



Written by [Michael Tennant](#) on March 24, 2017

Pennsylvania High-Schooler Sues Over Transgender in Locker Room

A Pennsylvania high-school student is suing his school district for allegedly forcing him to share a locker room with a transgender student and threatening him for complaining about the situation.

The [lawsuit](#), filed in federal district court Tuesday by the Alliance Defending Freedom (ADF) and the Independence Law Center (ILC), alleges that the student, a junior at Boyertown Area Senior High School, was shocked one day last fall when he began to disrobe in the boys' locker room only to find himself in the company of another student in shorts and a bra. The other student, it turns out, is a girl who, biology notwithstanding, identifies as male and had recently begun the process of gender transition.



According to the complaint, the male student, identified as "Joel Doe," "experienced immediate confusion, embarrassment, humiliation, and loss of dignity upon finding himself in this circumstance and quickly put his clothes on and left the locker room."

He and some classmates spoke to the assistant principal about the matter, the lawsuit claims, but their concerns were rebuffed because the district was bowing to the Obama administration's 2016 demand that schools allow students to use the locker rooms and restrooms of their choice. It had not, however, notified the student body or their parents of this policy change.

Instead, Joel Doe was told to "tolerate" the situation and make it as "natural" as he possibly could, the plaintiff alleges, adding that school officials told him "that anything less would be intolerant and bullying against students who profess a gender identity with the opposite sex." These actions, the complaint says, "marginalized and shamed Joel Doe, and unlawfully attempted to coerce and intimidate Joel Doe into accepting continuing violations of his bodily privacy."

The school's transgender policy has caused Joel Doe to stop using both the locker room and the restroom during the school day for fear of another encounter with a student of the opposite sex, says the suit. This, in turn, has caused him to fail gym class for refusing to change clothes and to be distracted in various classes by the need to use the restroom.

The complaint also alleges that the school "further marginalized, intimidated, and shamed Joel Doe" by informing the principal of the vocational-technical school he attends of his objection to the transgender policy, after which that school's principal pulled him out of class and stated "he wanted to make sure none of that negativity was going to happen at his school."

Joel Doe's guardians met with both the assistant principal and principal of the high school and were told



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essentially the same thing as Joel Doe, according to the lawsuit, although the men said the boy could change clothes in the school nurse's office if he so desired. A meeting with the school district superintendent, Dr. Richard Faidley, changed nothing, though Faidley is alleged to have told the guardians that if Joel Doe was unhappy with the policy, "he could just withdraw from school and be home schooled."

The plaintiff is seeking to have the policy overturned on the grounds that it violates traditional privacy norms; state law requiring sex-segregated locker rooms and restrooms in schools; and Title IX of the federal Education Amendments of 1972, which prohibits sexual harassment in schools. (Ironically, Title IX is the very statute under which the Obama administration presumed to dictate its pro-transgender bathroom policy to schools.) He is also seeking unspecified monetary damages.

"No school should rob any student of his legally protected personal privacy," ILC chief counsel Randall Wenger said in a [statement](#). "We trust that our children won't be forced into emotionally vulnerable situations like this when they are in the care of our schools because it's a school's duty to protect and respect the bodily privacy and dignity of all students. In this case, school officials are clearly ignoring that duty."

Likewise, ADF legal counsel Kellie Fiedorek said, "Our laws and customs have long recognized that we shouldn't have to undress in front of persons of the opposite sex. But now some schools are forcing our children into giving up their privacy rights even though, in this case, Pennsylvania law requires schools to have separate facilities on the basis of sex."

On Wednesday, Superintendent Faidley issued a [statement](#) saying the district "contests the claims and will appropriately respond and defend its actions." The district, he added, "is firmly committed through our words and actions to treating every student, and member of our community with respect, dignity, and sensitivity in accordance with all applicable laws."

Faidley stated that the district was complying with "the law of the land" at the time the policy was instituted, but the Obama administration's "guidance" was hardly settled law; it was not even a properly promulgated regulation. Faidley acknowledged that the Trump administration had since rescinded the policy but stated that a recent federal court ruling in Pennsylvania is now guiding his district's policy. Yet [that decision](#) merely allowed one school district's similar transgender policy to stand while it was being challenged in court; it hardly requires other districts to freeze their policies as well. One gets the impression that Faidley's district used the "guidance" and is now using the ruling as a fig leaf for maintaining its commitment to the transgender zeitgeist.

Faidley also claimed that the school offered Joel Doe "reasonable and appropriate alternatives" to changing in the boys' locker room, though the student alleges that he was only given the option of changing in the nurse's office. Similarly, Eliza Byard, executive director of the Gay, Lesbian and Straight Education Network, told the [Associated Press](#) that while she doesn't believe that a transgender in a boys' locker room constitutes sexual harassment, if that situation makes another student uncomfortable, "there is a common sense legal remedy of providing separate accommodations [such as single-occupancy or staff restrooms and locker rooms] to the student who feels uncomfortable."

The irony, of course, is that proponents of opening up sex-segregated facilities to transgender students have argued that forcing such students to use "separate accommodations" is cruel. The attorney for Virginia transgender student Gavin Grimm, in suing to overturn Grimm's school's policy requiring "students with gender-identity issues" to use single-stall unisex toilets, [maintained](#) that Grimm felt



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“isolated from his peers and stigmatized by the ... school board” as a result. Forcing a tiny minority of students to use separate facilities if they choose not to use those of their biological sex is apparently a horrific miscarriage of justice, but forcing the overwhelming majority of students to do so if they adhere to norms that existed from creation until a year or two ago is, it seems, perfectly acceptable.

Joel Doe surely deserves to prevail in court, and just a few years ago, he probably would have done so easily. At that time, however, such a lawsuit would not even have been necessary. But today, when girls can, in the eyes of many, become boys just by “identifying” as such, the suit’s success is far from certain. As ILC senior counsel Jeremy Samek observed, “It’s regrettable that a student would have to go to court to ensure that his well-established privacy rights aren’t tossed aside.”



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