

Bathrooms

- *Adams v. St. Johns Cty. Sch. Dist.* (11th Cir.)
- School policy that barred transgender student from boys' restroom violated student's equal protection rights.



Grimm v. Gloucester County School Bd.
4th Cir. 08.26.2020, cert. denied 06.28.2021

Privacy interests of other students and the interest in maintaining accurate records did not outweigh the right of transgender student to be protected from discrimination.

US Supreme Court denied cert → 4th Cir. decision stands



“Save Women’s Sports” (p. 38)



- *B.P.J. v. West Virginia State Bd. of Educ.* (S.D. WV)
- Federal court enjoined state law that prohibited transgender girl from participating on girls’ track team.

HOW FAR DO YOU GO?

- Not every issue (especially national) requires a district statement
 - Most do not!
- Want to put a flag in the ground?
 - What is your pain threshold?

QUICKLY ASSESS



- “Everyone is saying”
 - Who is everyone?
- How broadly is conversation happening?
- Where is the conversation happening
- Do you respond and if you respond then...
 - Make sure board supports path and is informed

Get your basic communication structures in order



HOW: BACK TO BASICS

Ways to reach your constituencies

- Include traditional and “COVID-life” new ways:
 - Snail mail—Newsletters
 - Regular op-eds in local papers
 - Zoom/Video communication
 - Email blasts
 - All call/text modes
 - Website
 - Social media channels



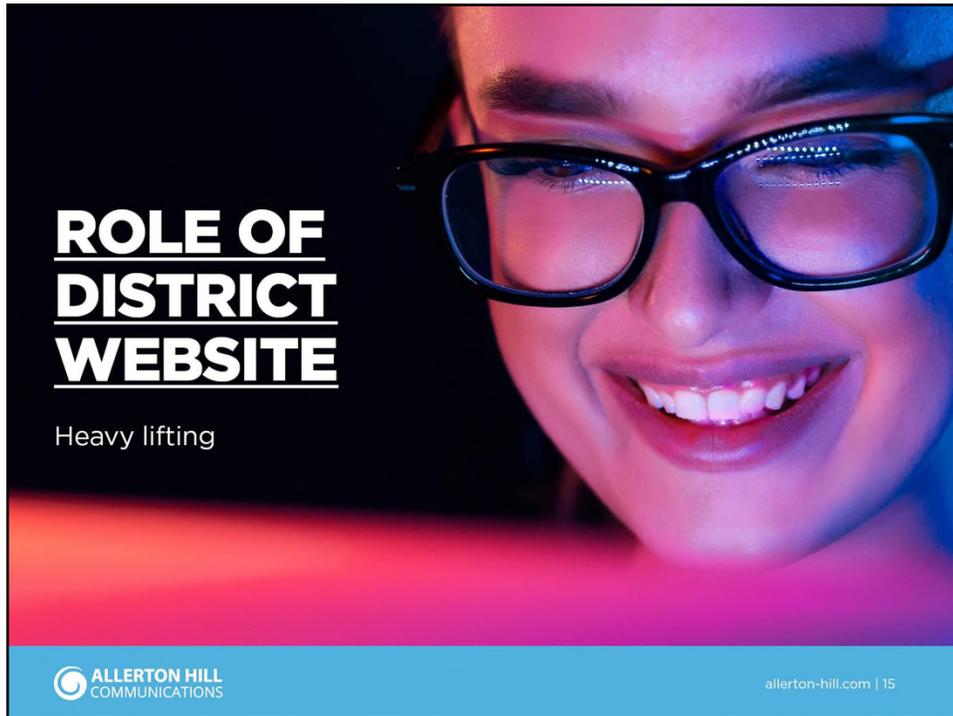
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USE (AND MISUSE) OF DISTRICT SOCIAL MEDIA



- You’ve so got this!
 - Be strategic
 - Keep it positive
 - Use it as one of many ways to reach people
- Nope. This is very, very bad.
 - Online bulletin board
 - Information dump
 - Zero strategy or plan

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**ROLE OF
DISTRICT
WEBSITE**

Heavy lifting

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**A Superintendent's
Experience(s)**



Pete Ruby, Superintendent
Huntington Local

Gender Neutral Bathrooms Design Issues, Obstacles, and Requirements

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Introduction

- Rationale for Gender Neutral Bathrooms
- Conventional Gender Neutral Bathroom Design
- Modern Gender Neutral Bathroom Designs (less space/expense)
- Building Code Standard/Issues
- Local Building Authorities
- Recommendations for Approval

Rationale For Gender Neutral Bathrooms

- Eliminating the inconvenience experienced by teachers in monitoring students when the separate-sex restroom facilities are not adjacent to each other;
- Eliminating “potty parity” if the line for one sex is longer than the other; mitigating the difficulty in assisting a disabled student of a different gender;
- Enhancing safety and privacy in order to minimize the opportunity for bullying and abuse in the restrooms;
- Avoiding the need to classify students based on gender in order to promote equality;
- Curtailing reinforcement of negative stereotypes and other biases—in grade school parlance, the need to undermine, not reinforce, children's belief in “girl cooties” and “boy cooties.”

Conventional Gender Neutral Bathroom Design

- Enclosed space with full-frame lockable door, lavatory (i.e. sink), and toilet;
- No shared fixtures
- Historically referred to as a “unisex” bathroom

Example – Classic Gender Neutral Bathroom



Modern Gender Neutral Bathroom Design

- Enclosed space with full-frame lockable door and toilet
- Shared Lavatory

Example – Modern Gender Neutral Bathroom Design



Example – Modern Gender Neutral Bathroom Design



Building Code Standards/Issues Table 2902.1 – Min # of Fixtures

No.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (URINALS SEE SECTION 419.2 OF THE INTERNATIONAL PLUMBING CODE)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAINS (SEE SECTION 410 OF THE INTERNATIONAL PLUMBING CODE)	OTHER
				Male	Female	Male	Female			
	Assembly	A-5	bleachers and grandstands for	1 per 120 for the	1 per 60 for the	1 per 200	1 per 150	—	1 per 1,000	1 service sink
3	Educational	E	Educational facilities	1 per 50	1 per 50	—	—	—	1 per 100	1 service sink


**No male / female distinction in table for
Educational facility.**

Building Code Standards/Issues

- Section 2902.2 - “Where plumbing fixtures are required, separate facilities shall be provided for **each sex**.”
- Section 2902.1.2 - “Single-user toilet facilities and bathing rooms ... **shall be identified for use by either sex**.”
- Section 1.51: “If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.

Single-User?

- Section 2901.1 states that “[t]oilet and bathing rooms shall be constructed in accordance with Section 1210.”
- Exception 1 to Section 1210.3.1 provides that “[w]ater closet compartments shall not be required in a single-occupant toilet room with a lockable door.”
- Thus, the Ohio Building Code acknowledges that a “single-occupant toilet room” is distinguishable from a typical “water closet compartment.”

Toilet Facility?

- “Toilet facility” is defined in Section 202 as “[a] room or space that contains not less than one water closet and one lavatory.”
- By including the word “space” in the definition of “toilet facility,” the Ohio Building Code acknowledges that the lavatory does not need to be physically inside the toilet room; only within the “space.”
- Here, the toilet rooms are “single-occupant” and the communal lavatories are within the “space.”

What does all of this mean?

- Single-User toilet facilities are permitted by the OBC to be designated for use by either sex (i.e., gender neutral).
- So the dispute regarding the permissibility of gender neutral toilets essentially hinges on the location of the sink. If the sink is within an enclosed room with a toilet, it complies with the OBC. If the sink or sinks are within the same “space” just outside of the enclosed water closets, there is a dispute as to whether it complies with the OBC.

International Building Code

Amendment to Section 2902.2:

- “Separate facilities shall not be required to be designated by sex where single-user toilet rooms are provided in accordance with Section 2902.1.2.”
- Separate facilities shall not be required where rooms having both water closets and lavatory fixtures are designated for use by both sexes and privacy for water closets are installed in accordance with Section 405.3.4 of the plumbing code [(also 1210.3.1 of the Ohio Building Code)]....

Note: Section 1210.3.1: “[w]ater closet compartments shall not be required in a single-occupant toilet room with a lockable door.”

Ohio has drafted administrative rules to match this change, but are not yet through the rule-making process.

Steps for Approval of Gender Neutral Design

- Submit plans with gender neutral bathroom revisions to local building authority with jurisdiction over the project
 - Yes – Approve Plans
 - No – Local authority will issue an adjudication order finding non-compliance.
- If no, appeal the adjudication order within 30 days to the Board of Building Appeals (BBA) and request a variance.
- BBA hearings are typically in-person; however, due to COVID, hearings have been held virtually.

Variance

- R.C. 3781.19, the BBA may grant a variance if it finds that “a variance from the [Building Code], in the specific case, *will not be contrary to the public interest where a literal enforcement of such provisions will result in unnecessary hardship.”*

What happens if the BBA rules against the District?

- Process provides a full appeal process.
- Starts with the Court of Common Pleas for Franklin County Ohio with a full factual review, including any new evidence.

Questions?

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