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Ohio District Court Judge orders Highland Local School District to treat transgender student “as the girl she is” and “allow[] her to use the girls’ restroom”

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Yesterday, the Southern District of Ohio ordered an Ohio school district to “treat [a transgender student] as the girl she is, including referring to her by female pronouns and her female name and allowing her to use the girls’ restroom.”

In *Board of Educ. of Highland Local Sch. Dist. v. U.S. Dept. of Educ.*, an 11-year-old student, referred to as “Jane Doe,” sought to use the girls’ restroom at Highland Elementary School. Jane, diagnosed with gender dysphoria, requested that HLSD treat her as female, permit her to use the girls’ restroom, and ensure that her school records reflected her chosen name and accurate gender marker. HLSD denied her request to use the girls’ restroom and change her school records, but agreed to “address [Jane] as a female.” Because of HLSD’s policy requiring students to use sex-specific facilities that correspond to their biological sex, Jane was required to use an office restroom or a unisex restroom in the teachers’ lounge. Jane alleged that “teachers would glare at her and make her uncomfortable” when using the teachers’ lounge restroom, school staff would refer to her as a boy and use male pronouns, and that the bathroom arrangement was “taking a toll on Jane’s mental health.” Jane suffered from extreme anxiety and depression, and was hospitalized for suicidal ideation and depressed mood. She later attempted suicide.

Jane’s mother filed a complaint with the Office for Civil Rights (“OCR”) of the Department of Education (“DOE”) alleging sex discrimination. On June 10, 2016, HLSD filed a lawsuit against DOE and DOJ in response to the DOE’s threat of an enforcement action unless the district allowed Jane to use the girls’ restroom. HLSD filed a motion for preliminary injunction, i.e., a request to the court that DOE and DOJ be prevented from acting until the court addressed the merits of the claims. Jane also moved for a preliminary injunction requiring HLSD to “treat her as a girl and treat her the same as other girls, including using her female name and female pronouns and permitting Jane to use the same restroom as other girls at Highland Elementary School during the coming school year.”

The court found that Jane was likely to succeed on her claims, concluding that Jane had been denied access to the girls’ restroom “on the basis of sex” and deferring to the DOE’s interpretation of “sex.” See *Dear Colleague Letter* (U.S. DOE/U.S. DOJ, issued May 13, 2016).

Because of the “irreparable harm” Jane would face, the court granted her motion and ordered HLSD to “treat Jane Doe as the girl she is, including referring to her by female pronouns and her female name and allowing her to use the girls’ restroom at Highland Elementary School.”

The *Board of Educ. of Highland Local Sch. Dist. v. U.S. Dept. of Educ.* decision is the first of its kind in Ohio. HLSD has appealed the decision to the Sixth Circuit Court of Appeals.

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