

Transgender Law Center, CA, USA

Wisconsin school district to settle discrimination case with transgender student Ash Whitaker

January 9, 2018

(Kenosha, WI) – Ash Whitaker, the transgender student plaintiff in [Whitaker v. Kenosha Unified School District](#), and his former school district, Kenosha Unified School District (“KUSD”) in Kenosha, Wisconsin, reached a settlement in Ash’s discrimination lawsuit against KUSD, pending court approval. Ash graduated high school in June 2017, just days after the Seventh Circuit Court of Appeals issued a landmark ruling that KUSD illegally singled him out for discrimination because he is transgender. As a condition of the settlement, KUSD agreed to withdraw its appeal of that decision to the U.S. Supreme Court. The settlement, which remains subject to court approval, will also enjoin KUSD from discriminating against Ash in the future should he return to campus as an alumnus.

“I am deeply relieved that this long, traumatic part of my life is finally over and I can focus on my future and simply being a college student,” said Ash, who is currently a freshman at the University of Wisconsin-Madison, where he plans to major in biomedical engineering. “Winning this case was so empowering and made me feel like I can actually do something to help other trans youth live authentically. My message to other trans kids is to respect themselves and accept themselves and love themselves. If someone’s telling you that you don’t deserve that, prove them wrong.”

The Seventh Circuit decision in Ash’s case marked the first time a federal court of appeals ruled unequivocally that transgender students are protected from discrimination under both Title IX and the Constitution. That ruling, which affirmed a lower court order enjoining KUSD officials from interfering with Ash’s ability to use boys’ restrooms during his senior year, established that both federal law and the U.S. Constitution require the equal treatment of transgender students at school. The Seventh Circuit’s decision held that “[a] policy that requires an individual to use a bathroom that does not conform with his or her gender identity . . . violates Title IX” and that subjecting transgender students “to different rules, sanctions and treatment than non-transgender students” also violates federal law.

Kris Hayashi, executive director of Transgender Law Center, which represented Ash along with co-counsel, said, “The precedent in the Seventh Circuit is definitive: schools cannot single students out because they are trans. Period.”

KUSD’s discriminatory actions included banning Ash from using boys’ restrooms, invasively monitoring his restroom use, referring to him by female pronouns in front of other students, initially denying him the right to run for junior prom king, and forcing him to room by himself during a week-long orchestra camp. To avoid punishment, Ash tried to avoid using the bathroom at school altogether, and suffered serious depression, anxiety, and other physical and educational harms as a result of the discrimination he faced.

As part of the settlement, KUSD will make a monetary payment of \$800,000 for the harm Ash experienced as a student and his reasonable attorneys' fees and costs.

"This settlement sends the clear message to all school districts that discriminating against transgender students is against the law and harms students who simply want to go to school," said Joseph Wardenski of the civil rights law firm, Relman, Dane & Colfax PLLC, which represented Ash in this lawsuit. "We are pleased that KUSD decided not to needlessly drag this case through the courts any further, to compensate Ash for the concrete and avoidable harms he suffered, and to finally allow Ash to move on from this painful chapter of his life."

Ash was represented by Transgender Law Center, the largest national trans-led organization advocating self-determination for all people; Relman, Dane & Colfax PLLC, a Washington, D.C.-based civil rights law firm; and Robert (Rock) Theine Pledl of McNally Peterson, S.C., based in Milwaukee, Wisconsin.

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Transgender Law Center (TLC) is the largest national trans-led organization advocating self-determination for all people. Grounded in legal expertise and committed to racial justice, TLC employs a variety of community-driven strategies to keep transgender and gender nonconforming people alive, thriving, and fighting for liberation.

Relman, Dane & Colfax PLLC is a national civil rights law firm based in Washington, DC. The firm litigates civil rights cases in the areas of housing, lending, employment, public accommodations, education, and police accountability. Our national practice includes individual and class action lawsuits on behalf of plaintiffs who have suffered discrimination and harassment on the basis of race, national origin, color, religion, sex (including gender identity), disability, age, familial status, source of income, and sexual orientation.

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