

Example-Board member presents this resolution to her board

BETHEL LOCAL SCHOOL DISTRICT BOARD RESOLUTION
RESTROOM USE

WHEREAS, this Board of Education has been provided with a legal analysis by two of its retained attorneys of the current case law regarding trans-identifying student rights and the rights of all students; and

WHEREAS, this Board declares that all students shall be guaranteed an educational environment free from discrimination on the basis of sex, including discrimination in the form of sexual harassment, and

WHEREAS, the Board is a political subdivision of the state of Ohio and has an important government interest in protecting the bodily privacy of students, and

WHEREAS, Title IX is a law correcting the wrongs done to women over the years in education and sports, and was written specifically as a biological sex regulation and not intended for sexual orientation or gender identity, and

WHEREAS, per the current Title IX regulations, "A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex." 34 CFR 106.33., and

WHEREAS, the *Bostock* majority opinion does not reference Title IX. Further, the majority opinion stated in the Title VII context, "we do not purport to address bathrooms, locker rooms, or anything else of the kind," *Bostock v. Clayton County*, 140 S.Ct. 1731 (2020), and

WHEREAS, the law is in flux, and the Supreme Court of the United States has not expanded Title IX to include sexual orientation or gender identity or persons, neither has Congress, and

WHEREAS, the related issue of bathroom privacy is one that the Supreme Court has explicitly stated is an open issue, and

WHEREAS, this Board maintains the tremendous importance of protecting the privacy, dignity, and safety of all students and of ensuring that all students are treated equally while having access to our educational program; now therefore,

BE IT RESOLVED, that this Board will formalize a bathroom policy to address student identity issues in the following ways:

- a) Maintain the practical unwritten policy that has served as the guiding practice for the District by appropriating restrooms, showers, locker rooms, and other

spaces that need to be separated as to biological sex facilities from the date of implementation.

b) Reasonably accommodate those students who for any reason do not wish to use communal privacy facilities, including those students who do not wish to use the privacy facility designated for his or her biological sex, by offering gender-neutral facilities.

c) Determine at the building level whether there are any necessary or relevant updates needed to student handbooks related to district policy or regarding disciplinary actions for any improper use of restrooms by students who have not adhered to district policy regarding restroom, locker room, and shower room use.

BE IT FURTHER RESOLVED, that this resolution be presented to this Board for review and input prior to final publication.