

ThinkProgress, DC, USA

Wisconsin school pays \$800,000 after policing a transgender student's bathroom usage

The school said it would be cost-prohibitive to appeal discrimination to the Supreme Court.

Zack Ford | Jan 10, 2018, 1:02 pm

A Wisconsin school district decided Tuesday night to stop fighting a lawsuit filed by transgender student Ashton Whitaker, who'd been denied access to restrooms that match his gender identity. The decision follows a significant loss at the Seventh Circuit Court of Appeals that set a major precedent for protecting transgender students across several states.

The Kenosha Unified School Board [voted 5-2 Tuesday](#) night to drop its appeal to the United States Supreme Court and pay out a settlement of \$800,000 instead. The district's attorney, Ron Stadler, clarified that the settlement was an economic decision, not a recognition that transgender students deserve to be respected and affirmed.

"I think we have an excellent argument," he said of the school's pro-discrimination policies, which included forcing Whitaker to wear bright green wristbands so that his bathroom usage could be policed. "But if you look at it in terms that you've got these escalating costs, you've got a good argument, but not an absolute argument. The attorneys' fees drive it."

In September 2016, a district judge ruled in Whitaker's favor and [issued an injunction](#) allowing him to access boys' facilities throughout his senior year. The Seventh Circuit kept the injunction in place, then [ruled in his favor in May](#) — just days before his graduation. Kenosha violated Whitaker's Title IX protections on the basis of sex by refusing to accommodate his gender identity, the panel concluded. Because it did not depend on the guidance issued by the Obama administration and later rescinded by the Trump administration, the case was ripe for review by the Supreme Court, and the district had filed an appeal, but that appeal was withdrawn as part of the settlement.

Now a first-year student at the University of Wisconsin-Madison, Whitaker [described himself in a statement](#) from the Transgender Law Center as "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." The win was "empowering," he said, because it "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's decision in Whitaker's case has already protected other students. [Just last month](#), a federal judge in Illinois ruled against a group of parents challenging their school district's inclusive transgender policy. Their concern about privacy, the judge wrote, "flies in the face of *Whitaker*."

<https://thinkprogress.org/wisconsin-transgender-settlement-ash-whitaker-1261778d13e2/>