

No. 20-3289

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

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NICHOLAS K. MERIWETHER  
*Plaintiff-Appellant,*

v.

FRANCESCA HARTOP, JOSEPH WATSON, SCOTT WILLIAMS, DAVID FURBEE, SONDR  
HASH, ROBERT HOWARTH, GEORGE WHITE, AND WALLACE EDWARDS, TRUSTEES OF  
SHAWNEE STATE UNIVERSITY, IN THEIR OFFICIAL CAPACITIES; JEFFREY A. BAUER,  
ROBERTA MILLIKEN, JENNIFER PAULEY, TENA PIERCE, DOUGLAS SHOEMAKER, AND  
MALONDA JOHNSON, IN THEIR OFFICIAL CAPACITIES,  
*Defendants-Appellees,*

JANE DOE AND SEXUALITY AND GENDER ACCEPTANCE,  
*Intervenors-Appellees*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO AT CINCINNATI  
No. 1:18-cv-00753 (HON. SUSAN J. DLOTT)

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**MOTION OF THE TREVOR PROJECT, INC. AND AMERICAN  
ASSOCIATION OF SUICIDOLOGY FOR LEAVE TO FILE *AMICI CURIAE*  
IN SUPPORT OF DEFENDANTS-APPELLEES AND INTERVENORS-  
APPELLEES' PETITION FOR PANEL REHEARING OR REHEARING *EN*  
*BANC***

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## CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure and Sixth Circuit Rule 26.1, *amici curiae* certify that no *amici* is a subsidiary or affiliate of a publicly owned corporation nor has a financial interest in the outcome of this matter. Disclosure of Corporate Affiliation and Financial Interest forms are included herein.

Dated: May 14, 2021

/s/ Shireen A. Barday

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**MOTION**

Pursuant to Federal Rules of Appellate Procedure 27 and 29, The Trevor Project, Inc. and the American Association of Suicidology respectfully move this Court for leave to file the attached brief as *amici curiae* in support of Defendants-Appellees and Intervenor-Appellees’s petition for rehearing *en banc*. In support, The Trevor Project and AAS state:

(1) **The Trevor Project, Inc.** (“The Trevor Project”) is the world’s largest suicide prevention and crisis intervention organization for lesbian, gay, bisexual, transgender, queer, and questioning (“LGBTQ”) young people. The Trevor Project offers the only accredited, free, and confidential phone, instant message, and text messaging crisis intervention services for LGBTQ youth, which are used by thousands of youth each month. Through these services and national surveys, The Trevor Project also produces innovative research that brings new knowledge, with clinical implications, to issues affecting LGBTQ youth.

(2) The **American Association of Suicidology** (“AAS”) is a nationally recognized organization comprised of public health and mental health professionals, researchers, suicide prevention and crisis intervention centers, survivors of suicide loss, attempt survivors, and others, that promotes the prevention of suicide through research, public awareness programs, education and training. In addition to advancing suicidology as a science, AAS promotes public

education and training for professionals and volunteers on suicide prevention and intervention.

(3) As explained fully in the accompanying brief, The Trevor Project and AAS have a special interest in this litigation as well as familiarity and knowledge of the significant harms that transgender youth endure as a result of disparate treatment and disrespect of their gender identity. *Amici* are deeply concerned that the Panel's opinion in this case will place young adults at an increased and substantial risk of suicidality, a risk that is strongly and consistently associated with experiencing disparate treatment based on gender identity. The Trevor Project works firsthand with LGBTQ youth and young adults who have endured disparate and discriminatory treatment and understands the devastating effects that such treatment inflicts, including an increased risk of suicide. AAS endeavors to end practices which increase risks of suicidality of minors and young adults through public policy advocacy, including disparate and discriminatory treatment. For these reasons, The Trevor Project and AAS have a substantial interest in this litigation.

(4) The Trevor Project and AAS are uniquely positioned to assist the Court's determination of whether the Panel's decision merits review *en banc*. As explained in the accompanying brief, the Panel's opinion merits rehearing both because it is at odds with this Court's and Supreme Court precedent regarding the

ability of state universities to maintain and enforce anti-discrimination policies, and because the question it presents is one of exceptional importance—whether colleges may protect vulnerable transgender students from differential treatment by their professors that puts young transgender adults at increased risk of suicidality.

(5) *Amici* will demonstrate in the accompanying brief that young transgender adults subjected to the use of incorrect pronouns in the classroom are at risk of harm to their mental health, including an increased risk of suicide. The Panel’s dismissal of this evidence warrants rehearing by the full Court because of the exceptional importance of this issue in light of the seriousness of the harms associated with disparate and discriminatory treatment based on gender identity.

(6) In addition, the Panel’s distortion of the First Amendment to support discrimination against transgender individuals warrants rehearing *en banc* because of the serious harms associated with the disparate treatment of young transgender adults: its holding that a government may not act to ensure that transgender students are addressed with their proper pronouns because pronouns are spoken words is an unprecedented incursion on an area of traditional authority for public institutions of higher learning. Such an important issue warrants rehearing by the full Court.

**CONCLUSION**

For the foregoing reasons, The Trevor Project and AAS respectfully ask this Court for leave to file the attached brief as *amici curiae* in support of Defendants-Appellees' petition for rehearing *en banc*.

Dated: May 14, 2021

/s/ Shireen A. Barday  
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**CERTIFICATE OF COMPLIANCE**

This motion complies with the type-volume limitation, as provided in Fed. R. App. P. 27, because, exclusive of the exempted portions, it contains 652 words.

This motion complies with the type-face requirements, as provided in Fed. R. App. P. 32(a)(5), and the type-style requirements, as provided in Fed. R. App. P. 32(a)(6), because it has been prepared in proportionally spaced typeface using Microsoft Word 2010 in 14 point Times New Roman font.

As permitted by Fed. R. App. P. 32(g)(1), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

Dated: May 14, 2021

*/s/ Shireen A. Barday* \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the appellate CM/ECF system on May 14, 2021, which will cause notice of filing to be sent to all counsel of record.

Dated: May 14, 2021

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