

Supreme Court rejects transgender bathroom case, allowing transgender students to use bathroom of choice

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WASHINGTON — The Supreme Court will not take up a challenge to a Pennsylvania school district's policy allowing transgender students to use bathrooms and locker rooms that correspond with their sexual identity. The justices on Tuesday rejected an appeal from students who argued that allowing transgender students to use the same facilities violated their right to privacy.

The court's order leaves in a place a federal appeals court ruling that held that the Boyertown School District, about 45 miles northeast of Philadelphia, could continue to allow transgender students the choice of what facilities to use.

The students challenging the policy are represented by the conservative Christian law firm Alliance Defending Freedom.

Supreme Court won't hear case on transgender school bathroom policy

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The Supreme Court [declined](#) on Tuesday to hear a case challenging a Pennsylvania school district's bathroom policy allowing transgender students to use bathrooms of their choice.

The conservative Alliance Defending Freedom represented a group of students in the case, *Doe v. Boyertown Area School District*, alleging that the district's policy violates student privacy. ADF has represented students and school districts in similar lawsuits across the country.

The Supreme Court's decision leaves standing the U.S. 3rd Circuit Court of Appeals unanimous [ruling](#) last year that the Pennsylvania school district can continue allowing transgender students to use bathrooms that align with their gender identity. The court later revised its ruling, toning down language that said federal law protects that right.

Michael Levin, counsel for the school district, said the Supreme Court recognized the case wasn't worthy of further review and "understood the false narrative that is being repeated by the Plaintiffs that their privacy rights were violated."

"The Boyertown Area School District provides private bathrooms and locker rooms to all students who do not feel comfortable sharing such (spaces) with others, transgender or cisgender," Levin said in a statement. "The school district's approach to offer separate and private bathrooms, locker rooms and private spaces to students who desire greater privacy is the common-sense approach that the Plaintiffs claim that they want."

The ACLU represents Aidan DeStefano, a student at Boyertown Area Senior High who is transgender, and the Pennsylvania Youth Congress, a coalition of LGBTQ youth leaders and youth organizations.

The ACLU tweeted: "Our client Aidan was accepted as the boy he is — this should be every student's experience. This is a victory for trans students and educators nationwide."

The group added, "Trans students are not a threat. This move means school districts can continue to allow trans students to participate in school activities, and use restrooms and locker rooms, that match their gender."

But the ADF said in a statement that the high court should have reviewed the case. "Students struggling with their beliefs about gender need compassionate support, but sound reasons based on common sense have always existed for schools to separate male and female teenagers in showers, restrooms, and locker rooms," said ADF Senior Counsel and Vice President of Appellate Advocacy John Bursch.

Bursch said he hopes that the court will take up a similar case in the future "to bring much needed clarity to how the lower courts should handle violations of well-established student privacy rights."

ADF filed a petition with the Supreme Court in November asking it to review the ruling upholding the policy. The petitioner they refer to as "Joel Doe" was "embarrassed and confused" when encountering a transgender student in the locker room, according to the petition. He was "marked down in gym class"

for failing to change his clothes, and “he eventually felt forced to leave the school entirely,” the petition states.

The school district, [responding in January](#), argued no students are required to share a restroom or locker room with transgender students and the school district has a “compelling interest” in protecting transgender students. The ADF failed to show that the lower courts abused their discretion in finding that the school district’s policy does not violate Title IX, the federal law that protects against sex-based discrimination in federally funded education programs, the school district stated.

The notion of whether federal law protects against discrimination based on gender identity has sparked lawsuits nationwide.

A separate case brought by Virginia teenager Gavin Grimm previously reached the Supreme Court. But it was sent back down to a lower court in March 2017 after the Trump administration scrapped an Obama-era directive that protected bathroom access under Title IX.