

Transgender Student's Discrimination Suit Is Settled for \$800,000

By JACEY FORTIN | JAN. 10, 2018

A Wisconsin school district has agreed to pay \$800,000 to settle a lawsuit filed by a transgender student who said he was forbidden from using boys bathrooms at his high school and felt degraded by administrators.

The decision by the school board for the Kenosha Unified School District means that the matter will not be taken up by the United States Supreme Court.

The lawsuit was filed in 2016 by Ashton Whitaker, who was a rising senior at the time at George Nelson Tremper High School in Kenosha, a city on Lake Michigan.

Court documents show that Mr. Whitaker, 18, who graduated last year and is now a freshman at the University of Wisconsin-Madison, began to openly identify as a boy when he was a freshman at the high school. After teachers and administrators there told him he could not use the boys restrooms, he sued the school district.

“The idea of using the girls restroom was humiliating and there was no way I could do it,” he said in [a court document](#) filed in August 2016. “If I were to use the gender-neutral restrooms, I would also stand out from everyone else with a big label on me that said ‘transgender.’”

He described feeling “scrutinized and degraded” when administrators repeatedly tried to keep him out of the boys restrooms, or when they used female pronouns after he had asked them not to. He added that he suffered from anxiety, depression, migraines and other health problems related to dehydration because he had tried to avoid restroom trips by drinking less water.

A Federal District Court judge granted [an injunction](#) that allowed Mr. Whitaker to use boys bathrooms during his senior year. The school district appealed that decision to the Seventh Circuit Court of Appeals. The district’s lawyers [argued in part](#) that “a student cannot unilaterally declare their gender then demand that they be treated like ‘all others’ in that sex classification.”

But the appeals court judges [upheld the injunction](#) in May 2017.

The school district then filed a petition to appeal that ruling to the United States Supreme Court. But on Tuesday, the school board voted 5 to 2 to pay an \$800,000 settlement to Mr. Whitaker instead and to withdraw its petition, according to [The Kenosha News](#).

Mr. Whitaker, in a statement emailed by the [Transgender Law Center](#), which represented him, said he was “deeply relieved” that the court case was over and he could focus on being a college student. “Winning this case was so empowering and made me feel like I can actually do something to help other trans youth live authentically,” he said.

Ronald S. Stadler, the board’s lawyer, said that the district “never engaged in any acts of overt discrimination against transgender individuals,” although he acknowledged that Mr. Whitaker had been told not to use the boys bathroom. He said the decision to settle was made partly because the district wanted to avoid the cost of continuing litigation.

“I think eventually the Supreme Court is going to have to take this issue and issue a ruling,” he said, “because we have lower courts all across the country that have looked at it in various ways, and it’s not always consistent.”

Lynly S. Egyes, the director for litigation at the Transgender Law Center, a California-based advocacy group, said that while many court decisions about transgender issues had relied on guidance from the executive branch (like the [guidelines under President Barack Obama](#) that were [rescinded under President Trump](#)), the Seventh Circuit’s decision to uphold the injunction relied instead on the Equal Protection Clause of the 14th Amendment and [Title IX](#), the federal law that prohibits gender discrimination in schools that get public funds.

“This is one of the most sweeping decisions for transgender people at the federal level that we have seen,” Ms. Egyes said.

Joseph J. Wardenski, a civil rights lawyer with the Washington-based firm Relman, Dane & Colfax who also represented Mr. Whitaker, said that the Seventh Circuit’s decision “will also benefit many transgender people across the country.” He noted that the opinion had already been cited by courts outside of the Seventh Circuit, which covers Illinois, Indiana and Wisconsin.