


Iowa Can Continue To Restrict Instruction On Gender Identity And Sexual Orientation In Schools

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3 hours ago Iowa can continue to restrict instruction on gender identity and sexual orientation in schools up through the sixth grade, a federal judge said, but has to allow nonmandatory programs related to the topics.

U.S. District Judge Stephen Locher offered a split decision late Thursday, siding in part with a LGBTQ advocacy organization, teachers and students who sued the state. Attorney General Brenna Bird said in a statement Friday that she is committed to defending Iowa's law protecting children and her office is "looking at next steps, including appeal."

In a separate ruling in March, Locher again temporarily blocked another disputed component of the law, which would prohibit school libraries from carrying books that depict sex acts. Iowa has asked the U.S. Eighth Circuit Court of Appeals to overturn that decision.

Republican majorities in the Iowa House and Senate passed the law in 2023, intending to reinforce what they consider to be age-appropriate education in kindergarten through 12th grades. It's been a back-and-forth battle in the courts in the two years since. The provisions of the law that are being challenged were temporarily blocked by Locher in December 2023, just before they became enforceable.

That decision was overturned in August by the U.S. Eighth Circuit Court of Appeals, meaning the law had been enforceable for most of the current school year. The appellate court told the lower court that it failed to apply the correct analysis in determining whether to temporarily block the law.

An attorney for the LGBTQ students, teachers and advocacy organization told Locher in February that the law is overly broad because it prohibits “any program, curriculum, test, survey, questionnaire, promotion, or instruction relating to gender identity or sexual orientation” in kindergarten through sixth grade. Opponents argued the law is vague enough to limit any information accessed or activity engaged in within the school.

Locher agreed in his decision that any “program” or “promotion” is broad enough to violate students' First Amendment rights and those provisions are therefore on hold. But restrictions on curriculum, tests, surveys, questionnaires or instruction can be interpreted in the way the state argues, as applying only to the mandatory school functions.

Locher laid out specifically what that means: “Students in grades six and below must be allowed to join Gender Sexuality Alliances ('GSAs') and other student groups relating to gender identity and/or sexual orientation.” And the district, teachers and students “must be permitted to advertise” those groups.

On the other hand, teachers are not allowed to provide mandatory instruction that include “detailed explanations or normative views” on the issues, Locher said. “It does not matter whether the lessons or instruction revolve around cisgender or transgender identities or straight or gay sexual orientations. All are forbidden.”

The state education agency's rules on the law say they will not take a neutral statement on gender identity and sexual orientation to be a violation of the law.

During a February hearing, Locher posed questions to the state's attorney asking, for example, how a teacher should decide whether a book featuring a same-sex couple is a neutral portrayal allowed under the law, or whether it is a positive or affirming portrayal.

The state often said the answers depend on context. Opponents of the law said that means the measure is too vague.

Locher's decision dictated that neutral references where sexual orientation or gender identity aren't the focus are allowed. That means books with characters of varying gender identities or sexual orientations are permitted, so long as those “are not the focus of the book or lesson.”

Locher also said a teacher can refer to their partner, even if that partner is the same sex.

Attorneys for Iowa Safe Schools, students and teachers that sued the state said Friday that the ruling is a win.

“Under this order, Iowa teachers no longer can be disciplined simply because their classroom contains a Pride flag or their library contains books with LGBTQ+ characters,” said Thomas Story, staff attorney with the American Civil Liberties Union of Iowa. “This law, with certain narrow exceptions, should no longer stand in the way of school districts supporting efforts to include and support their LGBTQ+ students.”