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Federal judge allows Ohio school policy on transgender bathroom use

BY: **SUSAN TEBBEN** - AUGUST 8, 2023 11:05 PM





📷 Justice scales, books and wooden gavel. Getty Images.

A federal judge has ruled that an Ohio school district can go forward with a policy allowing trans students to use the bathroom that matches their gender identity.

“Not every contentious debate, concerning matters of public importance, presents a cognizable federal lawsuit,” U.S. District Judge Michael J. Newman wrote [in his decision](#).

A group of parents sued the Bethel Local School District in Tipp City after the district allowed a trans girl to use the girls restroom, something the girl and her parents had asked for as opposed to the single-use bathroom the student had previously been using.

The [ACLU of Ohio](#) was allowed to join the lawsuit arguing that the school district was within its rights to allow the bathroom policy.

The student's parents said using a single-occupancy bathroom at Bethel Middle School was creating difficulty because it was "frequently occupied whenever she needed to use it, and she felt ostracized, humiliated and targeted by other students who taunted her for using the separate bathroom," according to court documents.

When asked by the girl's parents to allow her to use the communal school bathroom with the rest of the girls in the school, middle school principal Matt Triplett discussed the issue with school officials and ultimately allowed the move.

The district's board of education heard public comments at a 2021 meeting, where some advocated for transgender students to be allowed to use the bathroom corresponding to their gender identity, citing federal anti-discrimination law.

After the board held an executive session that the district court said was "genuinely disputed," the board said it was advised by its attorney that Bethel "had to allow restroom use in accordance with a student's gender identity."

The parents who are against the move claimed the district violated the parents' 14th Amendment right to

“direct the care, custody and control of their children,” the same amendment’s equal protection clause, the First Amendment’s free exercise right. They also argue the federal Title IX law “does not require the school district to implement its new bathroom policy.”

One group of parents say their Muslim faith is being violated because the school district “is imposing a substantial burden on the free exercise of that faith by placing the children in intimate facilities with members of the opposite biological sex.”

The district court dismissed the parents’ claims “because they either fail to allege a cognizable case or controversy, or assuming the allegations are true, fail to satisfy the requisite legal standards.”

“Although parents have the right to make decisions about where to send their children to school, they do not have a constitutional right to revoke a school’s policy on student bathroom usage,” Newman ruled.

The court also said the claims of violations of religious faith fail “to present plausible allegations undermining the policy’s neutrality or showing animus – let alone show that the possible presence of a transgender student in the bathroom is a ‘substantial burden’ to the plaintiffs’ Free Exercise Clause rights.”

With regard to parental rights, the court said previous court cases cited by those challenging the bathroom policy “make clear that a parent has the right to control

where their child goes to school.”

“But that is where the control ends,” the court ruled.

“Public school policies that direct school operations, like the (Bethel) board’s policy here – prescribing the use of student bathrooms – are for the school to decide.”



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Susan Tebben is an award-winning journalist with a decade of experience covering Ohio news, including courts and crime, Appalachian social issues, government, education, diversity and culture. She has worked for The Newark Advocate, The Glasgow (KY) Daily Times, The Athens Messenger, and WOUB Public Media. She has also had work featured on National Public Radio.

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