

Federal Court in Ohio Requires School to Let Transgender Girl Use the Girls' Restroom

A federal judge in Ohio ruled Monday that an elementary school must allow a student to use the girls' restroom because the student identifies as a girl, although she was born a boy. This case is a critical first ruling from Ohio courts on federal guidance regarding transgender students. Until this week, Ohio districts had little to rely on in assessing risk if a transgender student sued the district. We knew that the federal government would issue findings against any school that did not accommodate a transgender student, but we could not be sure what courts in this state would do. While there are still a lot of open questions on that issue, there is now precedent in Ohio for courts requiring schools to accommodate students.

The case, which involves the Highland Local School District in Morrow County, arose when a then-6-year-old student asked to use the girls' restroom at school because she was presenting as a girl, having legally changed her name and her wardrobe to reflect that gender. The elementary school principal informed the student's parents that the district would not recognize the student's name change and would not permit her to use the girls' restrooms. The district did ultimately change the student's name on school records and she was permitted to use a unisex restroom reserved for adults in the school office.

The student's family filed a complaint with the Office of Civil Rights (OCR) in 2013. OCR found in June 2016 that the district had violated Title IX by refusing to allow the student to use the girls' restrooms. That determination is consistent with [OCR guidance issued in May 2016](#) warning school districts that the agency believes Title IX's prohibition on sex discrimination also requires schools to allow transgender students to use the restrooms and locker rooms of the gender with which they identify. Currently, 21 states are [challenging OCR's interpretation](#) and at least one court has prohibited the agency from enforcing its Title IX interpretation against schools.

When the Highland Local Schools received OCR's finding in June, the district sued the agency to prevent OCR from taking action against the schools. The student and her family joined the lawsuit to try to enforce OCR's finding that she should be allowed to use the girls' restrooms.

Monday's decision will allow the student to use the girls' restrooms while the case is pending. The court found that the federal government has been consistent in its approach to Title IX and transgender students, so Highland should not have been surprised by OCR's finding.

"Title IX does not define 'sex' in either the statute or the regulations," the court wrote, adding that prior court decisions in Ohio support the interpretation that discrimination based on transgender status is sex discrimination. "[Federal agencies] have consistently articulated this interpretation of Title IX over the last several years and enforced it accordingly."

The court also honed in on the harm it believes the student has suffered by not being allowed to use the girls' restrooms.

"Some issues in this case are difficult, but determining whether Jane has been harmed from the School District's policy is not one of them," the court wrote, pointing out that the student has been deemed a suicide risk and has developed depression and an eating disorder because "she feels stigmatized when she is not treated as a girl and . . . she has been bullied at school."

The court declined to stop further OCR proceedings against Highland at this point and is requiring the district to allow the student to use the girls' restrooms. Highland is appealing the court's decision.

Districts should review their policies and consult with an attorney if questions come up regarding specific students or requests.

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