

Daniel B. Tilley | Staff Attorney  
ACLU Foundation of Florida  
4500 Biscayne Blvd., Suite 340  
Miami, FL 33137



T/786.363.2700  
dtalley@aclufl.org

Superintendent Dr. Michael A. Grego  
Pinellas County School Board  
301 Fourth Street SW  
Largo, FL 33770

August 22, 2013

Via E-mail: super@pcsb.org

**Re: Alex Wilson, a nursing student at PTEC**

Dear Dr. Grego,

I am writing on behalf of Alex Wilson, a nursing student at Pinellas Technical Education Center. Alex is a transgender woman who seeks to use the women's restroom at PTEC, as other women are allowed to do. Because she has been denied this basic right, we write to seek your assistance in ensuring that PTEC administrators comply with federal law.

As we understand it, Alex has undergone appropriate clinical treatment for her gender transition, including receiving hormone treatments. She has been living as a woman for more than four years. Although her nursing program started this past April, she enrolled in preparatory classes at PTEC in November 2012. From November until July, Alex used the women's restrooms at PTEC. On July 8, 2013, having become aware that Alex is transgender, school officials informed her that she could no longer use the women's restroom. In apparent acknowledgement that it would be inappropriate for her to use the men's restroom, she was given two alternatives. First, she was offered the ability to use a restroom in a separate building in what an administrator termed "the storage area"; this restroom did not lock from the inside. Second, she was offered the ability to use the faculty men's restroom in the nursing building, which until recently also did not lock from the inside. Further, to use that restroom, she must first obtain a key from an administrator. On July 10, 2013, after media attention to the issue, an administrator also offered Alex the ability to use a family restroom in another building. During that same conversation—in which the administrator referred to Alex using the male pronoun "he"—the administrator informed Alex that if she used either the general women's rooms or men's rooms, charges would be pressed against her.

Requiring Alex to use separate restrooms than those used by other students constitutes sex discrimination in violation of Title IX. First, it is *per se* sex discrimination because the differential treatment is based on her gender identity. *Macy v. Holder*, 2012 WL 1435995, at \*6 (E.E.O.C. Apr. 20, 2012)<sup>1</sup> ("Title VII's prohibition on sex discrimination proscribes gender discrimination, and not just discrimination on the basis of biological sex . . .").<sup>2</sup> It is further *per se* sex discrimination because the

---

<sup>1</sup> EEOC DOC 0120120821, *available at*

<http://www.eeoc.gov/decisions/0120120821%20Macy%20v%20DOJ%20ATF.txt>.

<sup>2</sup> "Courts have generally assessed Title IX discrimination claims under the same legal analysis as Title VII claims." *Gossett v. Okla. Ex rel. Bd. of Regents for Langston Univ.*, 245 F.3d 1172, 1176 (10<sup>th</sup> Cir. 2001).

treatment is based on her gender transition. *See Schroer v. Billington*, 577 F. Supp. 2d 293 (D.D.C. 2008) (discrimination based on plaintiff’s plan to undergo transition “was *literally* discrimination ‘because of . . . sex’” under Title VII) (alterations in original). Finally, this treatment is unlawful sex stereotyping because Alex is being treated differently based on her failure to conform to gender stereotypes—PTEC does not consider her sufficiently feminine to use the women’s restrooms. *See Glenn v. Brumby*, 663 F.3d 1312, 1317 (11<sup>th</sup> Cir. 2011) (“[D]iscrimination against a transgender individual because of her gender-nonconformity is sex discrimination.”).<sup>3</sup>

As stated above, Alex has received appropriate clinical treatment for her gender transition, and she has been living as a woman for four years. Her records with the Social Security Administration identify her as female, and her State of Florida driver’s license also notes that she is female. Given that the State of Florida recognizes Alex as female, it is unclear why PTEC—a public entity in the State of Florida—refuses to do so. We are requesting that you grant Alex immediate access to all sex-specific programs, activities, and facilities at PTEC consistent with her gender identity, including access to the women’s restrooms.

Should administrators need assistance in drafting policies or educating administrators, teachers, staff, or students, we are always available as a resource.<sup>4</sup> Thank you very much for your assistance in this matter. I look forward to your response.

Sincerely,

Daniel B. Tilley

cc: David Koperski, School Board Attorney, Koperskid@pcsb.org

---

<sup>3</sup> That Title IX prohibits gender stereotyping has also been recognized by the United States Department of Education. *See* “Dear Colleague” Letter of Russlynn Ali, Ass’t Sec’y for Civil Rights (Oct. 26, 2010), *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

<sup>4</sup> You may find model district policies at this link:

<http://transequality.org/Resources/Model%20District%20Trans%20and%20GNC%20Policy%20FINAL.pdf>