

Binary Bathrooms? Schools Emerge As Fulcrum On This Issue

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Deliberations over the adoption of policies regarding bathroom access can be tricky, especially when the disputes involve young children and concerned parents. Within the last year, profound disagreement has arisen among what schools should do regarding transgender students and bathroom policies. In February, President Donald Trump's Education Department confirmed that it is no longer investigating civil rights complaints from transgender students barred from school bathrooms that match their gender identity. The Education Department spokeswoman Elizabeth Hill in response to questions from The Washington Post stated "in the case of bathrooms, however, longstanding regulations provide that separating facilities on the basis of sex is not a form of discrimination prohibited by Title IX." The Trump administration lifted Obama-era guidance that advised schools to allow transgender students to use the bathroom of their choice. Without skipping a beat, transgender students and those opposed to inclusive policies brought their fight to courts across the country. In late May, a Third Circuit appeals panel refused to block a school district's policy permitting transgender students to use restrooms or locker rooms consistent with their gender identity. In upholding the school's policy, the U.S. Circuit Judge Theodore A. McKee stated "the [school] has adopted a very thoughtful and carefully tailored policy in an attempt to address some very real issues while faithfully discharging its obligation to maintain a safe and respectful environment in which everyone can both learn and thrive." A growing body of decisions have provided legal protections for transgender individuals in federal antidiscrimination laws. The Seventh U.S. Circuit Court of Appeals in Chicago, has also issued several rulings recently favorable for transgender students. Inevitably this conversation does not stop at bathrooms. School sports will also raise a whole other set of questions that will force schools to continue to make controversial decisions.

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