this Section, the following terms have the following meanings:

13 (1) "Employee" means any individual working in any capacity at a public  
 14 school, whether paid or as a volunteer, including but not limited to teachers and other  
 15 school employees, school bus operators, extracurricular personnel, and independent  
 16 contractors.

17 (2) "Parent" means a student's parent or legal guardian.

18 (3) "Sex" means a person's biological sex as listed on his original birth  
 19 certificate.

20 (4) "Student" means a public school student under the age of eighteen who  
 21 has not been legally emancipated.

22 B.(1)(a) An employee shall use the name, or a derivative thereof, for a  
 23 student that is listed on the student's birth certificate unless the student's parent  
 24 provides written permission to do otherwise.

25 (b) An employee shall use the pronouns for a student that align with the  
 26 student's sex unless the student's parent provides written permission to do otherwise.

27 (2) If a teacher objects to using a pronoun for a student based on the teacher's  
 28 religious or moral convictions, the student's parent may request a transfer to another  
 29 teacher.

1                   (3) Nothing in this Subsection shall be construed to prohibit employees from  
2                   discussing matters of public concern outside the context of their official duties.

3                   (4) Any individual aggrieved by an intentional violation of this Subsection  
4                   may seek relief. However, a school employee shall not be held liable if the  
5                   administration fails to provide information provided in Paragraph (1) of this  
6                   Subsection.

7                   C. Each public school governing authority shall adopt policies for  
8                   implementing the provisions of this Section.

9                   D. Employees are prohibited from discussing the application of this Section  
10                  relative to a student's preferred name and pronouns with other students.

11                  E. No employee shall be required to use pronouns for any person that differ  
12                  from the pronouns that reflect the sex indicated on the person's birth certificate if  
13                  doing so would violate the teacher or employee's sincerely held religious beliefs that  
14                  are protected pursuant to the Louisiana Employment Discrimination Law, Chapter  
15                  3-A of Title 23 of the Louisiana Revised Statutes of 1950 (R.S. 23:301, et seq.); the  
16                  Preservation of Religious Freedom Act, Part XIX of Chapter 32 of Title 13 of the  
17                  Louisiana Revised Statutes of 1950 (R.S. 13:5231, et seq.); or Title VII of the Civil  
18                  Rights Act of 1964 (42 U.S.C. §2000e, et seq.).

19   \*       \*       \*  
20                   §3996. Charter schools; exemptions; requirements

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22                   B. Notwithstanding any state law, rule, or regulation to the contrary and  
23                   except as may be otherwise specifically provided for in an approved charter, a  
24                   charter school established and operated in accordance with the provisions of this  
25                   Chapter and its approved charter and the school's officers and employees shall be  
26                   exempt from all statutory mandates or other statutory requirements that are  
27                   applicable to public schools and to public school officers and employees except for  
28                   the following laws otherwise applicable to public schools with the same grades:

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(75) Names and pronouns, R.S. 17:2122.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_