

Boys Want to Use Girls' Bathroom at Kentucky School, Principal Agrees

Alliance Defending Freedom (ADF) has sent a letter to Jefferson County Public Schools (JCPS) that asks it to reverse a decision by the Atherton High School principal to allow students to use bathrooms and changing areas reserved for the opposite sex. The letter provides a recommended policy that addresses the school's concerns about discrimination without allowing the sharing of bathrooms.

The ADF letter explains that, contrary to the principal's decision, no law requires public schools to allow boys into girls' restrooms or girls into boys' restrooms. In fact, the district could be subjecting itself to legal liability for violating students' privacy rights and placing them in potentially unsafe conditions.

"A school district's duty is to protect its students," says ADF legal counsel Jonathan Scruggs. "The school district should adopt policies that protect student privacy and safety, not open itself to legal liability from students whose privacy rights are harmed by misguided policy decisions."

"Every student has a right to privacy and safety. There is no legal mandate that requires every child in the district to give up these rights because a boy wants to use the girls' restroom," adds ADF senior legal counsel Jeremy Tedesco. "The only sensible, objective and enforceable policy is one that ensures single-sex access to areas where children undress or engage in other activities that require privacy. The ADF model policy addresses the problems the district is trying to solve without compromising student privacy and safety."

The ADF letter cites pertinent legal precedent, including a

2006 U.S. Court of Appeals for the 6th Circuit ruling that employers do not violate federal law when they restrict restrooms and changing areas to members of the same sex for privacy and safety reasons.

“Based on such cases, JCPS does not have any legal duty to open changing areas to opposite-sex students as a means to prevent discrimination. There simply is no discrimination in protecting young children from inappropriate exposure to the opposite-sex,” the ADF letter states.

“Permitting students to use opposite-sex restrooms would seriously endanger student safety, undermine parental authority, and severely impair an environment conducive to learning,” the letter continues. “These dangers are so clear-cut that a school district allowing such activity would clearly subject itself—and its teachers—to tort liability. We therefore suggest that JCPS reverse the decision of Atherton’s principal and prohibit students from using opposite-sex changing areas.”

In the letter, ADF offers to defend the school district free of charge if it adopts the ADF-recommended policy and then faces any legal challenge over it in court. Clint Elliott, one of more than 2,300 attorneys allied with Alliance Defending Freedom, is serving as local counsel in the matter.