



May 19, 2016

Via U.S. Mail and E-mail to ocr@ed.gov and ocr.atlanta@ed.gov

Office for Civil Rights
Atlanta Office
U.S. Department of Education
61 Forsyth Street S.W., Suite 19T10
Atlanta, GA 30303-8927

Re: Discrimination Complaint against Sumner County, Tennessee
Schools for violations of Title IX: Discrimination against
transgender students

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION
OF TENNESSEE
P.O. BOX 120160
NASHVILLE, TN 37212
T/ (615) 320-7142
F/ (615) 691-7219
WWW.ACLU-TN.ORG

To whom it may concern:

We represent the parents and a student¹ currently attending a Sumner County, Tennessee public high school and write to file this formal complaint on their behalf. Sumner County has a policy and practice of denying transgender students access to the same restrooms, locker room facilities, and educational opportunities that correspond to their gender identity. The school's decision to exclude transgender boys from the boys' facilities and transgender girls from the girls' facilities violates Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681(a).

Shortly before her 9th grade year in the Sumner County schools, Mary Doe and her parents met with school officials to inform them that she is a transgender girl. The school principal reviewed the school's policies with the family, including a requirement that Mary Doe use either the boy's restroom, restrooms located in the faculty lounge or a restroom designed for special needs children (which she is not). Using the faculty restroom often requires that Mary Doe explain her presence in the faculty lounge to members of the faculty or staff. Using the special needs restroom often requires Mary Doe to enter the classroom where the restroom is located while class is in session and explain her presence to the teacher. Students who are not transgender are not required to use these separate restrooms.

¹ For the purposes of this Complaint, our client's name has not been identified other than as Mary Doe in the interest of protecting the confidentiality of our clients. The identity of the parents and student represented are contained in a separate attachment along with other identifying information. We ask that this information be kept confidential.

Mary Doe used the girl's restroom for several months without incident. In January 2016, Mary Doe and her parents were informed that the school had received complaints from students and that she would be prohibited from using the girl's restroom in the future. Neither she nor her parents have ever seen the alleged complaints. In early February 2016, Mary Doe and her parents were given a copy of the Sumner County "Procedural Guidance Regarding Transgender Students" by the Safe Schools Coordinator for Sumner County Schools. [hereinafter "Procedural Guidance"] The document sets forth several rules governing transgender students, not all of which are in compliance with the requirements of Title IX or the federal Constitution.²

In addition to the prohibition on the use of gender segregated facilities, Mary Doe was initially not enrolled in the Lifetime Wellness course. The Lifetime Wellness course is part of the required standard curriculum for students and has a physical education component. In the 2015-2016 school year, the Lifetime Wellness course was gender segregated. The parents received some indication from members of the administration that Mary Doe was not allowed to register for this class because of her gender identity. Sumner County disputes this, claiming that Mary Doe was required to retake certain academic classes which conflicted with the Lifetime Wellness course.

After several conversations and meetings, including a meeting with an attorney for the Sumner County School Board and Mary Doe's attorneys, Sumner County confirmed to Mary Doe and her parents that she will not be allowed to use the girls' restrooms or locker rooms and that she will be subjected to discipline should she continue to do so. On May 18, 2016, a revised version of the Procedural Guidance was provided to the parents.³ The new Procedural Guidelines revises Sumner County's approach to the Lifetime Wellness course, making it a coed class. However, it reiterates the policy that transgender students will not be allowed to use the locker room facilities that correspond with their gender identity.

The Procedural Guidance requires that transgender students use the restroom facilities for the gender assigned at birth or, upon request, a private restroom "as long as it is feasible and doable." (Id. at ¶ 4). Transgender students are prohibited from using locker room facilities corresponding with their gender identity. Although "[i]f the parent/guardian requests for the student to have access to a private place

² A copy of the February 2016 Procedural Guidance Regarding Transgender Students given to the parents is attached as Exhibit "A."

³ A copy of the May 2016 Procedural Guidance Regarding Transgender Students given to the parents is attached as Exhibit "B."

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for the student to change clothes, the school will honor that request as long [sic] it is feasible.” (Id. at ¶ 5).

Title IX of the Education Amendments of 1972 (“Title IX”) prohibits discrimination based on sex in any education program, such as a public school, that receives federal financial assistance. Sumner County receives federal financial assistance and is subject to that law. Sumner County’s Procedural Guidance Regarding Transgender Students, and any action taken to enforce it, are unlawful.

On May 13, 2016, the U.S. Department of Justice, Civil Rights Division and the U.S. Department of Education, Office for Civil Rights, issued a joint letter providing “significant guidance” to public schools regarding the requirements of Title IX with regard to the treatment of transgender students. U.S. Department of Justice Civil Rights Division and U.S. Department of Education, Office for Civil Rights, *Dear Colleague Letter on Transgender Students* (May 13, 2016). The letter states, “[w]hen a school provides sex-segregated activities and facilities, transgender students must be allowed to participate in such activities and access such facilities consistent with their gender identity.” Id. at p. 3.

We respectfully request that the Office for Civil Rights find that Sumner County is violating Title IX by prohibiting Mary Doe from using female restrooms and locker rooms. We ask that the Office for Civil Rights take all necessary steps to ensure compliance with the requirements of Title IX. We further ask that Sumner County be required to:

- (1) permit Mary Doe to use the female restrooms and locker rooms on District property and participate in gender segregated activities or classes with other females;
- (2) permit all transgender students to participate in such activities and access such facilities consistent with their gender identity;
- (3) provide training to all relevant school officials including to members of the School Board and school principals regarding the rights of student under Title IX and the United States Constitution, including the rights of transgender students; and
- (4) revise all relevant Sumner County policies or procedures to ensure conformity with the requirements of Title IX.

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Thank you very much for your assistance in this matter. Should you have any questions or wish to speak with our clients, please feel free to contact Thomas H. Castelli at [REDACTED] or Abby R. Rubenfeld at [REDACTED]

Sincerely,



Thomas H. Castelli
Legal Director

Abby R. Rubenfeld
ACLU-TN Cooperating Attorney
Rubenfeld Law Office, PC