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ACLU Files Federal Discrimination Complaint against Va. School Board for Bathroom Policy ^[1]

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RICHMOND, Va. – The American Civil Liberties Union and the ACLU of Virginia filed an administrative complaint with the Department of Justice and Department of Education against Gloucester County Public Schools (GCPS) for adopting a bathroom policy that segregates transgender students from using the same restrooms and locker rooms as their peers. The school board adopted the policy by a vote of 6-1 on December 9, 2014, despite warnings from the ACLU and the ACLU of Virginia that the policy violates federal law prohibiting sex discrimination by schools.

The complaint was filed on behalf of ACLU client Gavin Grimm, a tenth-grade boy who is transgender and diagnosed with gender dysphoria. Grimm had been using the boys' restrooms at Gloucester High School since October 2014 without any complaints from his peers prior to the adoption of the policy.

"Now that the board has passed this policy, school no longer feels as safe and welcoming as it did before," said Grimm. "Being singled out is a glaring reminder of my differences and causes me significant discomfort every time I have to use the restroom."

The policy requires transgender students to use facilities that are either inconsistent with their gender identity or to use an "alternative private facility." According to the complaint, the policy discriminates against Grimm on the basis of his sex in violation of Title IX of the U.S. Education Amendments of 1972.

"These policies inflict real harm on real students. By adopting this new 'biological gender' policy solely to prevent Gavin from using the same bathroom as other boys, Gloucester Public Schools sends an incredibly stigmatizing message that segregates Gavin and other transgender students from their peers," said Joshua Block, attorney in the ACLU Lesbian, Gay, Bisexual and Transgender Project. "Schools can address privacy concerns by making unisex bathrooms more widely available for any student who is not comfortable using a communal restroom facility, but they cannot discriminatorily require transgender students – and only transgender students – to use unisex bathrooms."

Since the beginning of the school year, Grimm had been open about his gender identity with Gloucester High School's administration, teachers and students. Prior to October, he exclusively used unisex restroom facilities in the nurse's office, but found that experience to be stigmatizing and isolating.

"Courts have repeatedly found that gender identity discrimination is sex discrimination," said ACLU of Virginia legal director Rebecca Glenberg. "Consigning transgender students to segregated bathrooms prevents them from participating in school activities on an equal basis and causes exclusion and ostracism."

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