

15. UNRESTROOMS

One of the greatest problems facing transgendered students is safe access to restrooms and locker rooms. They are often harassed or threatened, whether they use the women's or the men's restroom, and consequently feel unsafe in either facility.

Schools are struggling with assuring the safety and rights of transgendered students. For example, Alex Wilson self-identified as a girl when she was 12. For the last five years, since she turned 21, she has been living as a woman. As a nursing student at Florida's Pinellas Technical Education Center, Alex had been using the women's restroom without incident until August 2013, when a fellow student complained to administrators. The administration threatened Wilson with arrest if she continued to use the women's restroom. She was given two other options: use either a storage closet across campus or the men's restroom.

On 1 January 2014, California's School Success and Opportunity Act (AB1266) became law. Although previous legislation prohibited discrimination, transgendered students still ended up being excluded from participating in sports, physical education classes, athletics, and other school activities, and access to restrooms and locker rooms of consistent with their gender identity. The law was necessary because some students and parents worried about children being assaulted in the locker room, administrators feared lawsuits if they allowed students with the genitalia of one sex to use the restrooms assigned to the opposite sex, and some students felt uncomfortable sharing locker rooms and restrooms with transgendered students.

With the enactment of AB1266, California became the first U.S. state to pass legislation ensuring transgendered students the same opportunity as all other students to participate in all school activities and programs. AB 1266 requires schools to allow transgendered students to use all facilities (including restrooms and locker rooms) that match their gender identity, rather than their sexual identity.

(f) A pupil shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records (AB1266, Section 221.5).

In contrast, Utah's proposed House Bill 87 would require students either to use only the restroom that corresponds to their sexual identity (documented by birth certificate or doctor's examination) rather than their gender identity, or to use a separate restroom set aside for transgendered students that must be provided at the student's request.

Supporters of equal protection and rights for transgendered students applaud laws that remove barriers preventing transgendered students from full access to the same educational and extracurricular opportunities that other students enjoy. They point out that the discomfort of seeing people not of the designated sex in a bathroom or locker room does not justify discrimination.

Opponents to legislation allowing transgendered students to choose which restroom and locker room to use, and which sex-segregated team to join, express concern that such a law provides sex offenders an opportunity to infiltrate locker rooms they normally would not be able to access. Some opponents claim that the intent of such legislation is to use schools as a means to encourage alternative sexual lifestyles. Conservative faith-based groups argue that laws protecting or promoting the rights of transgendered individuals is incompatible with their religious beliefs. For example, Genesis 1:27 is often quoted to justify the position that anything other than adherence to the strict male-female dichotomy is immoral: “So God created man in His own image; in the image of God He created him; male and female He created them.”

Case from the 2015 Intercollegiate Ethics Bowl National Competition

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