



## **Transgender Boys in Girls' Locker Rooms a New Civil Right?**

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School districts across the country are scrambling to develop policies for transgender students. They're facing financial pressure from the Department of Education, which released updated guidelines applying to gender identity in 2014.

The Department of Education's Office for Civil Rights says the non-discrimination clause in the 1972 Title IX civil rights law now extends to discrimination claims based on gender identity.

It recently found that Township High School District 211 in Palatine, Illinois, violated the new guideline by denying a boy who became a transgender girl access to the girls' locker rooms.

Instead, the district had arranged for the student to use separate facilities to change clothes for athletic activities and physical education classes.

The DOE informed the school that those separate facilities did not comply with federal law and put Dist. 211 on notice that it could lose the millions of dollars it receives in federal funding.

Outraged parents attended a school board meeting in December, urging the board not to settle with the DOE.

"There are sexual predators out there that will take advantage of this," parent Dan Stanford said. "The reason we keep males and females separated is to prevent problems-and now you're saying, 'Oh no, there's no problem.'"

Vicki Wilson and Lisa Moran formed the D211 Parents for Privacy activist group on Facebook in response to the threat.

"They're trying to rewrite Title IX by memo," Wilson told CBN News.

## **A Complicated Policy**

Alliance Defending Freedom attorney Matt Sharp says school districts across the country should pro-actively create transgender policies in light of the financial risk.

The federal government typically pays \$1,200 to \$2,000 per student every year.

"It's a lot of money, especially for smaller, rural school districts that don't have the same tax base," Sharp said. "And so for these schools federal funding is vital to continue with athletic programs and sports and books and lunches."

At the same time, Sharp notes that so far, no court has interpreted Title IX as a requirement for schools to provide students with access to opposite sex facilities.

Creating policies that serve both transgender and non-transgender students is a complicated task.

One issue: an open definition of what it means to be transgender.

"So you end up with situations where a student could literally walk into school one day and say, 'I decided talking with my family that I now identify with the opposite gender. I want to start receiving all my benefits,'" Sharp explained.

"So schools are left in a very difficult situation of saying, 'How can we know if this is a student just wanting to gain access to the opposite sex bathrooms or a student who genuinely believes they are the gender of the opposite sex?'" he added.

## **A New Precedent**

A case in Gloucester, Virginia, could set a national precedent. It started when a Gloucester High School girl who became a transgender boy told administrators that he wanted to use the boys' bathrooms and locker rooms.

The student, Gavin Grimm, had changed his name and appearance to look more masculine and told authorities that using the girls' facilities would make him feel like an outcast.

At a press conference he explained, "For me, the thought of going into a separate restroom which might as well have been labeled 'other' was too much to bear."

Some of the Dist. 211 students are sympathetic to that concern.

"You can't separate someone from their peers," senior Matt Serikaku told CBN News. "It's just not fair to them."

"People are talking about justice for everyone, privacy for all students. But what about this specific student who has been discriminated against?" Junior Anusha Thotakura told CBN News.

Sixteen-year-old Grimm has sued the Gloucester County schools over their restroom policy, after administrators denied him access to the boys' bathroom.

The American Civil Liberties Union filed his lawsuit in federal court in Norfolk, Virginia, last June and a judge agreed with the school board in September.

The ACLU appealed to the 4th U.S. Circuit Court of Appeals in Richmond in October and a decision is expected in the next several months.

### **Competing Values**

Privacy advocates like Sharp believe that separate facilities represent the best solution for schools with transgender students.

The Alliance Defending Freedom has developed a policy that schools can use as a starting point. Sharp disputes that such an accommodation is harmful for transgender students.

"As an act of compassion, they're {schools} using policies like ours," he said. "They're saying, 'We'll give you a private place to change. We are going to accommodate you by providing you with a place at school that's just yours, while protecting everyone else.'"

School choice advocates like Dr. Neal McCluskey at the CATO Institute say that while the federal government should protect against discrimination, it should stay out of the transgender debate for now.

"There are competing values here," McCluskey explained. "A lot of people are concerned about privacy and a lot think it's a moral issue and it's something that should be decided at the local and state level."

### **A Dangerous Experiment?**

In Illinois, Dist. 211 recently settled with the DOE. It built individual changing stalls in its locker rooms for transgender students.

The move is a defeat for Wilson and Moran. They're urging other parents to get ready and take part in the debate.

"This is going to be affecting so many districts," Wilson said. "A lady from a neighboring district just came up to me and said 'I need help.'"

Giving students the ability to choose their bathroom and locker room is a social experiment most parents never dreamed would happen.

With no scientific or legal definition of what it means to be transgender, many believe the new federal policy has left the door open for many difficult, awkward, and potentially abusive situations.