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# Appeals court upholds ruling granting Indiana transgender students access to restrooms

BY BROOKE MIGDON - 08/03/23 4:59 PM ET

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A federal appeals court this week upheld a lower court ruling that transgender students in Indiana must have access to school restrooms and locker rooms consistent

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with their gender identity.

In a ruling published Tuesday, a three-judge panel for the 7th U.S. Circuit Court of Appeals upheld a preliminary injunction issued last year by the U.S. District Court for the Southern District of Indiana that ordered two Indiana school districts — Vigo County School Corporation and the Metropolitan School District of Martinsville — to allow three transgender teenage boys to use the boys restrooms and locker rooms.

Tuesday’s opinion requires both school districts to allow the boys access to the facilities while litigation in a 2021 lawsuit filed by the American Civil Liberties Union (ACLU) of Indiana and Indiana Legal Services continues.

Kenneth Falk, legal director of the ACLU of Indiana, said in a statement following the court’s ruling Tuesday that students who are denied access to the appropriate

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facilities face “both serious emotional and physical harm as they are denied recognition of who they are.”

“They will often avoid using the restroom altogether while in school,” Falk said. “Schools should be a safe place for kids and the refusal to allow a student to use the correct facilities can be extremely damaging.”

At least nine states have enacted laws that ban transgender people from using restrooms or changing rooms consistent with their gender identity in K-12 schools and certain government-owned buildings, according to the [Movement Advancement Project](#). A similar statewide ban was proposed last year in Indiana, but it failed to advance through the legislature, which is controlled by Republicans.

According to Tuesday’s ruling, all three plaintiffs are likely to succeed in arguing their

claims of sex discrimination under Title IX of the Education Amendments of 1972 and the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution.

“We note also that the school districts in these two cases may be violating Indiana law,” the panel wrote in its opinion.

Each of the three boys — identified in court documents as A.C., B.E. and S.E. because they are minors — have received amended birth certificates and legal name changes that identify them as boys.

“They appear to be boys in the eyes of the State of Indiana,” the panel wrote Tuesday in its opinion. “If so, then it would be contrary to Indiana law for the school districts to treat A.C., B.E., and S.E. as though they are not boys and to require them to use the girls’ bathrooms and locker rooms.”

“But no plaintiff has pursued

this theory of state-law violation, and so we do not explore it further,” the panel added.

Neither Vigo County School Corporation nor the Metropolitan School District of Martinsville immediately responded to The Hill’s request for comment.

In an email to [The Associated Press](#) (AP), Martinsville Superintendent Eric Bowlen said “we are reviewing the decision and evaluating available options.” The Vigo County School Corporation is reviewing Tuesday’s decision with legal counsel, the AP reported.

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Tuesday’s ruling also posits that the Supreme Court is

likely to step in to hear the case or others like it. While the court so far has declined to intervene in cases regarding transgender rights, two of its conservative justices appear eager to wade into the discussion.

“Litigation over transgender rights is occurring all over the country, and we assume that at some point the Supreme Court will step in with more guidance than it has furnished so far,” the panel wrote Tuesday.

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