



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS  
ADMINISTRATIVE COMPLAINT

September 25, 2025

United States Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

Via Email: OCR@ed.gov

To Whom It May Concern:

This is a federal civil rights complaint pursuant to the U.S. Department of Education's (Department) Office for Civil Rights' (OCR) discrimination complaint resolution procedures.

Defending Education (DE) brings this complaint against Las Cruces Public Schools (LCPS) for discrimination on the basis of sex in programs or activities that receive federal financial assistance in violation of both Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et. seq.*, and the Equal Protection Clause of the 14th Amendment to the U.S. Constitution.

DE brings this complaint as an interested third-party organization with members who are parents of students throughout the country. DE and its members oppose, among other things, discrimination on the basis of sex in America's K-12 schools and institutions of higher education. Title IX prohibits discrimination based on sex in any education program or activity receiving federal financial assistance. This includes female students' rights to sex-segregated intimate spaces and single-sex athletic teams.<sup>1</sup>

LCPS is home to forty different schools with over 23,000 students,<sup>2</sup> but it prioritizes a few students' subjective preferences over thousands of other students' rights. Although Title IX prohibits discrimination "on the basis of sex,"<sup>3</sup> LCPS instead prohibits discrimination on the basis of gender identity,<sup>4</sup> even though a federal court and the Department of Education rejected that interpretation of Title IX eight months ago.<sup>5</sup>

---

<sup>1</sup> In *United States v. Virginia*, the Supreme Court held that parties who seek to defend sex-based government action must demonstrate an "exceedingly persuasive justification" for that action. 518 U.S. 515, 531 (1996)

<sup>2</sup> U.S. News, "Las Cruces Public Schools," accessed September 16, 2025, <https://www.usnews.com/education/k12/new-mexico/districts/las-cruces-public-schools-100743>.

<sup>3</sup> 20 U.S.C. § 1681

<sup>4</sup> Las Cruces Public Schools, "Title IX," accessed September 16, 2025, <https://www.lcps.net/page/title-ix>.

<sup>5</sup> *Tennessee v. Cardona*, 762 F. Supp. 3d 615 (E.D. Ky. 2025); United States Department of Education, Press Release: "U.S. Department of Education to Enforce 2020 Title IX Rule Protecting Women," accessed September 15, 2025, <https://www.ed.gov/about/news/press-release/us-department-of-education-enforce-2020-title-ix-rule-protecting-women>.

Gender identity discrimination is not the same as sex discrimination under Title IX, and the Supreme Court has never held otherwise.<sup>6</sup>

In light of the above, LCPS Regulation JBD-R appears to violate Title IX.<sup>7</sup> It also violates various Presidential Executive Orders on policies related to sex discrimination in federally funded programs,<sup>8</sup> and this Department's stakeholder guidance on Title IX and the prevention of sex discrimination in federally funded programs.<sup>9</sup> In relevant part JBD-R (Exhibit A) states:

As a general rule, all district students shall be provided access to designated single-sex facilities at school and in all district-sponsored activities, including overnight events, and extracurricular activities on and off campus, consistent with the student's affirmed gender identity or preference, to the extent permitted by New Mexico Activities Association bylaws.<sup>10</sup>

Specifically, JBD-R states: "Students shall have access to the restroom that corresponds to their gender identity at school."<sup>11</sup> It extends this mandate to LCPS locker rooms.<sup>12</sup> In yet another apparent exercise in sex discrimination, JBD-R states: "students shall be permitted to participate in physical education classes and intramural sports in a manner consistent with their affirmed gender identity."<sup>13</sup>

Section 1 of the 14th Amendment to the U.S. Constitution asserts: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The Supreme Court held in *Craig v. Boren* that to withstand equal protection scrutiny, sex distinctions "must serve important governmental objectives and must be substantially related to achievement of those objectives."<sup>14</sup>

LCPS's restroom and locker room policies and its intramural athletic policy appear to violate Title IX and the Equal Protection Clause.

---

<sup>6</sup> See *United States v. Skrametti*, 145 S. Ct. 1816, 1831-32 (2025). And *Bostock v. Clayton County*, 590 U.S. 644 (2020), does not hold otherwise. Quite the opposite, in fact. *Bostock* confirms that "sex" refers "only to biological distinctions between male and female." *Id.* at 655. And to the extent *Bostock* could be read to confuse gender identity with biological sex, its logic is confined to Title VII. See, e.g., *Skrametti*, 145 S. Ct. at 1834 (explaining that *Bostock*'s rationale does not necessarily "reac[h] beyond the Title VII context"); *Department of Education v. Louisiana*, 603 U.S. 866, 867 (2024) ("all Members of the Court" agreed to enjoin a federal rule that extended *Bostock*'s reasoning to Title IX).

<sup>7</sup> Las Cruces Public Schools, "Regulation JBD-R: Gender Inclusive Schools," accessed September 16, 2025, [https://core-docs.s3.amazonaws.com/documents/asset/uploaded\\_file/2256/LCPS/2359149/FINAL\\_JBD-R\\_-\\_English\\_PDF.pdf](https://core-docs.s3.amazonaws.com/documents/asset/uploaded_file/2256/LCPS/2359149/FINAL_JBD-R_-_English_PDF.pdf).

<sup>8</sup> See Executive Order 14168, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," January 20, 2025, <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>; Executive Order 14201, "Keeping Men Out of Women's Sports," February 5, 2025, <https://www.whitehouse.gov/presidential-actions/2025/02/keeping-men-out-of-womens-sports/>.

<sup>9</sup> United States Department of Education, Press Release: "U.S. Department of Education to Enforce 2020 Title IX Rule Protecting Women," accessed September 15, 2025, <https://www.ed.gov/about/news/press-release/us-department-of-education-enforce-2020-title-ix-rule-protecting-women>.

<sup>10</sup> JBD-R, at III.B.1.

<sup>11</sup> JBD-R, at III.B.2.

<sup>12</sup> JBD-R, at III.B.3.

<sup>13</sup> JBD-R, at III.C.1.

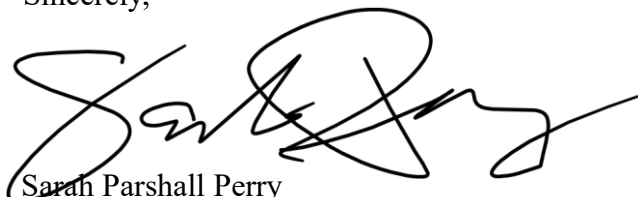
<sup>14</sup> *Craig v. Boren*, 429 U.S. 190, 197 (1976).

The Department's own guidance on Title IX clarifies that covered educational programs and activities include: "[A]ll the operations of a school that receives financial assistance including academics, extracurricular activities, athletics, and other programs. Title IX applies to all operations of a school, including those that take place in the facilities of the school, on a school bus, or in a class or training program sponsored by the school at another location."<sup>15</sup>

Accordingly, we ask that the Department promptly investigate all the allegations in this complaint, act swiftly to remedy unlawful policies and practices, and order appropriate relief.

Thank you for your prompt assistance with this request for investigation and resolution. Please contact me for further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Parshall Perry', with a large, stylized initial 'S'.

Sarah Parshall Perry  
Vice President and Legal Fellow  
Defending Education

Encl. Exhibit A.

---

<sup>15</sup> Department of Education, "Frequently Asked Questions: Sex Discrimination," accessed September 16, 2025, <https://www.ed.gov/laws-and-policy/civil-rights-laws/frequently-asked-questions-sex-discrimination>.

# Exhibit A

written consent of the student's parent/legal guardian or the student after the student turns eighteen (18) or is emancipated, or when permitted by law.

8. In situations where school staff or administrators are required by law to use or to report the legal name or sex of a student who is transgender, but whose official record has not been amended, for example, for purposes of standardized testing, trusted school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

**B. *School Facilities***

1. As a general rule, all district students shall be provided access to designated single-sex facilities at school and in all district-sponsored activities, including overnight events, and extracurricular activities on and off campus, consistent with the student's affirmed gender identity or preference, to the extent permitted by New Mexico Activities Association bylaws. Any student, including but not limited to a transgender student, may request use of more private facilities and such facilities will be made available.
2. Students shall have access to the restroom that corresponds to their affirmed gender identity at school. A private restroom facility will be provided to any student who desires increased privacy, regardless of the underlying reason. The use of such a private facility shall be a matter of choice for a student, and no student shall be compelled to use such restroom facilities.
3. Students shall have access to the locker room that corresponds to their affirmed gender identity. Where locker room use involves undressing in front of others, any student who wishes to have greater privacy shall be provided with more private accommodations that could include, but are not limited to:
  - Use of a private area in the locker room (e.g., a bathroom stall with a door and/or an area separated by a curtain)
  - A separate changing schedule (either utilizing the locker room before or after the other students)
  - Use of a nearby secluded area (e.g., a single-user restroom, a nurse's office)

**C. *Physical Education Classes and Intramural and Interscholastic Athletics***

1. All students shall be permitted to participate in physical education classes and intramural sports in a manner consistent with their affirmed gender identity.
2. As mandated by the current New Mexico Activities Association bylaws, "Participating students are required to compete in the gender listed on their