

No. 25-1341

In the United States Court of Appeals for the Tenth Circuit

Joseph and Serena Wailes, *et al.*,
Plaintiffs-Appellants,

v.

Jefferson County Public Schools and
Jefferson County Public Schools Board of Education
Defendants-Appellees.

On Appeal from the United States District Court
for the District of Colorado, No. 1:24-cv-4239-RMR
The Honorable **Regina M. Rodriguez**, District Judge, Presiding.

BRIEF OF SCHOOL DISTRICT 49 AS *AMICUS CURIAE* IN SUPPORT OF PLAINTIFFS-APPELLANTS AND REVERSAL OF THE DISTRICT COURT'S DECISION

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CORPORATE DISCLOSURE STATEMENT

School District 49 is a governmental party, so there is no information to disclosure pursuant to FED. R. APP. P. 26.1.

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INTERESTS OF AMICUS CURIAE¹

Amicus curiae is School District 49 (“District 49”), the tenth-largest local school district in Colorado. District 49 serves eastern Colorado Springs and Falcon in El Paso County, Colorado. Defendants-Appellees Jefferson County Public Schools and Jefferson County Public Schools Board of Education (collectively, “Jeff Co.”) constitute the state’s largest local school district. Therefore, District 49 and Jeff Co. are similarly situated.

Notwithstanding their similarities, District 49 and Jeff Co. differ on their approach to offering reasonable accommodations to parents and students alike. For its part, Jeff Co. has enacted a policy— JB-R2—requiring that “students who are transgender should be assigned to share overnight accommodations with other students that share the student’s gender identity consistently asserted at school.” 3.App.426.² District 49, on the other hand, has not adopted such a sweeping policy because it is of the opinion that to do so would run afoul of federal constitutional law—at least without certain safeguards in place.

But, to District 49’s surprise, Jeff Co.’s policy of not providing reasonable accommodations to parents and students to opt-out of JB-R2 survived a

¹ This brief is filed under Federal Rule of Appellate Procedure 29(a)(3).

² Citations to Appellants’ three-volume appendix are to “[volume].App.[page].”

constitutional challenge in the district court. In fact, it survived the challenge with flying colors, as Plaintiffs-Appellants' First Amended Complaint was dismissed in its entirety with prejudice. 3.App.704.

Because this litigation is likely to impact District 49's approach to the accommodation of (1) parents seeking to direct the religious upbringing of their children, (2) students seeking to freely exercise their genuinely-held religious beliefs, and (3) transgender students in its schools (indeed, District 49 is subject to this Court's jurisdiction and that of the district court), District 49 is interested in this action.

District 49 states that no party's counsel authored this brief in whole or in part, that no party or party's counsel contributed money that was intended to fund preparing or submitting the brief, and that no person other than District 49 or its counsel contributed money that was intended to fund preparing or submitting the brief. *See* FED. R. APP. P. 29(a)(4)(E).

SUMMARY OF ARGUMENT

In Colorado, Jeff Co.’s status as a local school district and local school board gives it immense administrative and regulatory power over the education of public-school students within Jefferson County. *Bd. of Educ. of School Dist. No. 1 in City and County of Denver v. Booth*, 984 P.2d 639, 646 (Colo. 1999) (*en banc*). But, “this [state] constitutional authority is subject to limits.” *Id.* School districts in Colorado—like school districts in every other state in the Republic—must be mindful of (and comply with) the U.S. Constitution in exercising its policy-making power. *Id.* Jeff Co. did not do so when it enacted JB-R2—its policy concerning housing accommodations for transgender-identifying students during overnight school activities. *See* 3.App.426.

The district court rubber-stamped Jeff Co.’s unconstitutional policy and practice of compelling adolescents of the opposite biological sexes to share the same living quarters—and, in some instances, beds—over the objection of the students and their parents. The district court’s error is, in large part, rooted in an inversion of the source of authority to educate children.

In its view, this authority is the state’s and the state’s alone. But that is not consistent with our nation’s history and tradition. The “history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of

their children is now established beyond debate as an enduring American tradition.”

Wisconsin v. Yoder, 406 U.S. 205, 232 (1972).

Worse still, setting aside the district court’s conceptual error, JB-R2 suffers from three chief constitutional deficiencies: *First*, it unduly burdens the long-standing “rights of parents to direct ‘the religious upbringing’ of their children.” *Espinoza v. Montana Dept. of Revenue*, 591 U.S. 464, 486 (2020) (quoting *Wisconsin v. Yoder*, 406 U.S. 205, 213–14 (1972)). *Second*, it coerces students “to depart from the religious practices of their parents” in violation of the students’ own First Amendment rights. *Mahmoud v. Taylor*, 606 U.S. 522, 559 (2025). And *third*, JB-R2 does not account for the reality that “one’s anatomy is draped with constitutional protections.” *Shroff v. Spellman*, 604 F.3d 1179, 1191 (10th Cir. 2010).

But that’s not all. District 49, like Jeff Co., is intimately familiar with matters of public-school policy. And District 49, like Jeff Co., knows that there is absolutely no reason—legal or practical—for Jeff Co. to withhold reasonable accommodations from Plaintiffs-Appellants. In fact, each of the constitutional deficiencies identified above could be readily remedied by providing reasonable accommodations to parents and students seeking exceptions from JB-R2’s sweeping reach.

To that point, the district court incorrectly (and improperly, given the procedural posture) assumed that local school districts in Colorado do not know the

biological sex of their students. 3.App.696–97. School districts will almost always (if not always) know the biological sex of a student either because (1) the student’s sex is the same as their professed gender identity or (2) the student’s sex is not the same as their professed gender identity and—regardless of the sex appearing on a student’s birth certificate—the discrepancy is known to the district via disclosure or a change request.

For all these reasons, in addition to those advanced by Plaintiffs-Appellants in their principal brief, this Court should reverse the judgment of the district court.

ARGUMENT

The rights of parents to direct the upbringing of their child, of a student to freely exercise her religion, and of transgender-identifying students to privacy and equality opportunity are not “shed . . . at the schoolhouse gate.” *Mahmoud*, 606 U.S. at 545 (quoting *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506–07 (1969)). These rights must each coexist within the halls of our public schools. District 49 understands this. But Jeff Co., regrettably, does not.

True, these rights are often competing. So, what is a trial court to do when fundamental rights appear directly at odds with one another, but it must zealously defend each? And what is the trial court to do when presented with competing visions from parents and public-school administrators as to the best way to safeguard

these competing fundamental rights? Neither question is easy to answer, and the trial court can be forgiven for answering both incorrectly. But this Court shouldn't make the same mistake.

It is of vital importance—not only for the legitimacy of the public-school system, but also for the preservation of our Republic—that public schools respect the bounds of their authority and that our tribunals understand the same. Appreciating the principles which both animate and legitimize our system of public schools and how public-school boards use these principles to determine policy is the only way to ensure that doesn't happen. This case demonstrates why.

I. The natural duty to educate children inheres in parents.

Power can be derived from a source of legitimate authority by delegation or usurpation.³ When it comes to the education of children, parents are the source of legitimate authority. 2 James Kent, *Commentaries on American Law* *195 (5th ed. 1844) (“The education of children in a manner suitable to their station and calling, is another branch of parental duty[.]”), <http://bit.ly/45PnVL8>; see 1 William

³ Cf. *Springer v. Gov. of Philippine Islands*, 277 U.S. 189, 202 (1928) (“Not having the power of appointment, unless expressly granted or incidental to its powers, the Legislature cannot ingraft executive duties upon a legislative office, since that would be to usurp the power of appointment by indirection, though the case might be different if the additional duties were devolved upon an appointee of the executive.”).

Blackstone, *Commentaries on the Laws of England* *453 (10th ed. 1787) (recognizing that a parent may “delegate part of his parental authority” to a “schoolmaster” who “is then *in loco parentis*”), <http://bit.ly/3TNe01g>. The only question is whether parents ought to delegate part of that authority to the state, or whether the state ought to usurp the parents’ authority of the child’s education to serve its own ends.

We have unilaterally rejected the latter course—a hallmark of totalitarianism—which seeks to “destroy the individual and produce uniform citizens that would serve the interests of the state.” S. Ernie Walton, *Gender Identity Ideology: The Totalitarian, Unconstitutional Takeover of America’s Public Schools*, 34 REGENT U. L. REV. 219, 244 (2021). Indeed, in totalitarian regimes, education is oriented toward “the absorption of the individual in the body politic, and of his entire subjection to the despotism of the state.” Kent, *Commentaries* at *195. This totalitarian educational model is “totally inadmissible in the modern civilized world.” *Id.* And the Supreme Court, writing in a context other than education, has rebuked as “statist” the “notion that governmental power should supersede parental authority[.]” *Parham v. J.R.*, 442 U.S. 584, 602 (1979). Totalitarian notions “touching the relation between individual and state were wholly different from those upon which our institutions rest.” *Meyer v. Nebraska*, 262 U.S. 390, 401–02 (1923).

For us, “[t]he fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children[.]” *Pierce v. Soc’y of the Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510, 535 (1925). We recognize that children are not “mere creature[s] of the state;” rather, parents—those who “nurture [their children] and direct” their children’s “destiny” — “have the right, coupled with the high duty, to recognize and prepare [them] for additional obligations.” *Id.* Indeed, it is a “cardinal” principle for us “that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.” *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944); Kent, *Commentaries*, at *188 (observing that “the voice of nature has pointed out the parent as the most fit and proper person” to “maintain” children).

Parents, not the state, possess the “natural bonds of affection” that lead them “to act in the best interests of their children,” *Parham*, 442 U.S. at 602, so “school authorities act[] *in loco parentis*” — not *sua sponte*. *Bethel School Dist. No. 403 v. Fraser*, 478 U.S. 675, 684 (1986); Blackstone, *Commentaries* at *453 (same). Acting *in loco parentis* contemplates a temporary delegation of parental power, not a permanent and involuntary derogation of parental liberty. It is thus helpful to conceive of “the school” as “act[ing] as the *agent* of the parent” — not as a principal. James V.

Mullaney, *The Natural Law, the Family and Education*, 24 FORDHAM L. REV. 102, 108 (1955) (emphasis in original). When the State usurps this natural parental authority, the parents are prevented from fulfilling “the high duty,” *Pierce*, 268 U.S. at 535, they naturally owe to their children, “thus violating [their] integrity and damaging a central aspect of [their] well-being.” Melissa Moschella, *Natural Law, Parental Rights and Education Policy*, 59 AM. J. JURIS. 197, 201 (2014). This is a cognizable constitutional harm.

Given their intellectual and historical pedigree, it is unsurprising that “the fundamental right[s] of parents to make decisions concerning the care, custody, and control of their children,” *Troxel v. Granville*, 530 U.S. 57, 66 (2000) (plurality op.), and to “direct the religious upbringing of their children” each “receive[] a generous measure of protection from our Constitution,” *Mahmoud*, 606 U.S. at 547. This is not a new development. “[W]e have long recognized” these rights. *Espinoza*, 591 U.S. at 486. These are “perhaps the oldest of the fundamental liberty interests recognized” by the Supreme Court. *Troxel*, 530 U.S. at 65. “And integral to” each of them “is the ‘presumption that fit parents act in the best interests of their children.’” *Lee v. Poudre School Dist. R-1*, 135 F.4th 924, 937 (10th Cir. 2025) (McHugh, J., concurring) (quoting *Troxel*, 530 U.S. at 68).

In the opinion below, the district court inverted each of the principles undergirding our system of public schools. In its view, “parents have no right to replace public education with their own personal views, nor a right to control each and every aspect of their children’s education and oust the state’s authority over that subject.” 3.App.690. While Plaintiffs-Appellants note that they “seek no such thing,” App.Br.16., the district court’s conceptual error—one which it derived from this Court’s opinion in *Swanson by and through Swanson v. Guthrie Indep. School Dist. No. I-L*, 135 F.3d 694, 699 (10th Cir. 1998), a case decided well before *Mahmoud* and which rests on the now debunked notion “that parents have no right to exempt their children from certain reading programs that parents found objectionable”—is worthy of correction. It is not the state which has natural authority over education—but parents. Again, “the custody, care and nurture of the child reside first in the parents[.]” *Prince*, 321 U.S. at 166; *Fraser*, 478 U.S. at 684; *Pierce*, 268 U.S. at 535; *Troxel*, 530 U.S. at 68; Kent, *Commentaries* at *195; Blackstone, *Commentaries* at *453.

None of this is to say that the state is to be denied any right to intervene in the education of children. That would make little sense, as one set of parents is without authority to direct the care, custody, control, or religious upbringing of a child that is under the care, custody, control, or religious upbringing of another set of parents.

Moreover, the “education of children in a manner suitable to their station and calling . . . [is] of very great importance to the welfare of the state.” Kent, *Commentaries*, at * 195. “The state does,” therefore, “have the obligation and right to intervene in education both because the common good which political authority exists to promote and protect includes the good of individuals, and also because the common good includes concern for the health of the political community into the future.” Moschella, 59 AM. J. JURIS. at 213. The catch is that the state’s authority as to a particular child is—and must remain—derivative of that child’s parents. *Id.*

What is a public school to do, then? After all, it is inevitable “that a school’s policies might come into conflict with the fundamental right of parents to raise and nurture their child.” *Gruenke v. Seip*, 225 F.3d 290, 305 (3d Cir. 2000). “[W]hen such collisions occur, the primacy of the parents’ authority must be recognized and should yield only where the school’s action is tied to a compelling interest.” *Id.* That is, the school must defer to parental judgment on matters properly reserved to parents in particular cases concerning their own children—including whether a child should or should not sleep in the same bed with a member of the opposite biological sex.

II. Recognizing that they act *in loco parentis*, school districts—like Jeff Co. and District 49—can and do tailor their policies to accommodate the fundamental rights of parents and students.

District 49 appreciates that “parents are the ones with the strongest and most direct obligation for the well-being of their children,” Moschella, 59 AM. J. JURIS. at 201, and that it acts “*in loco parentis*.” *Fraser*, 478 U.S. at 684. Recognizing the source of its authority over its students, District 49’s policy manual bakes in school-parent cooperation: “the education of each student is a responsibility shared by the school as well as parents and families.” D49.App.2.⁴ This sense of joint-mission influences everything District 49 does, including how it crafts district-wide policy. As a matter of constitutional law, this is the expectation for all public-school districts.

- a. School districts, like Jeff Co. and District 49, can and do tailor their policies to accommodate the rights of parents to direct the religious upbringing of their children.

The sacred responsibility of parents to direct the upbringing of their children is not limited to STEM and the humanities. It extends to—and perhaps is most epitomized by—religious matters. For that reason, the “practice of educating one’s children in one’s religious beliefs, like all religious acts and practices, receives a generous measure of protection from our Constitution.” *Mahmoud*, 606 U.S. at 547.

⁴ Citations to District 49’s Appendix are to “D49.App.[page number].”

This protection does not cease at school. The right “would be an empty promise if it did not follow those children into the public school classroom.” *Id.* District 49 recognizes this and crafts its policies accordingly.

To ensure that this fundamental right of parents is respected, District 49 is committed to “provid[ing] transparent access to materials related to” educational programs, among other things. D49.App.5. Jeff Co.’s JB-R2, on the other hand, is not so committed. JB-R2 reads, in relevant part, as follows:

In the planning of sleeping arrangements during overnight activity and athletic trips, the needs of students who are transgender shall be assessed on a case-by-case basis with the goals of maximizing the student’s social integration, providing equal opportunity to participate in overnight activity and athletic trips, ensuring the student’s safety and comfort, and minimizing stigmatization of the student. In most cases, students who are transgender should be assigned to share overnight accommodations with other students that share the student’s gender identity consistently asserted at school. Any alternative arrangement should be provided in a way that allows the student’s transgender status to be kept confidential. Under no circumstance shall a student who is transgender be required to share a room with students whose gender identity conflicts with their own.

3.App.426.

Most troubling is that JB-R2—on its face—provides that “under no circumstance shall a student who is transgender be required to share a room with

students whose gender identity conflicts with their own,” 3.App.426, but a similar accommodation is patently unavailable for those with religious objections. By design, the transgender student’s status as a transgender-identifying person is to never be disclosed to parents or other students: “Any alternative arrangement should be provided in a way that allows the student’s transgender status to be kept confidential.” *Id.*

JB-R2—both as written and as applied—infringes the fundamental right of parents to direct the religious upbringing of their children precisely because it removes the opportunity for the parents to exercise judgment over the matter. This usurpation of parental authority “undermin[es] the religious beliefs and practices that the parents wish to instill in their children”—triggering strict scrutiny. *Mahmoud*, 606 U.S. at 565.⁵

JB-R2 cannot satisfy constitutional muster absent a mechanism for reasonable accommodations. While it is certainly admirable to preserve the confidentiality of the

⁵ It is worth noting that the same result is reached even when applying the logic of *Mahmoud*’s dissenters—which, of course, does not control—because JB-R2 *compels* students “to depart from the religious practices of their parents” by requiring a student of one biological sex to share a bed with the student of another without permission, consent, or, conceivably, even knowledge. *See Mahmoud*, 606 U.S. at 549, 559 (remarking that the “dissent sees the Free Exercise Clause’s guarantee as nothing more than protection against compulsion or coercion to renounce or abandon one’s religion”).

transgender-identifying student's gender identity, *see* D49.App.9 (ensuring the confidentiality of "health and medical information"), the policy could have been drafted to permit parents to "opt-out" of their children being roomed with students of the opposite biological sex. Such a policy would serve and protect both (1) the rights of parents to direct the religious upbringing of their children and (2) the rights of transgender-identifying students to privacy.

It "is difficult to envision why a school would even claim—much less how a school could establish—a generalized interest in withholding or concealing from the parents of minor children, information fundamental to a child's . . . well-being . . ." *Ricard v. USD 475 Geary Cnty. Sch. Bd.*, No. 5:22-cv-04015, 2022 WL 1471372, at *8 (D. Kan. May 9, 2022). Such information undoubtedly includes whether one's child will or will not be roomed with students of the opposite sex during overnight school trips—particularly after being told that students will *not* be roomed with students of the opposite gender (without explaining the difference). In effect, Jeff Co. has unilaterally established that what counts is whether students with the same gender identity—rather than biological sex—are roomed together. And that is precisely the sort of judgment call that ought to be reserved for parents as they labor to direct the upbringing of their children.

- b. School districts, like Jeff Co. and District 49, can and do tailor their policies to accommodate the free exercise rights of their students.

The fundamental right of parents to direct the religious upbringing of their children is not the only fundamental right concerning religion present in public schools. Students themselves enjoy a fundamental right to freely exercise their genuinely held religious beliefs. This right, too, “would be an empty promise if it did not follow those children into the public school classroom.” *Mahmoud*, 606 U.S. at 547.

The free-exercise rights of students in public schools is especially delicate because the “‘State exerts great authority and coercive power through’ public schools[.]” *Mahmoud*, 606 U.S. at 545–55 (quoting *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987)). The coercive power of public schools is two-fold: (1) students respect and seek to emulate their teachers and, therefore, do as they do; and (2) students are uniquely susceptible to peer pressure and, therefore, do as their peers do. *Id.* Public-school administrators must bear these realities in mind when crafting policy.

Regrettably, Jeff Co. did not do this. Instead, it instituted a sweeping policy which coerces religious students—like Plaintiffs-Appellants—to do what they sincerely believe to be an immoral act: sleep in the same room or bed as a student of

the opposite biological sex. JB-R2 ensures this result whether or not the religious student is aware of the transgender student's biological sex. By refusing to disclose the transgender student's biological sex, Jeff Co. prevents students from making informed decisions that impact their religious practice. And when the transgender student's biological sex is disclosed through other channels, Jeff Co. anticipates that the religious students will nonetheless comply either out of respect for their teachers and administrators or to avoid crushing social stigmatization by peers. These substantial interferences on the free exercise of religion imposed on students within its schools "carries with it precisely the kind of objective danger to the free exercise of religion that the First Amendment was designed to prevent." *Mahmoud*, 606 U.S. at 546 (quoting *Yoder*, 406 U.S. at 218) (cleaned up). So strict scrutiny applies.

Of note, a school district "cannot purport to rescue one group of students from stigma and isolation by stigmatizing and isolating another." *Mahmoud*, 606 U.S. at 568. But that is precisely Jeff Co.'s asserted state interest: "minimizing stigmatization of the [transgender-identifying] student." 3.App.426. "It is difficult to see how affording extra privileges to the transgender student based on subjective feelings of discomfort while simultaneously excluding the non-transgender student for similarly subjective feelings is something other than invidious discrimination."

Carroll Indep. Sch. Dist. v. U.S. Dep’t of Educ., No. 4:24-cv-00461, 2024 WL 3381901, at *4 (N.D. Tex. July 11, 2024).

District 49 recognizes this and crafts district-wide policy in such a way that respects these competing fundamental rights. District 49 observes “neutrality in matters of religion” —it neither “oppos[es] nor promot[es] religion,” D49.App.13— and it ensures “that every student will have equal educational opportunities regardless of . . . religion,” D49.App.16. Committed to remaining within the limits of the Establishment Clause and Free Exercise Clauses, D49.App.13, District 49’s policymaking is careful not to abridge the fundamental rights of any student to freely exercise their religion.

- c. School districts, like Jeff Co. and District 49, can and do tailor their policies to accommodate the privacy rights of their students.

While aiming to respect the privacy rights of transgender-identifying students, JB R-2 tosses to the side the privacy rights of cisgender students who are compelled to share a room and, at times, a bed, with transgender students of the opposite biological sex. But the child’s “significant privacy interest in [her] unclothed bod[y]” is not so feeble. *Beard v. Whitmore Lake Sch. Dist.*, 402 F.3d 598, 604 (6th Cir. 2005); *Safford Unified Sch. Dist. No. 1 v. Redding*, 557 U.S. 364, 375 (2009) (explaining that “adolescent vulnerability intensifies the patent intrusiveness of the exposure”).

As this Court recognizes, a child’s “anatomy is draped with constitutional protections.” *Shroff*, 604 F.3d at 1191.⁶ One “cannot conceive of a more basic subject of privacy than the naked body. The desire to shield one’s unclothed figure from view of strangers, *and particularly strangers of the opposite sex*, is impelled by elementary self-respect and personal dignity.” *Poe v. Leonard*, 282 F.3d 123, 138 (2d Cir. 2002) (emphasis added) (quoting *York v. Story*, 324 F.2d 450, 455 (9th Cir. 1963)); *see also Michenfelder v. Sumner*, 860 F.2d 328, 333 (9th Cir. 1988). Indeed, everyone has a “constitutionally protected privacy interest in his or her partially clothed body,” *Doe v. Luzerne Cnty.*, 660 F.3d 169, 175–76 & n.5 (3rd Cir. 2011), and such “reasonable expectation of privacy” exists “particularly while in the presence of members of the opposite sex,” *id.* at 177. So a child should not be forced to share a room—where one dresses and undresses—with a student of the opposite biological sex.

There is likewise “undisputed approval of separate public restrooms for men and women based on privacy concerns,” *Faulkner v. Jones*, 10 F.3d 226, 232 (4th Cir. 1993); *State of Washington v. Lawson*, 340 P.3d 979, 982 (Wash. App. 2014); *Torres v. Wis. Dep’t of Health & Soc. Servs.*, 859 F.2d 1523, 1531 (7th Cir. 1988), and

⁶ To be sure, a child’s expectations of bodily privacy are rooted in her upbringing which, again, is properly directed by her parents—not the state. *See Pierce*, 268 U.S. at 535.

adolescents are rightly “embarrass[ed] . . . when a member of the opposite sex intrudes upon them in the lavatory.” *St. John’s Home for Children v. W. Va. Hum. Rts. Comm’n*, 375 S.E.2d 769, 771 (W. Va. 1988). After all, the “two sexes are not fungible[.]” *U.S. v. Virginia*, 518 U.S. 515, 533 (1996). So a student should not be forced to share a restroom with a student of the opposite biological sex.

These privacy interests do not disappear during school-sponsored trips; to the contrary, children “have a significant privacy interest in their unclothed bodies” during such trips. *Beard*, 402 F.3d at 604. This fundamental right to privacy is implicated every time the government forces one to undress, but “it is generally considered a greater invasion to have one’s naked body viewed by a member of the opposite sex.” *Canedy v. Boardman*, 16 F.3d 183, 185 (7th Cir. 1994). It is this “need for privacy” that “justifies separation.” *Faulkner*, 10 F.3d at 232. Failure to safeguard this fundamental right constitutes not merely a constitutional injury, but further imposes “permanent emotional impairment” under the “guise of equality.” *City of Phila. v. Pa. Hum. Relations Comm’n*, 300 A.2d 97, 103 (Pa. Commw. Ct. 1973).

Schools have long claimed an interest in providing their students with “sex-segregated spaces based on biological . . . sex” that allow students to protect their privacy “consistent with society’s long-held tradition of performing such functions

in sex-segregated spaces.” *Johnston v. Univ. of Pittsburgh*, 97 F. Supp. 3d 657, 668 (W.D. Pa. 2015). School districts, like Jeff Co., must accommodate for this legal and practical truism when crafting school-wide policy. But, concerning JB R-2, Jeff Co. did not do so.

As applied, JB-R2 has resulted in middle-school-age boys having their showers supervised by a biological female (prompting many boys to skip showering for days on end); a middle-school-age girl being forced to sleep in the same bed as a biological male; and a sexually abused middle-school age girl fearing placement with a biological male. None of this should have happened. And all of it could’ve been prevented by more careful crafting of district-wide policy.

Consider District 49’s policies. District 49 explains that it is “subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of” protected classes. D49.App.19. Among those, of course, are “gender identity” and “gender expression.” *Id.* What this means, however, is that no student “may be *excluded* from participation in, be denied the benefits of, or be subjected to unlawful discrimination under any district program or activity on the basis” of these protected classes. *Id.* (emphasis added). District 49 does “not tolerate discrimination” on these bases. D49.App.25. It thus provides “equal educational opportunities regardless of . . . sex, sexual orientation,” or “religion.” D49.App.16.

But this doesn't prevent District 49 from appreciating and accounting for the "inherent differences between boys and girls, meaning biological males and biological females," which differences inhere regardless of gender identity or expression. D49.App.28. While "these differences are not a valid justification for broad generalizations or discrimination . . . , these differences do mean that the sexes are not similarly situated in all circumstances." *Id.* And when "the sexes are not similarly situated, valid sex-based classifications can help preserve the dignity, safety, and opportunities of each sex." *Id.* For instance, permitting biological males and females to "share private facilities like locker and hotel rooms . . . endangers women and girls and deprives them of privacy." *Id.* Said another way, "[g]irls should not be forced to allow biological boys" —or vice versa— "into their private spaces as a condition of participating" in school-related activities. *Id.*

In addition to basic decency, real safety concerns inform District 49's policy making. It understands that "Parents have the right to expect safe conditions on buses, school campuses, and in other school settings," D49.App.31, and that this right extends to restrooms and overnight accommodations, D49.App.28. Derivative of this right is the responsibility for District 49—and, indeed, all school districts—to develop and maintain "[p]rocedures that address the safety and supervision of students during school hours and school-sponsored activities." D49.App.44.

District 49 would violate each of these policies if it compelled an adolescent child to share a bed with another of the opposite biological sex—particularly against the adolescent child’s will and without the full knowledge and consent of her parents.

District 49’s common-sense policy is not an anomaly. Rather, it is endorsed by federal law. Title IX regulations permit school districts to “provide separate toilet, locker room, and shower facilities on the basis of sex.” 34 C.F.R. § 106.33. The statute itself also contains an explicit carve-out for “living facilities” to protect privacy interests: “[N]othing contained herein shall be construed to prohibit any educational institution . . . from maintaining separate living facilities for the different sexes.” 20 U.S.C. § 1686. And “the overwhelming majority of dictionaries” at the time “defin[ed] ‘sex’ on the basis of biology and reproductive function.” *Adams v. Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791, 812 (11th Cir. 2022).

It should come as no surprise, then, that District 49 has a policy preserving access to sex-segregated facilities to protect “the privacy, safety, and dignity of all students . . . while providing reasonable accommodations for students seeking additional privacy.” D49.App.41. This is warranted because—much like with sports—biological males and females are not similarly situated when it comes to rooming arrangements and access to restrooms.

III. School districts in Colorado, like Jeff Co. and District 49, almost always (if not always) know the biological sex of their students regardless of their legal gender under Colorado law.

In addition to the district court's faulty conceptual presumptions and legal findings, the district court made a material factual error. While rejecting the argument that the student Plaintiffs-Appellants' fundamental rights to privacy are violated by JB-R2, the district court made an improper assumption of fact:

Additionally, Plaintiffs assume someone at Jeffco, or anyone else for that matter, would have knowledge in each instance of a student's sex or gender assigned at birth. This is inconsistent with Colorado law. Contrary to Plaintiffs' suggestions, Jeffco does not knowingly assign students of different sexes assigned at birth to share a bed. And Jeffco does not necessarily know the sex assigned at birth of every student. While Jeffco maintains a record of each student's "legal gender," a family can have a student's legal gender changed under state law and have a new birth certificate issued.

3.App.697 (internal citations omitted).

Respectfully, the district court is wrong. Sure, school districts do not have perfectly consistent knowledge of birth biology because they often conflate sex with gender. But they know a whole lot. And—as a local school district—District 49 affirms that, for almost every case, one of two conditions obtains:

1. Sex = gender and is, therefore, known to the district; or
2. Sex ≠ gender and that discrepancy is known to the district via disclosure or a gender-change request.

The district court’s erroneous (and, frankly, improper) factual finding masquerading as a legal finding should be disregarded by this Court. *Bose Corp. v. Consumers Union of U.S., Inc.*, 466 U.S. 485, 501 (1984) (explaining that an appellate court may “correct . . . a finding of fact that is predicated on a misunderstanding of the governing rule of law”).

CONCLUSION

“Like the compulsory high school education considered in *Yoder*” and the compulsory LGBTQ+-curriculum considered in *Mahmoud*, Jeff Co.’s compulsory rooming policy “impose[s] upon children a set of values and beliefs that are ‘hostile’ to their parents’ religious beliefs” and “exert upon” the children “a psychological ‘pressure to conform’ to their specific viewpoints.” *Mahmoud*, 606 U.S. at 553–54 (quoting *Yoder*, 406 U.S. at 211). The same kind of “objective danger to the free exercise of religion” that is identified in *Yoder* and *Mahmoud* is present in this case—creating “‘a very real threat of undermining’ the religious beliefs that the parents wish to instill in their children.” *Mahmoud*, 606 U.S. at 553 (quoting *Yoder*, 406 U.S. at 218). By reaching the opposite conclusion, the district court endorsed a vision of

public education squarely rejected by this Republic and readily embraced by totalitarian regimes. *Parham*, 442 U.S. at 602; *Meyer*, 262 U.S. at 401–02; *Pierce*, 268 U.S. at 535; *Prince*, 321 U.S. at 166; Kent, *Commentaries* at *195.

This Court can right the ship. It should (1) reverse the district court’s (a) grant of Jeff Co.’s motion to dismiss and (b) denial of Plaintiffs-Appellants’ motion for entry of a preliminary injunction and (2) remand this action back to the district court.

Dated: November 26, 2025

Respectfully submitted,
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CERTIFICATE OF COMPLIANCE

This brief complies with the word limit of FED. R. APP. P. 29(a)(5) and 32(a)(7)(B) because this brief contains 5,749 words, excluding parts of the brief exempted by FED. R. APP. P. 32(f) and 10th Cir. R. 32(B).

This brief complies with the typeface requirements of FED. R. APP. P. 32(a)(5) and 10th Cir. R. 32(A) and the type-style requirements of FED. R. APP. P. 32(a)(6) because this brief was prepared in Word 365 using a proportionally-spaced typeface, 14-point Equity A font.

s/ Robert E. Ranney
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CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing:

- (1) all required privacy redactions have been made per 10th Cir. R. 25.5;
- (2) if required to file additional hard copies, that the ECF submission is an exact copy of those documents;
- (3) the digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program, Malwarebytes for Teams version 5.0.0.1415, and according to the program are free of viruses.

s/ Robert E. Ranney
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CERTIFICATE OF SERVICE

I hereby certify on November 26, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Tenth Circuit by using appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

s/ Robert E. Ranney
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**SCHOOL DISTRICT 49's APPENDIX OF POLICIES
IN SUPPORT OF ITS *AMICUS CURIAE* BRIEF**

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Parent and Family Engagement in Education Policy (KB)



Book	Policy Manual
Section	Section K: School-Community-Home Relations
Title	Parent and Family Engagement in Education
Code	KB
Status	Active
Adopted	August 12, 2010
Last Revised	September 14, 2023
Last Reviewed	April 18, 2023
Prior Revised Dates	October 27, 2011; May 13, 2021; April 18, 2023

PARENT AND FAMILY ENGAGEMENT IN EDUCATION

Office/Custodian - Education/Executive Director of Learning Services

The Board of Education believes that the education of each student is a responsibility shared by the school as well as parents and families. Engaging parents and families is essential to student achievement. The Board recognizes the need for a constructive partnership between the District, parents, and families that provides for two-way communication and fosters educational support for students, parents, and families. In this policy, the word “parent” means a child's biological parent, adoptive parent, legal guardian, or other adult person recognized by the child's school as the child's primary caregiver.

In keeping with these beliefs, it is the intention of the District to cultivate and support active parent and family engagement.

To that end all District schools will:

1. Consult with and encourage parents and families to share in school planning and in the setting of objectives through the School Accountability Committees (SAC).
2. Help parents and families understand the educational process and their role in supporting student achievement.
3. Inform parents and families of school choices and learning opportunities within the District, including but not limited to, information on open enrollment, choice programs and charter school options.
4. Provide opportunities for parents and families to be informed about their student's progress toward attaining proficiency on state and District academic standards.
5. Provide appropriate avenues for parents and families to find support in their role.
6. Encourage formal organizations for parents and families at each school building as well as at the District level. The organizations will receive information concerning district and school activities and will have opportunities for input into district and school decisions as appropriate.
7. Encourage and welcome parent volunteers in the school and district community.

8. Create an inclusive culture honoring the lived experience of students, parents, and families in the school and district community.

9. Invest in building trusting relationships to strengthen the partnership between students, parents, and families and the school and district regarding the education outcomes for children and youth.

The Board supports professional development opportunities for staff to enhance their understanding of effective parent and family engagement strategies.

The Superintendent will identify an employee of the District to act as the point of contact for parent engagement training and resources. The identified person will also serve as the liaison between the District, the district accountability committee (DAC), and the Colorado Department of Education (CDE) and will facilitate the district's efforts to increase parent and family engagement within the District.

The Board also recognizes the special importance of parent and family engagement to the success of its Title I and Limited English Proficiency (LEP) programs and directs the Superintendent or designee to ensure that the District and schools jointly develop with parents written parent involvement policies that meet the requirements of federal law.

The district advisory accountability committee (DAAC) will conduct a periodic review of this policy. As part of its review, the DAAC will seek input from school accountability committees and then provide any recommended policy revisions to the Board.

Legal

[C.R.S. 22-7-301 et seq. \(measures to increase parental involvement in public education\)](#)

[C.R.S. 22-11-302 \(1\)\(g\) \(duties of the district accountability committee include increasing parent engagement\)](#)

[C.R.S. 22-11-402 \(1\)\(h\) \(duties of the school accountability committees include increasing parent engagement\)](#)

[C.R.S. 22-30.5-109 \(publicity regarding educational options\)](#)

[C.R.S. 22-32-142 \(1\) \(board must adopt parent engagement policy and identify a district employee to act as "point of contact"\)](#)

Cross References

[AE - Accountability Commitment to Accomplishment](#)

[AEA - Standard Based Education](#)

[IHBIB - Primary/Preprimary Education](#)

[KBA - District Title I Parent Involvement](#)

[KD - Public Information and Communications](#)

Commitment to Transparency Policy (KDBB)



Book	Policy Manual
Section	Section K: School-Community-Home Relations
Title	Commitment to Transparency
Code	KDBB
Status	Active
Adopted	November 10, 2022

COMMITMENT TO TRANSPARENCY

Office/Custodian - Education/CEO

Purpose: To clarify the district's commitment to transparency. This policy affirms specific commitments and links to corresponding District policies ensuring transparent access to a range of information.

The district is committed to providing transparent access to materials related to:

1. Educational Programs
 - a. Educational Materials
 - b. Educational Performance Data
 - c. Surveys, questionnaires, and non-academic assessments
2. Financial Operations
 - a. Budgets
 - b. Audits
3. Governance Operations (Board Elections, Members, and Meetings)
4. Administrative Leadership
5. Lobbying Activity
6. Colorado Open Records Act (CORA) Requests
7. Personnel Qualifications

1—Educational Programs

- A. It is the policy of the school district to provide transparent access to educational materials (print and electronic resources that an educator uses for instruction and assessment) used in district schools and programs. To that end, educational materials shall be made available for inspection to parents* and other stakeholders. Interested individuals should request access to materials at individual schools and coordinate their review with the principal or designated administrator. The local education provider shall not unduly impose a nondisclosure requirement on a

parent. Library materials are available at the district's online library catalog.

- B. It is the policy of the school district to provide transparent access to educational performance data through individual school websites, reports to the community at Board of Education meetings, public-facing dashboards, and through links to state-level data hosted at the Colorado Department of Education.
- C. It is the policy of the school district to provide transparent access to copies of surveys, questionnaires, and other non-academic assessment instruments, unless we are legally or contractually obligated to maintain the confidentiality of proprietary instruments or protocols. As a matter of transparency, we are committed to comply with policy JLDAC. Nothing in this commitment to transparency should be construed to provide access to individual student KDBB: Commitment to Transparency educational records or individual student responses to any of these instruments. Interested individuals should request access to these materials at individual schools and coordinate their review with the principal or designated administrator.

2—Financial Operations

- A. **Budgets:** It is the policy of the school district to provide transparent access to data about financial operations in compliance with the Colorado Public School Finance Act. As a matter of compliance, extensive financial information is available on the financial transparency page of our district website at D49.org. D49 will further provide annual reporting for grant funds including sources, purposes, and expenditures.

Data there includes, but is not limited to:

- District Adopted Budget
- District Financial Audit
- Financial Statements
- Salary Schedules
- Accounts Payable Check Registers
- Credit, Debit, and Purchase Card Statements (Located in Accounts Payable Check Registers)
- Investment Performance Reports
- School Site Financials

- B. **Audits:** In addition to the district-generated materials published through our financial transparency system, we also provide links to the external professional audit of our business and financial systems and performance.

In addition to the operational data, District 49 provides comprehensive information about our revenue and tax structure, including but not limited to:

- Net Assessment Rate
- Market Valuation
- Assessed Valuation
- General Fund
- Mill Levy Override
- Bond Redemption Fund
- Total Mills
- Funded Pupil Count

3. Governance Operations (Board Elections, Members, and Meetings)

It is the policy of the school district to provide transparent access to information about governance and executive operations in compliance with the Colorado Open Meetings Law, the Colorado Open Records Act, District Policy, and best practices identified through independent sources such as the Goldwater Institute and the public transparency initiative of Ballotpedia.org (formerly the Sunshine Review).

The bulk of information about board governance and executive leadership is available online at D49.org, including:

- Board Information Page with information about elections, meetings, members, policies, and more
- Board Docs, with specific details including agendas, minutes, live streamed video, and archived audio and video recordings of board meetings, work sessions, and special events. Board Docs also hosts the district policy manual.

4. Administrative Leadership

It is the policy of the school district to provide transparent access to information about administrative leadership through our district organization chart with more detailed contact information and team member details at our department pages.

5. Lobbying Activity

It is the policy of the school district to provide transparent access to information about lobbying activity either supported or directed by district leadership. Administration will provide regular updates to the public and board of education through reports and presentations about levels of activity and accomplishments.

6. Colorado Open Records Act (CORA) Requests

It is the policy of the school district to provide timely and compliant access to information by responding to CORA requests. Information about that commitment and procedural guidance is available at the Open Records page at D49.org.

7. Personnel Qualifications

It is the policy of the school district to provide timely and compliant access to information about personnel licensing and other qualifications. Consistent with Policy KBB, Parent Rights and Responsibilities, stakeholders may access information about staff qualifications via the licensure database hosted at the Colorado Department of Education, or by contacting the individual school or department leadership team with a specific query. Professional learning activity and opportunities are available through our Professional Learning Department and the Aha! Network.

*Recognizing that guardians, foster parents, custodial grandparents, and other designated adults may fulfill the role of parents, the term parents, employed throughout this document, references all such adults.

Privacy and Protection of Confidential Student Information Policy (JRCB)



Book	Policy Manual
Section	Section J: Students
Title	Privacy and Protection of Confidential Student Information
Code	JRCB
Status	Active
Adopted	December 14, 2017
Last Revised	October 4, 2024
Last Reviewed	December 10, 2020

PRIVACY AND PROTECTION OF CONFIDENTIAL STUDENT INFORMATION

Office/Custodian - Education/Director of Academic Performance

The Board is committed to protecting the confidentiality of student information obtained, created and/or maintained by the district. Student privacy and the district's use of confidential student information are protected by federal and state law, including the Family Educational Rights and Privacy Act (FERPA) and the Student Data Transparency and Security Act (the Act). The Board directs district staff to manage its student data privacy, protection and security obligations in accordance with this policy and applicable law.

Definitions

"Student education records" are those records that relate directly to a student. Student education records may contain, but not necessarily be limited to, the following information: identifying data; academic work completed; level of achievement (grades, standardized achievement test scores); attendance data; scores on standardized intelligence, aptitude and psychological tests; interest inventory results; health and medical information; family background information; teacher or counselor ratings and observations; reports of serious or recurrent behavior patterns and any Individualized Education Program (IEP).

"Student personally identifiable information" or "student PII" means information that, alone or in combination, personally identifies an individual student or the student's parent or family, and that is collected, maintained, generated, or inferred by the district, either directly or through a school service, or by a school service contract provider or school service on-demand provider.

"Security breach" means the unauthorized disclosure of student education records or student PII by a third party.

The following terms used in this policy shall be as defined by the Act: "school service," "school service contract provider" and "school service on-demand provider."

Access, collection and sharing within the district

The district shall follow applicable law and Board policy in the district's access to, collection and sharing of student education records.

District employees shall ensure that confidential information in student education records is disclosed within the district only to officials who have a legitimate educational interest, in accordance with applicable law and Board policy.

Outsourcing and disclosure to third parties

District employees shall ensure that student education records are disclosed to persons and organizations outside the district only as authorized by applicable law and Board policy. The term "organizations outside the district" includes school service on-demand providers and school service contract providers.

Any contract between the district and a school service contract provider shall include the provisions required by the Act, including provisions that require the school service contract provider to safeguard the privacy and security of student PII and impose penalties on the school service contract provider for noncompliance with the contract.

In accordance with the Act, the district shall post the following on its website:

- a list of the school service contract providers that it contracts with and a copy of each contract; and
- to the extent practicable, a list of the school service on-demand providers that the district uses.

Privacy and security standards

The security of student education records maintained by the district is a high priority. The district shall maintain an authentication and authorization process to track and periodically audit the security and safeguarding of student education records.

Security breach or other unauthorized disclosure

Employees who disclose student education records in a manner inconsistent with applicable law and Board policy may be subject to disciplinary action, up to and including termination from employment. Any discipline imposed shall be in accordance with applicable law and Board policy.

Employee concerns about a possible security breach shall be reported immediately to the Director of Academic Performance. If the Director of Academic Performance is the person alleged to be responsible for the security breach, the staff member shall report the concern to the superintendent.

When the district determines that a school service contract provider has committed a material breach of its contract with the district, and that such material breach involves the misuse or unauthorized release of student PII, the district shall follow this policy's accompanying regulation in addressing the material breach.

Nothing in this policy or its accompanying regulation shall prohibit or restrict the district from terminating its contract with the school service contract provider, as deemed appropriate by the district and in accordance with the contract and the Act.

Data retention and destruction

The district shall retain and destroy student education records in accordance with applicable law and Board policy.

Staff training

The district shall provide periodic in-service trainings to appropriate district employees to inform them of their obligations under applicable law and Board policy concerning the confidentiality of student education records.

Parent/guardian complaints

In accordance with this policy's accompanying regulation, a parent/guardian of a district student may file a written complaint with the district if the parent/guardian believes the district has failed to comply with the Act.

Parent/guardian requests to amend student education records

Parent/guardian requests to amend his or her child's education records shall be in accordance with the district's procedures governing access to and amendment of student education records under FERPA, applicable state law and Board policy.

Oversight, audits and review

The Director of Academic Performance shall be responsible for ensuring compliance with this policy and its required privacy and security standards.

The district's practices with respect to student data privacy and the implementation of this policy shall be periodically audited by the Director of Academic Performance or designee.

A privacy and security audit shall be performed by the district on an annual basis. Such audit shall include a review of existing user access to and the security of student education records and student PII.

The Director of Academic Performance or designee shall periodically review this policy and accompanying regulation to ensure it remains current and adequate to protect the confidentiality of student education records in light of advances in data technology and dissemination. The Director of Academic Performance shall recommend revisions to this policy and/or accompanying regulation as deemed appropriate or necessary.

Compliance with governing law and Board policy

The district shall comply with FERPA and its regulations, the Act, and other state and federal laws governing the confidentiality of student education records. The district shall be entitled to take all actions and exercise all options authorized under the law.

In the event this policy or accompanying regulation does not address a provision in applicable state or federal law, or is inconsistent with or in conflict with applicable state or federal law, the provisions of applicable state or federal law shall control.

Legal

"">C.R.S. 24-72-204 (3)(d) (information to military recruiters)

Religion in the Curriculum Policy (IHAL)



Book	Policy Manual
Section	Section I: Instruction
Title	Religion in the Curriculum
Code	IHAL
Status	Active
Adopted	November 3, 1977
Last Revised	August 11, 2016
Last Reviewed	February 8, 2024
Prior Revised Dates	July 8, 2010

RELIGION IN THE CURRICULUM

Office/Custodian - Education/Executive Director of Learning Services

Informed by the Establishment Clause of the 1st Amendment of the United States Constitution, which specifies that congress will make no law respecting the establishment of religion, public entities should neither promote nor disparage any religion. In accordance with the aforementioned, School District 49 will not develop, acquire, nor present any curriculum that is intended to promote or disparage any particular religion, or serves to proselytize for a particular religion. However, the bible may be taught as literature, lessons may be taught about the role of religion and religious institutions in history, or courses may be offered on comparative religion if the latter's intent is not to promote or disparage any particular religion. For example, to study the Bible without violating constitutional limits, the class would have to include critical rather than devotional readings and allow open inquiry into the history and content of biblical passages.

Informed by the Free Expression Clause of the 1st Amendment of the United States Constitution, which specifies that governments may not "unduly infringe" religious exercise, the Supreme Court has ruled that this conduct remains subject to regulation for the protection of society to prevent professed doctrines of religious belief from becoming superior to the law of the land. In accordance with the aforementioned, School District 49 will not sponsor any religious-based curriculum or associated practice in a school environment that constructively violates federal, state, or local legislation. Hence, religious beliefs do not override legislation that requires inclusive academic environments, which are free from harassment and discrimination.

School district employees retain the right to Free Expression in their private lives; however, they cannot promote practices or display artifacts that would violate the Establishment clause while on district property during traditional business hours. Personal items such as religiously based jewelry are not a violation of the Establishment Clause unless it is referenced as part of dialogue intended to promote or disparage any religion. However clothing, which features religious text in a manner that is intended to be disparaging to any person or group, would constitute a violation of this policy. School district facilities may be utilized for religious activities by approved student groups, or after traditional business hours, but no religious group should be given favor or excluded from the opportunity to use district facilities. Other than in the context of appropriate student free speech or approved student-run clubs, it is not acceptable for individuals to deliver purely religious lessons on district property during traditional business hours. However, it is permissible to release students to attend religious education at non-district facilities if it does not remove them from required instruction and their parents have agreed to their participation. School District 49 shall observe neutrality in matters of religion; neither opposing nor promoting religion to ensure a culture of fairness abides within the district's schools and community.

Equal Education Opportunities Policy (JB)



Book	Policy Manual
Section	Section J: Students
Title	Equal Educational Opportunities
Code	JB
Status	Active
Last Revised	April 26, 2023
Last Reviewed	September 12, 2024
Prior Revised Dates	August 10, 2000; July 10, 2008; January 14, 2010; June 30, 2011; July 27, 2012; May 8, 2014; April 9, 2014; May 14, 2015 ; February 13, 2020;

EQUAL EDUCATIONAL OPPORTUNITIES

Office/Custodian - Education/Executive Director of Individualized Education

It is the policy of School District 49 that every student will have equal educational opportunities regardless of disability, race, creed, color, sex, sexual orientation, marital status, national origin, religion, ancestry, or need for special education services.

This concept of equal educational opportunity will guide the Board and staff in making decisions related to school district facilities, selection of educational materials, equipment, curriculum and regulations affecting students. Students with identified physical and mental impairments that constitute disabilities will be provided with a free appropriate public education, consistent with the requirements of federal and state laws and regulations.

In order to ensure that district programs are in compliance with applicable laws and regulations, the Board directs the Superintendent or designee(s) to periodically monitor the following areas:

1. Curriculum and materials – review curriculum guides, textbooks and supplemental materials for discriminatory bias.
2. Training – provide training for students and staff to identify and alleviate problems of discrimination.
3. Student access – review programs, activities and practices to ensure that all students have equal access and are not segregated except when permissible by law or regulation.
4. District support – ensure that district resources are equitably distributed among school programs including but not limited to staffing and compensation, facilities, equipment and related matters.
5. Student evaluation instruments – review tests, procedures and guidance and counseling materials for stereotyping and discrimination.
6. Discipline – review discipline records and any relevant data to ensure the equitable implementation and application of Board discipline policies.

The district's designated compliance officer is:

Dr. Nancy Lemmond
School District 49

D49.App.16

10850 E. Woodmen Road
Peyton, CO. 80831
Phone: 719-494-8933
Email: nancy.lemmond@d49.org

Current practice codified: 1980

Adopted: date of manual adoption

Revised to conform with practice: date of manual revision

Legal

[20 U.S.C. §1681 \(Title IX of the Education Amendments of 1972\).](#)

[20 U.S.C. § 1701-1758 \(Equal Educational Opportunities Act of 1974\).](#)

[29 U.S.C. §701 et seq. \(Section 504 of the Rehabilitation Act of 1973\).](#)

[C.R.S. 2-4-401 \(13.5\) \(definition of sexual orientation, which includes transgender\).](#)

[C.R.S. 22-32-109 \(1\)\(II\) \(Board duty to adopt written policies prohibiting discrimination\).](#)

[C.R.S. 22-32-109.1 \(2\) \(safe school plan to be revised as necessary in response to relevant data collected by the school district\).](#)

[C.R.S. 22-32-110 \(1\)\(k\) \(definition of racial or ethnic background includes hair texture, definition of protective hairstyle\).](#)

[C.R.S. 24-34-601 \(Unlawful discrimination in places of public accommodation\).](#)

[C.R.S. 24-34-602 \(Penalty and civil liability for unlawful discrimination\).](#)

Cross References

[AC - Nondiscrimination/Equal Opportunity](#)

[JBB - Sexual Harassment](#)

Nondiscrimination/Equal Opportunities Policy (AC)



Book	Policy Manual
Section	Section A: Foundations and Basic Commitments
Title	Nondiscrimination/Equal Opportunity
Code	AC
Status	Active
Adopted	May 1, 1994
Last Revised	September 14, 2023
Prior Revised Dates	August 13, 1998; April 28, 2008; August 12, 2010; June 27, 2012; May 8, 2014; September 11, 2014; September 10, 2015; October 13, 2016; July 11, 2019; August 13, 2020; September 14, 2023;

NONDISCRIMINATION/EQUAL OPPORTUNITY

Office/Custodian - Education/Executive Directors of Individualized Education and People & Culture

School District 49 is committed to providing a safe learning and work environment where all members of the school community are treated with dignity and respect. The schools in the district are subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, religion, ancestry or need for special education services. Accordingly, no otherwise qualified student, employee, applicant for employment or member of the public may be excluded from participation in, be denied the benefits of, or be subjected to unlawful discrimination under any district program or activity on the basis of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, religion, ancestry, military or veteran status, or need for special education services. Discrimination against employees and applicants for employment based on age, genetic information and conditions related to pregnancy or childbirth is also prohibited in accordance with state and/or federal law.

For purposes of this policy and other policies including a non-discrimination statement, these terms have the following meanings:

- "Race" includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.
- "Protective Hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, and head wraps.
- "Sexual Orientation" means an individual's identity or another individual's perception thereof, and relation to the gender or genders to which the individual is sexually or emotionally attracted and the behavior or social affiliation that may result from the attraction.
- "Gender Expression" means an individual's way of reflecting and expressing the individual's gender to the outside world, typically demonstrated through appearance, dress, and behavior.
- "Gender Identity" means an individual's innate sense of the individual's own gender, which may or may not correspond with the individual's sex assigned at birth.

This policy and supporting regulations will be used to address all concerns regarding unlawful discrimination and harassment. Alleged conduct regarding sex-based discrimination and sexual harassment will follow the complaint and investigation procedures specific to this conduct.

In keeping with these statements, the following are objectives of this school district:

1. To promote the rights and responsibilities of all individuals as set forth in the state and federal constitutions, pertinent legislation and applicable judicial interpretation.
2. To encourage positive experiences in terms of human values for children and adults who have differing personal and family characteristics or who come from various socio-economic, racial and ethnic groups.
3. To consider carefully, in all decisions made which affect the schools, the potential benefit or adverse consequences that those decisions might have on the human relations aspects of all segments of society.
4. To utilize educational experiences to build each individual's pride in the community in which they live.
5. To initiate a process of reviewing all policies and practices of this school district in order to achieve the objectives of this policy to the greatest extent possible.
6. To investigate and resolve promptly any complaint of unlawful discrimination and harassment.
7. To investigate and appropriately discipline staff and students found to be responsible for incidents of harassment or unlawful discrimination in violation of District policy.

This policy applies to all employees, Board members, visitors, and other persons not affiliated with the district, regardless of their title, position, or gender. District 49 will take all reasonable measures to prevent unlawful harassment or discrimination and promptly and effectively respond to harassment or discrimination allegations.

Annual Notice

The district will highlight the written notice on D49.org each school year that advises students, parents, employees and the general public that the educational programs, activities and employment opportunities offered by the district are offered without regard to disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, religion, ancestry, or need for special education services. With respect to employment practices, the district will also issue written notice that it does not discriminate on the basis of age, genetic information or conditions related to pregnancy or childbirth. The announcement will also include the name, address, email address and telephone number of the person(s) designated to coordinate Title IX and Section 504 and ADA compliance activities.

The notice will appear on the district's website D49.org in both English and Spanish, but upon request it could be translated into other languages if a bona fide need is identified. It shall also be made available in an appropriate format to persons who are visually or hearing impaired upon request.

The notice will appear on a continuing basis in all district media containing general information, including: teachers' guides, school publications, the district's website, recruitment materials, application forms, vacancy announcements, student handbooks, school program notices, summer program newsletters and annual letters to parents.

Harassment is prohibited

Harassment based on a person's disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, religion, ancestry or need for special education services is a form of discrimination prohibited by state and federal law. Preventing and remedying such harassment in schools is essential to ensure a nondiscriminatory, safe environment in which students can learn, employees can work and members of the public can access and receive the benefit of district facilities and programs. All such harassment, by Board of Education members, district employees, students and third parties, is strictly prohibited.

All district employees and students share the responsibility to ensure that harassment does not occur at any district school, on any district property, at any district or school-sanctioned activity or event, or off school property when such conduct has a nexus to the school, or any district curricular or non-curricular activity or event.

Reporting unlawful discrimination and harassment

Any student who believes they have been a target of unlawful discrimination or harassment as defined in Board policy and supporting regulations, or who has witnessed such unlawful discrimination or harassment, must immediately report it to an administrator, counselor, teacher or the district's compliance officer(s) and file a complaint in person, by phone, email, or online form, or any other method as set forth in the regulation which accompanies this policy.

Any applicant for employment or member of the public who believes they have been a target of unlawful discrimination or harassment, or who has witnessed such unlawful discrimination or harassment, is encouraged to immediately file a complaint with the district's compliance officer(s).

Any employee who believes they have been a target of unlawful discrimination or harassment is encouraged to immediately file a complaint with either an immediate supervisor or the district's compliance officer(s), and any employee who has witnessed such unlawful discrimination or harassment must immediately file a complaint with either an immediate supervisor or the district's compliance officer(s).

If the individual alleged to have engaged in prohibited conduct is the person designated as the compliance officer, the complaint shall be made to the Superintendent who will designate an alternate compliance officer to investigate the matter in accordance with this policy's accompanying regulation.

District action

All district staff members who witness unlawful discrimination or harassment must take prompt and effective action to stop it, as prescribed by the district.

The district will take appropriate action to promptly and impartially investigate allegations of unlawful discrimination and harassment, to provide regular updates to all parties regarding the investigation to end unlawful behavior, to prevent the recurrence of such behavior and to prevent retaliation against the individual(s) who files the complaint and/or any person who participates in the investigation. When appropriate, the district will take interim measures during the investigation to protect against further unlawful discrimination, harassment or retaliation.

To the extent possible, all reports of unlawful discrimination or harassment will be kept confidential. Students or employees who knowingly file false complaints or give false statements in an investigation may be subject to discipline, up to and including suspension/expulsion for students and termination of employment. No student, staff member or member of the public may be subject to adverse treatment in retaliation for any good faith report of harassment under this policy.

Upon determining by a preponderance of the evidence that incidents of unlawful discrimination or harassment are occurring in particular district settings or activities, the district will implement measures designed to remedy the problem in those areas or activities.

Any student or employee who engages in unlawful discrimination or harassment will be disciplined according to applicable Board and/or administrative policies and the district will take reasonable action to restore lost educational or employment opportunities to the target(s).

In cases involving potential criminal conduct, the district will determine whether appropriate law enforcement officials should be notified.

District 49 will make every effort to ensure that those named in a complaint, or are too closely associated with those involved in the complaint, will not be part of the investigative team or efforts.

District 49 may utilize a neutral third-party investigator to address allegations of work-related discrimination, harassment, or other work-related misconduct.

Notice and training

To reduce unlawful discrimination and harassment and ensure a respectful school environment, the administration is responsible for providing notice of this policy to all district schools and departments. All communications regarding this policy must be written in simple and age appropriate language. The policy and complaint process must be prominently posted on the district's website, referenced in student and employee handbooks, described in hard copy notices posted at schools, and made otherwise available to all students, staff and members of the public through electronic or hard-copy distribution. Training materials regarding sex-based discrimination and sexual harassment are available to the public on the district's website.

Students and district employees will receive periodic training related to recognizing and preventing unlawful discrimination and harassment. District employees must receive additional training related to handling reports of unlawful discrimination and harassment. The training will include, but not be limited to:

- awareness of groups protected under state and federal law and/or targeted groups;
- how to recognize and react to unlawful discrimination and harassment; and
- proven harassment prevention strategies.

School District 49 Compliance Coordinators**Student Matters (Section 504, Title VI, Title IX)**

Dr. Nancy Lemmond, Executive Director of Individualized Education
nancy.lemmond@d49.org | 719-494-8913

Employee Matters (EEOC)

Ms. Sonia Marroquin-Smith, Human Resources Manager for Culture and Compliance
sonia.marroquinsmith@d49.org | 719-495-1142

Mailing address: 10850 E. Woodmen Road, Peyton, CO 80831

For further information on notice of non-discrimination, the address and phone number of the office that serves your area, visit the [Office for Civil Rights webpage on Ed.gov](#), or call 1.800.421.3481.

Current practice codified: 1980

Legal

[20 U.S.C. 1681 \(Title VII, Education Amendments of 1972\)](#)
[20 U.S.C. 1701-1758 \(Equal Employment Opportunity Act of 1972\)](#)
[29 U.S.C. 621 et seq. \(Age Discrimination in Employment Act of 1967\)](#)
[29 U.S.C. 701 et seq. \(Section 504 of the Rehabilitation Act of 1973\)](#)
[38 U.S.C. 4331\(a\) Uniformed Services Employment and Reemployment Rights Act of 1994 \(USERRA\)](#)
[42 U.S.C. 12101 et seq. \(Title II of the Americans with Disabilities Act\)](#)
[42 U.S.C. 2000d \(Title VI of the Civil Rights Act of 1964, as amended in 1972\)](#)
[42 U.S.C. 2000e \(Title VII of the Civil Rights Act of 1964\)](#)
[42 U.S.C. 2000ff et seq](#)
[34 C.F.R. Part 100 through Part 110 \(civil rights regulations\)](#)
[C.R.S. 2-4-401 \(3.4\) \(definition of gender expression\)](#)
[C.R.S. 2-4-401 \(3.5\) \(definition of gender identity\)](#)
[C.R.S. 2-4-401 \(13.5\) \(definition of sexual orientation, which includes transgender\)](#)
[C.R.S. 18-9-121 \(bias-motivated crimes\)](#)
[C.R.S. 22-1-143 \(definition of harassment or discrimination\)](#)
[C.R.S. 22-32-109 \(1\)\(II\) \(Board duty to adopt written policies prohibiting discrimination\)](#)
[C.R.S. 22-32-110 \(1\)\(k\) \(definition of racial or ethnic background includes hair texture, definition of protective hairstyle\)](#)
[C.R.S. 24-34-301 et seq. \(Colorado Civil Rights Division\)](#)
[C.R.S. 24-34-301 \(3.3\) \(definition of gender expression\)](#)
[C.R.S. 24-34-301 \(7\) \(definition of sexual orientation\)](#)
[C.R.S. 24-34-301 \(7\) \(definition of sexual orientation, which includes transgender\)](#)
[C.R.S. 24-34-402 et seq. \(discriminatory or unfair employment practices\)](#)
[C.R.S. 24-43-402\(1.3\)\(a\) \(definition of "harass" or "harassment"\)](#)
[C.R.S. 24-34-402.3 \(discrimination based on pregnancy, childbirth or related conditions; notice of right to be free from such discrimination must be posted in a conspicuous place accessible to employees\)](#)
[C.R.S. 24-34-601 \(unlawful discrimination in places of public accommodation\)](#)
[C.R.S. 24-34-602 \(penalty and civil liability for unlawful discrimination\)](#)

Cross References

[GBA - Equal Employment Opportunity](#)
[GBAA - Sexual Harassment](#)
[JB - Equal Educational Opportunities](#)
[JBB - Sexual Harassment](#)

Nondiscrimination/Equal Opportunities Policy (AC-E1)



Book	Policy Manual
Section	Section A: Foundations and Basic Commitments
Title	Nondiscrimination/ Equal Opportunity
Code	AC-E-1
Status	Active
Adopted	May 8, 2014
Last Reviewed	September 14, 2023

Office/Custodian: Education/Executive Director of Individualized Education and Executive Director of People and Culture

In compliance with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act of 2008, Colorado law and district administrative policy AC (Nondiscrimination/Equal Opportunity), School District 49 is committed to a policy of nondiscrimination in education and employment. District 49 will not tolerate discrimination on the basis of disability, need for special education services (whether actual or perceived), race, creed, color, sex, marital status, sexual orientation, transgender status, gender identity, gender expression, national origin, religion, ancestry, age, genetic information, or protected activity in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups.

Any harassment or discrimination of students and/or staff, based on the aforementioned protected areas must be brought to the immediate attention of the school principal, a district administrator or the compliance coordinator.

The lack of English language skills shall not be a barrier to admission or participation in any District program. To that end, School District 49:

- Provides free aids and services to people with disabilities to communicate effectively with us, such as qualified sign language interpreters and written information in other formats (large print, audio, accessible electronic formats, other formats)
- Provides free language services to people whose primary language is not English, such as qualified interpreters and information written in other languages.

If you believe that School District 49 has failed to provide these services or discriminated in another way, you may file a grievance with the compliance coordinator.

School District 49 Compliance Coordinators

Student Matters (Section 504, Title IX, Title II/ADA-AA)

Dr. Nancy Lemmond, Executive Director of Individualized Education nlemmond@d49.org | 719-494-8913

Employee Matters (Title VI, Title VII, Title II/ADA-AA)

Ms. Sonia Marroquin-Smith, Human Resources Manager for Culture and Compliance smarroquinsmith@d49.org | 719-495-1142

Mailing address: 10850 E. Woodmen Road, Peyton, CO 80831

For further information on notice of non-discrimination, the address and phone number of the office that serves your area, visit the Office for Civil Rights webpage on Ed.gov, or call 1.800.421.3481.

Outside Agencies

Complaints regarding violations of Title VI (race, national origin), Title IX (sex/gender), Section 504/ADA (disability), may be filed directly with the Office for Civil Rights, U.S. Department of Education, 1244 N. Speer Blvd., Suite 310, Denver, CO 80204. Complaints regarding violations of Title VII (employment) and the ADEA (prohibiting age discrimination in employment) may be filed directly with the U.S. Equal Employment Opportunity Commission, 303 E. 17th Ave., Suite 510, Denver, CO 80202, or the Colorado Civil Rights Commission, 1560 Broadway, Suite 1050, Denver, CO 80202.

Preserving Fairness and Safety in Sports Policy (JBA)



Book	Policy Manual
Section	Section J: Students
Title	Preserving Fairness and Safety in Sports
Code	JBA
Status	Active
Adopted	May 8, 2025

Preserving Fairness and Safety in Sports

Office/Custodian – Board of Education/ Superintendent

The Board of Education hereby finds:

There are inherent differences between boys and girls, meaning biological males and biological females;

These differences are not a valid justification for broad generalizations or discrimination that perpetuates the legal, social, or economic inferiority of either sex, but these differences do mean that the sexes are not similarly situated in all circumstances;

In situations where the sexes are not similarly situated, valid sex-based classifications can help preserve the dignity, safety, and opportunities of each sex;

Boys and girls are not similarly situated in the context of sports or competition involving athletic ability or contact—boys are born with significant inherent advantages that, while they do not guarantee the victory of any given boy over any given girl, give most boys a substantial competitive advantage over most girls.

This competitive advantage is significant enough that boys would substantially displace girls if permitted to compete against them;

Schools across the country and in Colorado are ignoring this reality and allowing men and boys to compete against women and girls. This is demeaning, unfair, and dangerous to women and girls, and denies women and girls the equal opportunity to participate and excel in competitive sports;

Because sports teams often share private facilities like locker and hotel rooms, this also endangers women and girls and deprives them of privacy;

Allowing boys to compete in girls' sports is part of a broader attempt to debase the entire category of "woman" and transform laws intended to protect sex-based opportunities into laws that hurt girls by undermining their identity, are inherently unfair, and denigrating to their rights;

Classification of sports team participation by biological sex is therefore necessary to preserve and promote equal opportunity for District 49's female athletes, maintain opportunities for them to demonstrate their strength, skills, and athletic abilities, and to provide them with opportunities to obtain recognition and accolades, college scholarships, and other long-term benefits that result from participating and competing in athletic endeavors;

Such classification is further necessary to protect female athletes' rights to safety and privacy. Girls should not be forced to allow biological boys into their private spaces as a condition of participating in athletic competition;

Moreover, the President of the United States announced in Executive Order 14201 (February 5, 2025) that "it is the policy of the United States to rescind all funds from educational programs that deprive women and girls of fair athletic opportunities, which results in the endangerment, humiliation, and silencing of women and girls and deprives them of privacy. It shall also be the policy of the United States to oppose male competitive participation in women's sports more broadly, as a matter of safety, fairness, dignity, and truth." District 49 is therefore obligated by Title IX to classify its sports teams by biological sex.

"Biological sex" means an individual's physical form as a male or female based solely on the individual's reproductive biology and genetics at birth. "Female" means an individual whose biological sex determined at birth is female. As used herein, "women" or "girls" refers to biological females. "Male" means an individual whose biological sex determined at birth is male. As used herein, "men" or "boys" refers to biological males.

The School District's interscholastic athletic teams or sports shall be designated as one of the following based on biological sex:

Male, men, or boys;

Female, women, or girls; or

Coed, mixed, or open

Teams

Athletic teams or sports designated as female, women, or girls shall not be open to participation by biologically male students

Athletic teams or sports designated as male, men, or boys shall not be open to participation by biologically female students

Locker rooms

No biological male student shall enter or be present in a locker room being used by an athletic team or sport designated as female, women, or girls

No biological female student shall enter or be present in a locker room being used by an athletic team or sport designated as male, men, or boys

Hotels

No biological male student shall be lodged in a hotel room or similar accommodation being used by an athletic team or sport designated as female, women, or girls

No biological female student shall be lodged in a hotel room or similar accommodation being used by an athletic team or sport designated as male, men, or boys

Parents Rights and Responsibilities Policy (KBB)



Book	Policy Manual
Section	Section K: School-Community-Home Relations
Title	Parents Rights and Responsibilities
Code	KBB
Status	Active
Adopted	October 13, 2022

Office/Custodian - Education/Executive Director of Learning Services

Purpose: To clarify the rights and responsibilities of our students' parents and guardians as strategic partners in their childrens' education. This policy links to the corresponding District policies of the rights and responsibilities for more details.

In District 49, Parents have the following rights, along with responsibilities enumerated on the following pages:

- Choice: To access available seats at a public school of their choosing.
- Choice: To access space available in specialized programs, including concurrent college enrollment.
- Choice: To access accelerated coursework, work-based learning and other college and career readiness opportunities.
- Choice: To retain full control of their child's education through schooling at home.
- Choice: To enroll their student in courses that best meet the child's needs, aptitudes and potential.
- Access: To access digital devices and home broadband services to support the educational needs of their student.
- Achievement/Outcomes: To ensure their student is reading and doing math on grade level.
- Achievement/Outcomes: To ensure that their student graduates ready for postsecondary success.
- Security/Safety: Parents have the right to expect systematic protection of private and confidential information.
- Security/Safety: Parents have the right to expect safe conditions on buses, school campuses, and in other school settings.
- Transparency: To know what curriculum and instructional materials are being used in their student's school.
- Transparency: To know how their student's school performs relative to state standards and to other schools.

- Transparency: To access their student's academic records, evaluations and any other data or records about their child.
- Transparency: Parents have the right to review clear expectations for student behavior.
- Transparency: Parents have the right to due process during investigations and disciplinary meetings.
- Transparency: Parents have the right to know the credentials and status of their student's teacher(s) and administrators.
- Transparency: Parents have the right to know the amount of public funding being provided for their student's education.

*Recognizing that guardians, foster parents, custodial grandparents, and other designated adults may fulfill the role of parents, the term parents, employed throughout this document, references all such adults.

Parent rights and responsibilities are described in the following District 49 Policies (and additional policies available at: <https://go.boarddocs.com/co/d49/Board.nsf/Public>), as well as any supporting regulations (-R), any supporting exhibits (-E) and the statutes, rules, and key court decisions referenced within.

Click items in this column to jump to more elaborate descriptions

Click in this column to link directly to full policy documents

<u>Educational Choice</u>	JFBA: Intra-District Choice/Open Enrollment JFAB: Continuing Enrollment of Students Who Become Nonresidents IHCD: Concurrent Enrollment IHBG: Home Schooling
<u>Academic Access</u>	IJNDAB Instruction through Online Learning ILBC: Literacy and Reading Comprehension Assessments (Colorado READ Act) JHB: Truancy
<u>Academic Excellence</u>	IHBK: Preparation for Postsecondary and Workforce Success IMB: Teaching about Controversial Issues and Use of Controversial Materials IK: Academic Achievement ILBC: Literacy and Reading Comprehension Assessments (Colorado READ Act)
<u>Educational Data and Privacy</u>	JRCB-R: Privacy and Protection of Confidential Student Information KBBA: Custodial and Noncustodial Parent Rights and Responsibilities JRCB: Privacy and Protection of Confidential Student Information EHC: Safeguarding Personal Identifying Information
<u>School Safety and Behavior</u>	JICDA: Code of Conduct JICDD: Violent and Aggressive Behavior JICDE: Bullying Prevention and Restorative Interventions JICDF: Cyber Bullying JKBA: Disciplinary Removal from Classroom

<u>Organizational Transparency</u>	KDB: Public's Right to Know/Access to Information KD: Public Information and Communications DAB: Financial Administration DB: Annual Budget DBD: Determination of Budget Priorities DIE: Audits/Financial Monitoring
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SECTION ONE: EDUCATIONAL CHOICE

Parent Rights

Parent and School Responsibilities

- Parents have the right to access available seats at a public school of their choosing for their student, regardless of where they live.
- Parents have the right to access space available for their student, in specialized programs, including concurrent college enrollment.
- Parents have the right to access accelerated coursework, work-based learning and other college and career readiness opportunities for their student.
- Parents have the right to retain full control of their child's education through schooling at home.

- Parents are responsible to be informed consumers of educational options-choosing the school or program that best serves their children.
- Parents are responsible to ensure that their student understands good behavior is a condition of maintaining enrollment at a school of their choosing, and furthermore parents are responsible to partner with the school's staff to select strategies for behavioral improvement if needed.
- Parents are responsible to ensure their student meets attendance expectations at the school of choice.
- Parents are responsible to participate in school and district information sessions about accelerated coursework, work-based learning and other college and career readiness opportunities.
- Parents who school at home are responsible for notifications and periodic assessment

- Schools are responsible to provide accurate and accessible information (through publications, presentations, and other communications) about school programs and options.
- Schools are responsible to host informational sessions about accelerated coursework, work-based learning and other college and career readiness opportunities.
- Schools are responsible to use fair processes and restorative practices to address behavior before revoking choice

[JFBA: Intra-District Choice/Open Enrollment](#)
[JFAB: Continuing Enrollment of Students Who Become Nonresidents](#)
[IHCDA: Concurrent Enrollment](#)
[IHBG: Home Schooling](#)

SECTION TWO: Academic Access

Parent Rights

Parent and School Responsibilities

- Parents have the right to know what curriculum is being used in their student's school as well as the homework assignments, assessments and other classwork expected to be completed by their student.
- Parents have the right to access digital devices and home broadband services to support the educational needs of their student.

- Parents are responsible to review their student's syllabi and assignments to inform questions about classwork expectations.
- Parents are responsible to ensure their student is completing homework and should support the school's recommendations for tutoring or other academic interventions and supports.
- Parents are responsible to inform the school of need-based digital device and home broadband requirements to support the education of their student.
- Parents are responsible to engage with school planning, curriculum, and program evaluation through the school accountability committee and other systems and processes.
- Parents are responsible to adhere to the District 49 Student Issued Device Program Agreement.
- Parents and schools share responsibility to ensure that students attend school in compliance with compulsory attendance laws.
- Schools are responsible to collaborate with parents when Policy IMB, "Teaching About Controversial Issues and Use of Controversial Materials," is invoked and to document the resolution to inform future claims
- Schools are responsible to notify parents when teaching about controversial subjects as defined in Policy IMB.
- Schools are responsible to be responsive to need-based requests for digital devices and home broadband access

[AEA:Standards Based Education](#)

[IG: Curriculum Development](#)

[IMB: Teaching about Controversial Issues and Use of Controversial Materials](#)

[IJNDAB Instruction through Online Learning](#)

[ILBC: Literacy and Reading Comprehension Assessments \(Colorado READ Act\)](#)

[JHB: Truancy](#)

[KDB: Public's Right to Know/Access to Information](#)

SECTION THREE: Academic Excellence

Parent Rights

- Parents have the right to know whether their student is reading and doing math on grade level and whether their child graduates is on track to be ready for postsecondary success.
- Parents have the right to enroll their student in courses that best meet the child's needs, aptitudes and potential.
- Parents have the right to know how their student's school performs relative to state standards and to other schools in the district of record.

Parent and School Responsibilities

- Parents are responsible to work with schools to determine the optimal pathways for their student and portfolio option that achieves the desired outcome.
- Parents are responsible to review the district and school performance frameworks to inform conversations about relative performance
- Schools are responsible to collaborate with parents when Policy IMB, "Teaching About Controversial Issues and Use of Controversial Materials," is invoked and to document the resolution to inform future claims.
- Schools are responsible to use formative and summative evaluations to assess student progress at, above, or below grade level and work with parents to implement interventions that restore students' math and reading performance that is commensurate with their grade level and puts them on the path to graduation and postsecondary success.
- Schools are responsible to be responsive to need-based requests for digital devices and home broadband access.
- Schools are responsible to use standardized tests, internal and external accountability measures, and student mastery to assess school performance, which will be aggregated by the district to assess performance between schools, within schools, and against other districts.
- Schools are responsible to offer aptitude screeners and other assessments that indicate a student's readiness for engagement with curriculum that maximizes their potential and connects them to their desired pathway.

[IHBK: Preparation for Postsecondary and Workforce Success](#)
[IMB: Teaching about Controversial Issues and Use of Controversial Materials](#)
[IK: Academic Achievement](#)

SECTION FOUR: Educational Data and Privacy

Parent Rights

- Parents have the right to access their student's academic records, evaluations and any other data or records that a school has compiled on their child.
- Parents have the right to expect systematic
- protection of private and confidential information.

Parent and School Responsibilities

- Parents are responsible to ensure that data in the student information system reflects current contact and custodial status to facilitate access to their student's record under the Family Educational Rights and Privacy Act (FERPA).

- School officials are responsible to safeguard student's personally identifiable information (PII) and only release student records to authorized individuals who are identifiable as such in the student information system (SIS).

[JRCB-R: Privacy and Protection of Confidential Student Information \(Hearing and Complaint Procedures\)](#)
[KBBA: Custodial and Noncustodial Parent Rights and Responsibilities \(Allocation of Parental Responsibilities\)](#)
[JRCB: Privacy and Protection of Confidential Student Information](#)
[EHC: Safeguarding Personal Identifying Information](#)

SECTION FIVE: School Safety and Behavior

Parent Rights

- Parents have the right to expect safe conditions on buses, school campuses, and in other school settings.
- Parents have the right to review clear expectations for student behavior.
- Parents have the right to due process during investigations and disciplinary meetings.

Parent and School Responsibilities

- Parents are responsible to review behavioral expectations with their children and support accountability for misconduct.

- Schools are responsible to use fair processes and restorative practices to address behavior and use exclusion (suspension or expulsion) only in limited cases.

[ADD: Safe Schools](#)

[JICDA: Code of Conduct](#)

[JICDD: Violent and Aggressive Behavior](#)

[JICDE: Bullying Prevention and Restorative Interventions](#)

[JICDF: Cyber Bullying](#)

[JKBA: Disciplinary Removal from Classroom](#)

SECTION SIX: Organizational Transparency

Parent Rights

Parent and School Responsibilities

- Parents have the right to know the credentials of their student's teacher(s) and administrators, including whether the teacher is teaching out-of-field.
- Parents have the right to know the amount of public funding being provided for their student's education.
- Parents have the right to review transaction-specific information about program, school, and district finances.
- Parents have the right to prior notification of surveys or other research items that address any of the eight protected areas specified in the [Protection of Pupil Right Amendment](#), available at: <https://studentprivacy.ed.gov/trainimg/what-protection-pupil-rights-amendment>

- Parents are responsible to check with the school and school administration to verify a teacher or administrator's licensure status before initiating teacher qualification conversations.
- Parents are responsible to review the district's financial transparency webpage before initiating conversations about utilization of per pupil revenue.
- Schools are responsible to engage with parents who still have questions about a teacher's qualifications after the parents have accessed CDE's licensure database.
- Schools are responsible to host School Accountability Committee meetings where parents can review the district's financial transparency

[KDB: Public's Right to Know/Access to Information](#)

[KD: Public Information and Communications](#)

[DAB: Financial Administration](#)

[DB: Annual Budget](#)

[DBD: Determination of Budget Priorities](#)

[DIE: Audits/Financial Monitoring](#)

[GCS Professional Research and Publishing](#)

[IMB: Teaching About Controversial Issues and Use of Materials](#)

Access to Sex-Segregated Facilities Policy (JBAA)



Book	Policy Manual
Section	Section J: Students
Title	Access to Sex-Segregated Facilities
Code	JBAA
Status	Active
Adopted	September 24, 2025

Office/Custodian – Board of Education/ Superintendent

Purpose:

This policy ensures compliance with Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), which prohibits sex discrimination in educational programs receiving federal financial assistance. It protects the privacy, safety and dignity of all students by maintaining sex- segregated facilities based on biological sex, while providing reasonable accommodations for students seeking additional privacy. This aligns with the federal regulations (3 C.F.R. § 106.33) permitting separate toilet, locker room, and shower facilities on the basis of sex, provided they are comparable. The policy prevents a hostile environment by avoiding disproportionate burdens on students of one sex and complies with judicial precedents upholding biological- sex- based separation (e.g., Adams v. School Board of St. Johns County, 57 F. 4th 791 (11th Cir.2022)).

Definitions:

- **Biological Sex:** The objective, immutable characteristic determined at birth based on reproductive anatomy and chromosomes, as indicated on the student's original birth certificate issued at or near the time of birth. If the original birth certificate is unavailable or does not specify sex, the district may rely on other official records (e.g., medical documentation) or require a certified copy of an amended birth certificate reflecting the sex assigned at birth.
- **Sex-Segregated Facilities:** Multi-user restrooms, locker rooms, changing areas, showers, or similar private spaces designated for use by one biological sex (male or female).
- **Single-User Facilities:** Private, lockable restrooms or changing areas available to any individual student regardless of biological sex or other characteristics, for enhanced privacy.
- **Private Spaces:** Includes but is not limited to restrooms, locker rooms, showers, and overnight accommodations during school-sponsored activities (e.g., field trips).

Scope and Requirements:

1. Access Based on Biological Sex:

- Students must use sex-segregated facilities corresponding to their biological sex. For example:
 - Biological females (as defined above) shall use facilities designated for females.
 - Biological males shall use facilities designated for males.
- This applies to all school premises, including during school hours, extracurricular activities, and school sponsored events.
- Staff and visitors shall follow the same access rules based on their biological sex.

2. Accommodations for Privacy:

- Single-user facilities shall be made available at each school building for any student who requests additional privacy due to discomfort, medical needs, or other reasons. These facilities must be comparably accessible, clean, and equipped (e.g., with toilets, sinks, and mirrors) to sex-segregated ones.
- Without violating the intent of this policy if a student or parent/guardian requests an alternative (e.g., via a written request to the principal), the school shall provide access to a single-user facility or other reasonable option without requiring disclosure of personal information beyond the request itself.
- In compliance with HB23-1057 for new or renovated buildings, non-gendered single-stall restrooms shall be provided where required by state building codes, but they shall not replace or convert existing sex-segregated multi-stall facilities unless approved by the board to maintain Title IX compliance.

3. Prohibitions

- No student shall be permitted to access sex-segregated facilities inconsistent with their biological sex, regardless of self-identified gender, presentation, or other factors.
- The district shall not convert sex-segregated multi-stall facilities to all-gender use, as this has been deemed a Title IX violation by OCR (e.g., in Denver Public Schools, August 2025 findings).
- Policies or guidance allowing access based on gender identity are rescinded to avoid creating a hostile environment or discriminating on the basis of sex.

Safe Schools Policy (ADD)



Book	Policy Manual
Section	Section A: Foundations and Basic Commitments
Title	Safe Schools
Code	ADD
Status	Active
Adopted	August 10, 2000
Last Revised	November 8, 2018
Last Reviewed	January 25, 2023
Prior Revised Dates	October 6, 2005; April 28, 2010; May 12, 2011; July 21, 2011; July 27, 2012; April 10, 2014; April 14, 2016; July 13, 2017; September 14, 2017; September 9, 2021

SAFE SCHOOLS

Office/Custodian - Education/Director of Safety and Security

The Board of Education recognizes that effective learning and teaching take place in a safe, secure, and welcoming environment and that safe schools contribute to improved attendance, increased student achievement, and community support. Safe schools are a priority to the district and the district is committed to providing a safe environment in school, on school vehicles and at school-sponsored activities. To that end, the Board directs the Superintendent, following regular review of relevant data and consultation with the District Accountability Committee, School Accountability Committees, parents, teachers, administrators, students, and when appropriate, school psychologist and members of the community including victims advocacy organizations and local law enforcement, to develop and maintain a safe schools plan that includes:

1. Procedures that address the supervision and security of school buildings and grounds.
2. Procedures that address the safety and supervision of students during school hours and school-sponsored activities.
3. Procedures that address persons visiting school buildings and attending school-sponsored activities.
4. Training programs for staff and students in crisis prevention and management.
5. Training programs for staff and students in emergency response procedures that include practice drills.
6. Training programs for staff and students in how to recognize and respond to behavior or other information that may indicate impending violence or other safety problems.
7. Training and support for students that aim to relieve the fear, embarrassment and peer pressure associated with reporting behavior that may indicate impending violence or other safety problems.
8. Procedures for safe, confidential reporting of security and safety concerns at each school building.
9. Procedures for regular assessments by school security/safety professionals and law enforcement officers to evaluate the security needs of each school building and to provide recommendations for improvements if necessary.

10. Procedures for regular assessments by school climate professionals to determine whether students feel safe and to provide recommendations for improvements in school climate at each district building.
11. Procedures to provide for regular communications between district officials, law enforcement officers, fire department officials, city and county officials, and local medical personnel to discuss crisis prevention and management strategies including involvement by these parties in the development and revision of crisis prevention and management plans.
12. Training programs for staff and students in safety precautions and procedures related to fire prevention; natural disaster response; accident prevention; public health; traffic, bicycle, and pedestrian safety; environmental hazards; civil defense; classroom and occupational safety; and special hazards associated with athletics and other extracurricular activities.
13. Procedures for the reporting of criminal activity to law enforcement.
14. A child sexual abuse and assault prevention plan, including comprehensive, age appropriate curricula regarding child sexual abuse and assault awareness and prevention and professional development for school personnel and parents in preventing, identifying, and responding to child sexual abuse and assault.
15. Procedures for notifying parents of an employee's criminal charges when such notification is required by state law.

Each building principal shall be responsible for the supervision and implementation of the safe school program at his or her school. The principal shall submit annually in the manner and by the date specified by the State Board of Education, a written report to the Board of Education concerning the learning environment in the school during the school year. The report shall contain, at a minimum, the information required by law.

The Annual safety reports from every school in the district shall be compiled and submitted to the state department of education in a format specified by the State Board of Education. The report shall be made available to the public.

Legal

[C.R.S. 9-1-101 through 9-1-106 \(construction requirements, fire escapes, etc.\)](#)

[C.R.S. 22-3-101 through 22-3-104 \(eye protection devices\)](#)

[C.R.S. 22-1-130\(6\) \(safe school plan must include parent notification of employee criminal charges\)](#)

[C.R.S. 22-32-109.1 \(1\)\(b.5\) \(definition of "community partners" that board may wish to consult with in developing and implementing its safe school plan\)](#)

[C.R.S. 22-32-109.1 \(2\) \(safe schools plan\)](#)

[C.R.S. 22-32-109.1 \(2\)\(b\) \(detailing information required in annual principal reports on the learning environment\)](#)

[C.R.S. 22-32-109.1 \(2.5\) \(districts are "encouraged" to adopt a child sexual abuse and assault prevention plan as part of the safe school plan\)](#)

[C.R.S. 22-32-110 \(1\)\(k\) \(board authority to adopt policies related to employee safety and official conduct\)](#)

[C.R.S. 22-32-124 \(2\), \(3\) \(building inspections\)](#)

[C.R.S. 24-10-106.5 \(duty of care\)](#)

Cross References

[ECA / ECAB - Security/Access to Buildings](#)

[KDBA - Notice to Parents of Alleged Criminal Conduct by School Employee](#)

[KDE - Crisis Management](#)

[KI - Visitors to Schools](#)