

# Legislative Testimony

In **Opposition** to SB76  
Senate Committee on Education  
February 10<sup>th</sup>, 2025

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*Written Only*

Chair Erickson and Members of the Committee,

My name is Rashane Hamby, and I serve as the Director of Policy and Research at the American Civil Liberties Union (ACLU) of Kansas. The ACLU of Kansas is a nonpartisan, nonprofit organization with more than 35,000 supporters statewide, dedicated to protecting and advancing the civil rights and liberties of all Kansans. I am writing to express my strong opposition to Senate Bill 76 (SB 76), a bill that imposes unnecessary and harmful restrictions on educators and students regarding names and pronouns. This legislation places undue burdens on teachers while endangering the well-being of students—particularly transgender and gender-diverse youth. Every Kansas student has the right to be addressed by their gender-affirming name and pronouns. Schools have a legal and ethical obligation to respect students’ gender identities, regardless of whether they have been able to legally update their names or gender markers. SB 76 is not only an overreach but also a direct threat to the dignity and safety of students across Kansas.

## **Every Kansas Student Has the Right to Be Called by Their Gender-Affirming Name and Pronouns**

Under Kansas law, when a child enrolls in a school for the first time, schools must require “proof of identity” (Kansas Statutes Annotated, § 72-9934, 2023). This proof may include a certified copy of the child’s birth certificate, a certified transcript or similar student records for children in grades 2 through 12, or any other documentary evidence deemed satisfactory by the school board (Kansas Statutes Annotated, § 72-9934, 2023). Although documentary proof of identity is required upon enrollment, no Kansas or federal law mandates that a school—whether its board, administrators, teachers, or employees—refer to a student by the name listed on these documents. Likewise, no law requires schools to use pronouns that align with a student’s gender assigned at birth or the original gender marker on their birth certificate or other identity records.

It is therefore legally permissible for schools, including administrators, teachers, and staff, to use a student’s gender-affirming name and pronouns in daily interactions—even if those names or pronouns are not reflected in official records. In fact, denying students this right may violate Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) and the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. Courts across the country have ruled that refusing to use a person’s gender-affirming name and pronouns can constitute gender-

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based harassment in violation of the Equal Protection Clause (*Grimm v. Gloucester County School Board*, 2020; *Bostock v. Clayton County*, 2020). Furthermore, the U.S. Department of Education's Office for Civil Rights and the Department of Justice's Civil Rights Division have stated that failure to use a student's gender-affirming name and pronouns may be investigated as gender-based harassment under Title IX (U.S. Department of Education, 2021). Schools have a legal and ethical obligation to respect every student's gender identity, regardless of whether they have legally updated their name or gender marker.

## **This Law Would Be a Violation of Students' Privacy and Put Their Safety at Risk**

Students' interests in privacy and safety are directly linked to their right to be addressed by names and pronouns that reflect their gender identity. Respecting students' gender-affirming names and pronouns is essential to protecting transgender and gender-diverse students from bullying and discrimination in school. When teachers or staff misgender or deadname a student, it not only violates the student's dignity but also signals to peers that such behavior is acceptable—thereby increasing the likelihood of bullying and harassment. Research has shown that affirming a transgender student's name and pronouns significantly improves mental health and overall well-being. According to a study published in the *Journal of Adolescent Health*, transgender youth who have their names and pronouns respected report 71% fewer symptoms of severe depression, a 34% decrease in suicidal ideation, and a 65% reduction in suicide attempts (Russell, Pollitt, Li, & Grossman, 2018). Ensuring that schools respect students' gender identities is not only best practice; it is also a crucial step in creating a safe and supportive learning environment for all.

## **The Harmful Impact on Educators and the Education System**

The damages section of SB 76 is overly broad and creates significant potential for litigation based on overheard conversations. The bill does not require that the person suing for damages have been directly involved in the conversation; anyone who merely overhears a discussion could bring a lawsuit. Moreover, the bill states that a person may sue if they are "harmed" by a violation—an undefined term that could result in litigation over a simple misunderstanding.

This bill prohibits the use of any nicknames deemed "derivative" of a student's legal name, regardless of gender, even though the term "derivative" is never defined—and many new names chosen by transgender students after transitioning are, in fact, derivative of their birth names. Enforcing this vague provision would likely lead to the unwarranted disciplining of students—especially transgender and gender-diverse individuals—who choose nicknames that are

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derivative of their legal names regardless of gender, ultimately undermining their ability to express their authentic identities and exacerbating their marginalization.

The unenforceability of the bill would place excessive administrative burdens on local schools and institutions of higher education. Schools would be forced to develop enforcement systems without clear guidance, increasing both costs and liability risks. Additionally, there is no feasible way to ensure that every school employee and student is aware of every other student's name and sex as listed on their birth certificate—and such a system should not be required. Under Kansas law, when a child enrolls in a school for the first time, schools must require “proof of identity” (Kansas Statutes Annotated, § 72-9934, 2023), yet this proof does not necessarily have to be a birth certificate. Furthermore, out-of-state birth certificates may be amended to reflect a transgender student's name and gender marker, making consistent enforcement impossible. Some Kansas birth certificates were amended prior to the 2023 policy change by the Kansas Department of Health and Environment, and Kansas law still permits name changes on birth certificates. These factors render uniform enforcement impractical and inequitable.

The bill also provides that “a person who is harmed by a violation” may seek injunctive relief, monetary damages, reasonable attorney fees, and any other appropriate relief. This language effectively deputizes students, teachers, and other school personnel to act as enforcers of the law, fostering a “Big Brother” or secret-police environment in schools. Such an environment would erode trust between students, teachers, and administrators, ultimately harming the broader community. Additionally, this provision would place an immense burden on Kansas's judicial system. To establish standing in Kansas courts, a plaintiff must demonstrate a cognizable injury and a direct causal connection between that injury and the challenged conduct (*Gannon v. State*, 2014). By inviting individuals without legitimate standing to file lawsuits, the bill would likely flood the courts with frivolous cases, wasting judicial resources and diverting attention from genuine educational concerns.

## Conclusion

In conclusion, SB 76 is a misguided and harmful piece of legislation that will have serious negative consequences for students, educators, and school communities across Kansas. It prioritizes political ideology over the well-being of children and the authority of local school districts. I strongly urge you to vote against this bill and instead focus on policies that support all students in their educational journey.

Sincerely,  
Rashane Hamby

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