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VIA ELECTRONIC MAIL:

West Allis-West Milwaukee School District
Board of Education
c/o Noah Leigh, Board President (*leighn@wawmsd.org*)

RE: First Amendment Violation at March 27 School Board Meeting

Dear School Board Members:

During a public forum, a school board may not silence speakers who express viewpoints that the board does not want to hear. Yet that is exactly what Noah Leigh, Board President of the West Allis-West Milwaukee School District, did at a recent meeting. Mr. Leigh's conduct was an egregious violation of the First Amendment, which guarantees the freedom of speech.

March 27 School Board Meeting

On March 27, 2023, Mr. Steve Broadwell, who is a retired resident of the district, spoke during a school board public forum to express his concerns about a suggested LGBTQ curriculum. Shortly after Mr. Broadwell began to articulate his concerns about such a curriculum, Board President, Noah Leigh, prevented Mr. Broadwell from speaking and accused him of "hate speech."

A [video](#) of Mr. Broadwell's remarks (beginning at 18:24) shows him reading from a prepared speech and stating that efforts to include LGBTQ ideology in public-school curriculum are "merely an effort to normalize the transgender social contagion that legitimate experts agree is most often an undiagnosed psychological problem."

Board President Noah Leigh interrupted Mr. Broadwell twice during his remarks.

First, Mr. Leigh stated while Mr. Broadwell was mid-sentence, "I want to warn you against hate speech against those in that community." When Mr. Broadwell asked why his statement was hate speech, Mr. Leigh replied only, "It's considered hate speech."

Mr. Broadwell then asked who considers his comment to be hate speech. At that time, an unknown female board member said it was hate speech because he referred to transgenderism as a “social contagion.” Mr. Broadwell asked again, “That’s hate speech?” And Mr. Leigh told him, “It will not be allowed during this public comment. Your opinions are fine another place but you are not allowed to do it here.”

Second, after Mr. Broadwell calmly agreed to move on and stated, “You can’t honestly believe this is based on science. Beyond the insanity of this fad . . .” Mr. Leigh again interrupted him and said, “Mr. Broadwell, you’ve been warned. Calling it a fad is as equally bad.” He again warned Mr. Broadwell that if he “continue[s] this route, you’ll be done.”

Mr. Broadwell inquired about whether he is allowed to have an opinion other than that of the board: “There’s no other opinion? It’s science. You keep talking about science. There are two opinions.” Ultimately, he was not able to continue his prepared comment over the interruptions of Mr. Leigh, who repeatedly stated, “Thank you, Mr. Broadwell. Thank you, Mr. Broadwell.”

Importance of Free Speech and Unconstitutional Actions by the School Board

It is no surprise that the topic of gender ideology, especially when that ideology is taught to minor students, is a subject of intense public disagreement. Community members should be able to share their viewpoints on the issue without being censored and silenced by their local school board. The First Amendment protects opinions, even those opinions that you may oppose such as the claim that transgenderism is a “social contagion”—an opinion, which, by the way, is the subject of scientific investigation.¹

West Allis-West Milwaukee Board Policy 0167.3 states: “The Board recognizes the value of public comment on educational issues and the importance of allowing members of the public to express themselves on District matters.” Mr. Leigh prevented Mr. Broadwell from speaking precisely because Mr. Leigh did not agree

¹ There is ongoing academic debate over gender dysphoria as a social contagion. *See, e.g., Standards of Care for the Health of Transgender and Gender Diverse People, Version 8*, WPATH, International J. Trans. Health 2022, Vol. 23, No. S1, S1–S258 (2022), available at <https://www.tandfonline.com/doi/pdf/10.1080/26895269.2022.2100644> (acknowledging there has been a “sharp increase in the number of adolescents requesting gender care” recently, that “research [has] demonstrated [that] psychosocial and social factors also play a role,” and that the recent phenomenon of “adolescents seeking care who have not seemingly experienced, expressed (or experienced and expressed) gender diversity during their childhood years” suggests that for some young people, “susceptibility to social influence impacting gender may be an important differential to consider.”); *see also Parent reports of adolescents and young adults perceived to show signs of a rapid onset of gender dysphoria*, PLoS ONE 13(8): e0202330, <https://doi.org/10.1371/journal.pone.0202330> (calling for more investigation into the “social contagion” theory).

with the content of the speech. (As an aside, the policy neither defines nor mentions “hate speech” at all.)

The First Amendment prohibits the government from “abridging the freedom of speech.” Even though a school board has some leeway to regulate speech during a public forum (for instance, speech that is wholly irrelevant to District matters), it may not engage in viewpoint discrimination. *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995). In other words, the “the government may not discriminate against speech based on the ideas or opinions it conveys.” *Iancu v. Brunetti*, 139 S. Ct. 2294, 2299 (2019) (citing *Rosenberger*).

Importantly, the government may not censor speech merely because it is “offensive to some.” *Matal v. Tam*, 582 U.S. 218, 244 (2017) (quoting *Street v. New York*, 394 U.S. 576, 592 (1969)); *Iancu*, 139 S. Ct. at 2299 (“[T]he government cannot discriminate against ‘ideas that offend.’”). Unlawful viewpoint discrimination does not neutrally treat an entire subject as off limits, but rather permits speech on the subject and only disfavors certain points of view.

It is clear that Mr. Leigh stopped Mr. Broadwell’s public comment because Mr. Leigh became uncomfortable with the words “social contagion” and “fad.” But the board cannot censor comments that might make people uncomfortable—even the board president.

Mr. Broadwell spoke calmly, used measured tones, was within his allotted time, and refrained from comments that were personally directed or abusive. He focused instead on his opposition to implementing a curriculum that would include teaching gender ideology to students. When Mr. Leigh, on behalf of the board, forced Mr. Broadwell to stop speaking on March 27, he engaged in impermissible viewpoint discrimination and violated Mr. Broadwell’s First Amendment rights.

Community members should be permitted to express their views about District matters, regardless of whether the school board approves or not. WAWM school board policy does not dispute this. But the threat of being censored by the board chills the speech of community members, impacts the content of their speech, suppresses the viewpoints they may want to express, and diminishes their willingness to participate at board meetings at all. Actions like that of Mr. Leigh chill freedom of expression.

Considering what occurred on March 27 and the First Amendment rights of citizens both in the local community and throughout Wisconsin and our nation, we urge the WAWM School Board to reconsider its policy of silencing community members who offer comments that they do not like.

Mr. Broadwell deserves an apology, and the board should never again unlawfully censor public comments in this way. Instead, the board should publicly re-affirm its commitment to the First Amendment and the freedom of speech, expression, and the right to petition government officials (like public school boards).

The students you educate would benefit from this small step, and the First Amendment rights of the community you represent depend on it.

Sincerely,

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