



**Central Okanagan Public Schools**  
**DISTRICT HUMAN RIGHTS COMMITTEE**  
*Fostering Discrimination-Free Working and Learning Environments*  
**Thursday, September 29, 2016**  
**School Board Office – Board Room – 4:00 pm to 5:30 pm**

## MINUTES

### COMMITTEE MEMBERS PRESENT

Board of Education	Moyra Baxter ( <i>Alternate</i> )	
Community	Latif Kacuri, <i>Kelowna Community Resources</i>	Joyce Brinkerhoff, <i>Kelowna Inter-Cultural Society</i>
COPAC	Adam Clarke	
COPVPA	Kathy Weninger	Mike Kormany
COTA	Leigh-Ann Yanow	Kyle Hamilton
CUPE	Treena Harley	
International Education	Carol Rimmer	
UBCO	Dr. Catherine Broom	
School District No. 23	Dr. Rick Oliver	Jim Colquhoun

### REGRETS

Aboriginal Education	Joanne DeGuevara
Board of Education	Deb Butler
Community	Rawle James, <i>Kelowna Community Resources</i>
COPAC	Shelley Courtney ( <i>Alternate</i> )
COTA	April Smith
District Student Council	<i>Student Council Members To Be Determined October 3, 2016</i>

1. **WELCOME** *Rick Oliver*
2. **AGENDA** *Rick Oliver*
  - 2.1 Additions to Agenda: 4.6 Global Schoolhouse – Joyce Brinkerhoff.
  - 2.2. Adoption of September 29, 2016 Agenda as amended. APPROVED.
3. **PREVIOUS MINUTES**
  - 3.1 Adoption of June 9, 2016 Minutes. No amendments. M/S/CARRIED. *Rick Oliver*
4. **ACTION ITEMS**
  - 4.1 **Harmony Day 2017 – Update** *Leigh-Ann Yanow*
    - Harmony Day is taking place on Wednesday, February 15, 2017. Our first Harmony Day Committee meeting is scheduled for Tuesday, October 4<sup>th</sup>.
    - February 15, 2017 will be our 10<sup>th</sup> Annual Harmony Day. We've had a few small meetings to get things going and things are underway. Chris Velasco is going to create a video compilation of the last ten years, including interviews at schools with students sharing what Harmony Day has meant to them over the past ten years.
    - A big thing we are doing this year is a "Living Library" Conference. It will be held at Hollywood Road Education Services, with middle school students attending. We are hoping for 250-300 students with about 12 presenters.

**4.1 Harmony Day 2017 – Update (Continued)**

- "Living Library" guests will do a presentation on their culture and background so it will be a great experience for middle school students.
- We also have a meeting with COTA because we don't know if they are doing the "Care, and Make It Fair" forum. They are keen to hear what we have to say.
- Kelowna Community Resources has some ideas. Rawle James is on our Harmony Day Planning Committee.
- A request has been sent to the Lions Club for funding. Last year we received \$3,100.00 from them. We hope to receive the same amount of funding this year.

**4.2 Planning and Facilities Presentation – Gender Neutral Washrooms*****Rick Oliver***

- For the Planning and Facilities Committee, we outlined what the request was for and it is something that we will need to be deliberate about in the district. We need to start planning to make sure that we are accommodating our transgender students. We didn't get action, but we did get a commitment that renovations will happen.
- For us as a Human Rights Committee, I think our job is to push a little bit because there are AFG funds that come forward.
- We need to accommodate, but there isn't anything right now that says every system has to spend a lot of money to convert their facilities.
- While there isn't a lot of money to spend, in some cases we haven't needed a lot of money for signage. Signage just says "Washroom". We've asked our Operations Department to look into that at schools.
- Are there some schools where it is a pressing matter? – Yes, middle and secondary schools.
- In some schools, the Special Needs bathroom in the Resource Room is being offered, which really is a sad connotation.
- To change would mean retrofitting bathrooms with floor to ceiling stalls. Right now, some students are using the staffroom washroom, so we are accommodating students, but not in the way that we need to accommodate them.
- This committee could write a letter and make it a formal request and send it to the Board to see how it gets dealt with and sent from there. It should be a Public Meeting that it comes up at. A more formal request would be better than just telling the Board about it.
- The District Human Rights Committee is unanimously in favour of sending a formal request to the Board asking for some direct action.
- What would be the follow-up step after the letter goes to the Board? The matter would be sent to either a Committee or go to a Board Meeting. It would be an action item for the Board and they would then direct staff to take action, i.e. get working on it and get things done in a timely manner.
- Rick referred to an article in *Phi Delta Kappan* magazine entitled "*7 Reason for Accommodating Transgender Students at School*" (*attached*). It pertains to these conversations. It's really about retrofitting so that people still have privacy. The common area is the sinks, but the stalls would be floor to ceiling.
- If signage just says "Washroom", there are some people who would be very embarrassed if there were several stalls and someone came in who they weren't expecting, so there is a huge education piece involved as well.
- It's going to take some time to get there.

**4.2 Planning and Facilities Presentation – Gender Neutral Washrooms** *(Continued)*

- COPAC - the big concern is that we want to ensure that we do as much as we can upfront to prepare. We've chatted at our last meeting. We really want to be proactive for the PACs and provide information ahead of time; to get input and start planning so that we can go out and talk to PACs. It may not be the people who are going to PAC meetings that are going to be most vocal about it. But if the PAC can say that we've been there to provide information, at least we've done as much as we can.
- Maybe if we put together a package from the magazine article so that people will understand what it is, then PAC could go out and present that.
- It really is about Human Rights. It's not a choice, we need to do this. It's non-negotiable. It's "how can we be most effective?"
- Provide info to the parents – our priority overall is safety. That's the big thing. We value every individual.

**4.3 Provincial Requirements for District Policies and School Codes of Conduct****Rick Oliver****BC Human Rights Code Amendment – Addition: "Gender Identity or Expression"**

- The Human Rights Code has been amended as of July 2016 to include "**Gender Identity or Expression**". As a result, all of our schools have to go through and amend the Code of Conduct on their websites and in any printed material to change/include the additional piece. This has to be done by the end of the calendar year.
- We also have to look at our own school district policies and procedures. There are four policies in the Staff Policies and Procedures that will need housekeeping amendments now that the Act has been expanded. It would be timely to go back and expand the policies as well. The four policies that need to be amended to add gender expression are: **Policy 350** and **352** for the adults in the system as well as two student-based policies, **Policy 450** and **452**.
- Policy changes should just be made in draft form and go straight to the Board as a Human Rights Code amendment rather than being tied up in a Policy Committee meeting.
- Rick will send something out to all the schools asking them to update their Code of Conduct. All updates will be done by calendar year end.

**4.4 Pink Shirt Anti-Bullying Day – COPAC Concerns****Adam Clarke**

- Essentially some issues popped up at COPAC re: Pink Shirt Anti-Bullying Day. While we completely agree with the basic notion that one size fits all, the issue is: how are we handling the bullies, because our children are not just the victims, they are the bullies as well. Concern was raised that perhaps we don't have a good message going out to those students who are doing the bullying. We don't want them to be labeled bullies.
- If you find yourself as the bully doing the bullying, the message is more effective if there is a recognition that this is often a symptom of coping strategy. The objective is that the bullying behaviour is not the person, and that people can find better strategies on how to cope rather than displaying unacceptable behavior.
- Some parents have brought up concerns after Pink Shirt Day that we actually get an increase in bullying. They are seeing an increase in bullying after Pink Shirt Day and we don't know why. Perhaps we are not giving support to the bullies in ways that can change their behaviours.
- Do we currently have focus on the bullies as well? – We do. For example, in middle schools, we have teachers who work with those students with behaviour time, strategies and counsellors.
- Another big one is just being positive and proactive in terms of giving them all skills on how they relate to others and how they present in relating to others.

**4.4 Pink Shirt Anti-Bullying Day – COPAC Concerns (Continued)**

- We could actually put something out and do a data gathering piece the month after Pink Shirt Day and have a look at the school discipline pieces. Maybe there is something that parents are seeing through their awareness. This info is coming from parental perceptions. It could be showing up at the school level. It's the heightened awareness report. We do need to make sure that we focus on skills for all kids. We could look at data and see if there really is a trend there.
- This info is coming from parental perceptions.
- How do we really know how much bullying is going on, because sometimes kids don't report it.  
– Our School Satisfaction surveys sometimes include questions about bullying.
- We definitely get some data from that. What we have to be careful of is the definition of bullying – is it a couple of kids teasing? Yes, there is bullying, but is teasing bullying? – Those types of situations will be indicated in incident reports when the administration calls them bullying... that would be an ongoing interaction.
- One of the most powerful moments is when that kids come up afterwards and say, "You know what? I didn't realize it, I'm a bully," and then the next comment is "that's how it is at home". So the biggest question piece is what do we consider bullying in society? It's not always the same as what the adults that the students are living with consider to be bullying. Perhaps we can share it on a larger scale because I don't think that people realize the impact that it has.
- The distinction that you could make is the act versus the kid itself. That is an important distinction. We don't like the action, but you still are a good person. Is that distinction being made in conversations?
- I've actually had a lot of comments that we are trying to do that, so it is in the message being delivered, but when children go home it doesn't necessarily stick.
- Sometimes if students are labeled as a bully from an early grade, it continues. How many positives do you need to overcome that negative?
- Most bullying is related to feelings of insecurity and not being comfortable in their situation.
- Stories could be told of how bullying stopped.
- Bullying is present at all grade levels.
- What can we do prior, during, and after Pink Shirt Day? It's going to take some time, but it's exciting to see those competencies become front and centre.
- There is some work going on to educate parents on competencies.
- February 22, 2017 is the next Pink Shirt Anti-Bullying Day.

**4.5 Collective Agreement – Article E.1.3 Non-Sexist Environment****Kyle Hamilton**

- The question from COTA was specifically around the topic of training, and whether anything is being developed (similar to the asbestos training that came out and the bullying training). Is anything being done?
- Learning resources for both staff and students: Are we doing this? Is this something that teachers and/or others can collaborate on?
- It may fall into that sensitivity and awareness piece. We could facilitate this message with training such as Orientation. It could become a module or a piece of that.

#### 4.5 Collective Agreement – Article E.1.3 Non-Sexist Environment (Continued)

- The **Non-Sexist Environment statement** (*attached*) is duly signed by the COTA President and the Superintendent of Schools/CEO every year and posted on site bulletin boards:

*"As per Article E.1 of the Collective Agreement, the Central Okanagan Teachers' Association and School District No. 23 (Central Okanagan) declare their commitment to a non-sexist environment. The Employer does not condone and will not tolerate any written or verbal expression of sexism. A non-sexist environment is defined as that in which there is no discrimination against females or males by portraying them in gender stereotyped roles or by omitting their contributions."*

This isn't new language, it's Provincial Language that hasn't changed in decades. So what does it mean?

- The Committee could do some research to look into this to see if there are great things going on in other districts – we could make this an action item. What has been done and what has not been acknowledged?
- Jim Colquhoun said that he would consult with other districts and/or call BCPSEA to see what other districts are doing to address the language, if anything, and report his findings at the next meeting.

#### 4.6 Global Schoolhouse

**Joyce Brinkerhoff**

- The Global Schoolhouse will run from Tuesday, February 14 to Tuesday, February 21, 2017, with one of those days dedicated to private and home-school students (likely Wednesday, February 15<sup>th</sup> so as not to conflict with Harmony Day in the schools).
- Joyce mentioned that several individual classroom teachers have written to her stating how much they are looking forward to the Global Schoolhouse, so there is still good interest in the event.
- The Global Schoolhouse is open to Grade 6 students and is presented by Global Citizen Kelowna with financial assistance from Canadian Heritage and community partners. Students will be presented with an opportunity to contemplate one of the UN's new Sustainable Development goals: Equitable Access to Universal Education.
- Local volunteers will engage students in a series of interactive presentations that stimulate senses and move emotional meters.
- The setting and script will be basically the same as previous years, but we are working on 'tightening it up' and increasing the exposure that specific school projects receive at the conclusion. Kelowna students do some amazing things in Social Justice and others need to both know about it and join in!
- Based on what was mentioned in June with (COTA) Social Justice, there was a fellow here from the Kelowna area originally from Montreal who did the Millennium Summit and out of that, kick-started the Me-to-We conference. But he has distanced himself and is currently working with Jeffrey Sachs and developing sustainable development goals. What would it take to do that in Kelowna?
- In our community they would like to do something different; training on developing sustainable development goals. They are looking at forming a partnership. Jeffrey Sachs would like to operate on a smaller scale.
- As far as the Global Schoolhouse, there are still people very interested in it. We changed it quite a bit last year to address some of the concerns. We had a southern partner there to address the concerns and bigger or upstream issues.
- We had a number of retired teachers volunteer last year and that was really helpful.

## **5. INFORMATION ITEMS – COMMUNITY EVENTS**

### **5.1 Change Gamers Community Fair for Grade 6 Students – Presentation**

***Rick Oliver***

- Representatives from Change Gamers met with the Deputy Superintendent and Rick Oliver to present this opportunity to our district. The organizer is trying to create an event for the community. Jason Richards is the founder of Change Gamers and is putting together a fair that is to be directed to grade 6 students to show them what is available in the community.
- This youth fair for Grade 6 students is a Community Action event to be held on Thursday, October 13, 2016 at Kelowna City Park and is about inspiring, encouraging, and empowering youth to get involved with social change and celebrate their community.
- It's a field trip where students can attend with parents and is branded as an old-time community fair. Service organizations and students will receive tokens that can be used to play games and purchase food. Students can listen to presentations from organizations such as the S.P.C.A., etc. They will work their way through the fair. For three hours students will have the opportunity to self-select the causes that they are passionate about and vote with tokens as to what they would like to support.
- Activities and events at the fair will educate and encourage kids to take action and demonstrate how they can be part of positive social change by working together to give back to the causes they care about. The outcomes will be a fun, educational and life changing field trip offered for the first time to kids across the Okanagan.
- 15-20 tents/booths will be occupied by local charity and non-profit organizations advertising their causes and opportunities for involvement in the community.
- There will be on-stage presentations by selected charity organizations featuring a youth ambassador doing the presentation.
- Live and DJ music will keep the event energy festive and fun.
- Is it non-corporate? Are they ensuring that there is no corporate signage around? It is a non-commercial event consisting of well-established community programs that are being supported in the community, i.e. the SPCA, the Food Bank, etc., focusing on the Central Okanagan. Change Gamers will be held to the same standards as the other charitable organizations we have. We have made them aware of what our wishes are. The proof will be in the day. This is the first event of its' kind in our community and it sounds like a neat opportunity. We'll see how it unfolds.
- Community ambassadors will help with the students.
- They are prepared to accommodate all Grade 6 students. They have received a lot of registrations to date.
- Teachers were sent an invitation and information package in order to make a decision as to whether their students would be involved.
- Change Gamers is currently in the process of developing an app which will give kids the opportunity to make the world a better place by sharing their ideas and thoughts while getting involved in projects for causes they care about.

### **5.2 WE Day Update – November 3, 2016**

***Rick Oliver***

- The WE Day Planning Committee met on September 14<sup>th</sup>. As this group knows, there was a desire and a commitment to take a group of students to We Day in Vancouver again this year. Planning is underway. We are currently receiving requests from schools asking for ticket allocation numbers. We are working with the We Day organizers to come up with those allocation numbers.

**5.2 WE Day Update – November 3, 2016 (Continued)**

- The feedback from last year was that the "night before" We Day was the most powerful night ever. Kids had incredible motivation because schools were interacting with each other. So we are building on that success. Al Hopgood and Ryan Wakefield are taking that on again with their Leadership students. Leadership students are doing the planning and they are working on the events for all of the students who will be attending. They do a lot of the groundwork for the stations. It is amazing for the kids.
- We do stipulate that students who have not yet attended We Day are the ones who should be attending.
- As of the date of our We Day Meeting, secondary schools had opted out of attending We Day this year.
- It's a bit disconcerting if we are saying only some of the grade 9s in the district are going – so now the question is why are middle school students from George Elliot Secondary and Okanagan Mission Secondary schools not going to We Day? – Many secondary school students have participated in past We Day events. We Day did serve a purpose years ago for secondary schools, but now they are able to plan their own Leadership events. We do see some amazing Leadership projects going on in the secondary schools.
- The message is still out there that we have all the other students in grades 6-7-8 who are excited about participating in We Day.
- Maybe we could involve more students if we could find a way to do a similar leadership event here. Maybe Change Gamers will be the next thing.
- Kids and parents are making their choices. Based on We Day surveys and feedback, we do have interest in We Day. There is a commitment to go forward and we will continue to evaluate and monitor We Day every year.

**6. FUTURE AGENDA ITEMS**

**6.1 Feedback on Change Gamers** – Follow up and discuss how the event went.

**7. ADJOURNMENT**

Meeting adjourned at 5:32 p.m.

## ACTION ITEMS SUMMARY

Action Item	Person(s) Responsible	Status
<b>Re: BC Human Rights Code Amendment –</b> District Human Rights Committee to make a formal request to the Board that single use washrooms (or alternate washroom facilities) that exist in the District be more accessible by changing signage from gender specific "Male" and "Female" to gender neutral "Washroom" for these single use facilities.	Rick Oliver <i>on behalf of District Human Rights Committee</i>	Completed
District Human Rights Committee to do a short presentation to the Planning and Facilities Committee Meeting outlining the process.	Rick Oliver <i>on behalf of District Human Rights Committee</i>	Completed
Ask Secretary Treasurer Larry Paul to make a note to include single use gender neutral washrooms in the new SBO building.	Rick Oliver <i>on behalf of District Human Rights Committee</i>	Completed
<b>School Code of Conduct Updates:</b> All schools to update their Code of Conduct to include " <b>Gender Identity or Expression</b> " by calendar year end to reflect the recent Human Rights Code amendment.	Rick Oliver <i>on behalf of District Human Rights Committee</i>	Completed
<b>Collective Agreement – Article E.1.3 Non-Sexist Environment</b> – What are other districts doing to address the language? Research by consulting with other districts and/or BCPSEA.	Jim Colquhoun <i>on behalf of District Human Rights Committee</i>	

**Next District Human Rights Committee Meeting – Thursday, January 26, 2017**





# 7 reasons for accommodating transgender students at school

The new laws and arguments over transgender bathroom and locker room issues are clouded by conflation of gender with sex, school spending priorities, and sometimes religious views.

**By Alberto Arenas, Kristin L. Gunckel, and William L. Smith**

Schools have become ground zero for clashes on transgender rights. While the issue is not new — Minneapolis passed the nation's first transgender inclusive nondiscrimination ordinance in 1975 — the topic did not become national news until 2016. Earlier this year, North Carolina enacted the Public Facilities Privacy & Security Act (better known as HB2), which, among other things, requires transgender students to use only restrooms and locker rooms that correspond to the sex on their birth certificates.

In response, the Obama administration issued guidelines based on Title IX, which mandates that schools receiving federal funds may not discriminate based on a student's sex, including a student's transgender status. The federal guidelines clarify that schools must allow transgender students access to gender-segregated school facilities based on the students' gender identity.

The uproar from conservative public officials was fierce. By June 2016, 11 states had sued the federal government for what they consider federal overreach by taking actions that they believe should be left to individual states.

It is against this backdrop that we write this article: To counter negative reactions to the guidelines, we are responding to seven central arguments by critics against the Obama administration's directive on transgender students and school facilities.

The debate on transgender rights has brought to the fore the important distinction between sex and gender. Sex is biologically determined and relates to one's genitalia and genetics; gender is a socially constructed expression that will vary cross-culturally. Thus, being male, female, or intersex relates to sex, whereas being a cisgender man or woman or a transgender man or woman, relates to gender. While it is true that for most of the population sex and gender culturally match, for a minority of individuals, sex and gender identity are not tightly coupled (Devor, 2007). Cisgender is the word used for people whose gender identity corresponds to their birth sex.

**ALBERTO ARENAS** (Alberto.arenas@arizona.edu) and **KRISTIN L. GUNCKEL** are associate professors of education at the University of Arizona, Tucson, where **WILLIAM L. SMITH** is an assistant professor.



Given that this discussion inevitably challenges the gender binary that permeates contemporary societies, in this article we use “transgender” as an umbrella term that includes individuals whose binary gender identity is the opposite of their assigned sex at birth and also individuals whose gender identities fall within a broad spectrum of gender nonconformity, including people who identify with both genders (bigender), who feel they are a mix of genders (androgynous), and/or who feel their gender shifts freely (gender fluid), among other possibilities. We do this to recognize and honor the vast universe of gender identities that do not fall neatly into society’s binary gender system.

## 7 arguments and responses

### #1. Being transgender is a psychological disorder that schools should not enable.

Proponents of this argument believe that being transgender is a mental disorder that should not be normalized by schools. However, mental health professionals do not consider it a psychological problem. The evidence is clear that transgender children experience psychological distress from being perceived as deviant. Transgender children are often harassed, ostracized, and subjected to discrimination, abuse, and physical violence. When schools prevent transgender children from using the restrooms and locker rooms of their choice, they fertilize the stigmatization and victimization that lead to psychological distress. Students may even experience what the American Psychiatric Association has labeled “gender dysphoria” (APA, 2013).

How did gender dysphoria emerge as a label? The American Psychiatric Association has a long history of overclassifying diseases to the detriment of individuals who fall under their shadow. In a move that rectified some of this damage, the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5) replaced Gender Identity Disorder (which pathologized being transgender) with gender dysphoria (APA, 2013). Advocates of the transgender community say this reclassification is important in two significant ways: First, this reclassification recognizes that not every transgender person experiences negative feelings related to their gender identity. Their feelings become problematic only when society rejects them with a constant barrage of harassment, abuse, and violence (including not being allowed to enter a facility of their choice). Second, the DSM-5 recommends that people who experience gender dysphoria receive supportive assistance to lessen their feelings of anxiety and isolation.

This assistance may range from intensive aid in

transitioning their sex to match their gender to simply allowing individuals to use the restroom of their choice. Allowing transgender students to use the bathroom of their gender identity may decrease the possibility of developing gender dysphoria. As it pertains to schools, when transgender students experience a positive social-emotional environment, they are more likely to thrive emotionally, socially, and academically.

### #2. Allowing boys to enter the girls’ restroom would compromise girls’ safety.

This argument assumes that transgender girls are still boys, and their presence in the girls’ restroom puts cisgender girls at risk of sexual harassment. However, reviews of public school records in states that allow transgender people to use the bathrooms of their choice have failed to turn up any examples of transgender students harassing others in restrooms or locker rooms (Maza & Lowndes, 2016). The reason there are no examples is because transgender girls want to be girls, not boys, and are therefore unlikely to want to expose their male genitalia to other girls.

Part of this argument is that the new bathroom policy will provide cover for cisgender boys to enter the girls’ bathroom, presumably with harmful, or at least thrill-seeking, intentions. The fact is that no policy or law has ever stopped a person of any sex or any gender from committing nefarious acts in restrooms. Schools must worry about vandalism, drug use, and other illicit activities in restrooms regardless of whether students are using restrooms that match their birth sex. Even if some schools decide to adopt all-gender restrooms, the same regulations and laws that protect any student from harassment and abuse will remain.

If personal safety is the issue, schools should be most concerned about transgender students. Based on a 2013 nationwide survey, 61% of all transgender students were verbally harassed in the previous year, 29% were physically harassed, and 15.5% were physically assaulted (Kosciw et al., 2014, p. 84-86). The sense of insecurity is so intense that the study reports that 75% of all transgender students feel unsafe in school, compared to 26% of cisgender female students (p. 84). The point is not to create a hierarchy of who has been victimized the most but to acknowledge that transgender students experience the most hostile school climate of any student group.

### #3. The rights of religious people would be violated.

Some people see the new school restroom and locker room policies as extending special privileges to transgender students and violating a natural order

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**Reviews of public school records in states that allow transgender people to use the bathrooms of their choice have failed to turn up any examples of transgender students harassing others in restrooms or locker rooms.**

established by God. However, the U.S. is a secular constitutional democracy where laws putatively are decided based on a secular morality rather than religious principles. The founders of this republic were wise to realize that every religion has its own sense of “right” and “wrong,” “moral” and “immoral,” which often conflict with the beliefs of other religions and nonreligious members of society. Thus, the founders decided that the only way to guarantee freedom of religion and freedom from religion was to prevent future generations from enshrining their personal religious ideals into secular law.

In fact, religious precepts have historically constituted a key rationale for opposing the passage of civil rights legislation. Religion was the basis for unsuccessful arguments defending a ban on interracial marriage, for example, in the 1967 Supreme Court case *Loving v. Virginia*. The same strategy is being used to fight the legality of same-sex marriage. In all of these cases, the arguments were and are still used by a privileged group to hold onto the status quo that has benefited them. The arguments belie the mindset that “people who don’t look or behave like me make me uncomfortable, and I don’t want to have to knowingly do my business near them.” Ultimately, these attitudes should be exposed as the harmful, degrading homophobic, and transphobic sentiments that they are.

#### **#4. The privacy of nontransgender students would be violated.**

Social conservatives claim that students have a

constitutional right to bodily privacy that is being breached when transgender students share the same restrooms. While protecting young people’s feelings of privacy is of paramount importance for schools, the alleged threat caused by allowing transgender students to choose facilities is nonexistent if only because transgender students historically have shared restrooms with nontransgender students without any discernible problems for nontransgender students.

Calls for privacy are essentially about the risk that students will see others’ genitalia or have theirs seen by others. The public nature of these spaces and their purposes increases such risks. Consequently, students’ privacy in bathrooms and locker rooms is threatened, not by having transgender students around but by having any students around. Students’ concerns with seeing or being seen are valid and should be attended to. However, singling out transgender students unfairly targets these students for a generally universal discomfort with physical bodies. Consider, too, that transgender students have their own wants and needs for privacy, perhaps felt more acutely because they already feel unsafe in school. Ultimately, schools can address privacy concerns easily — by adding separate all-gender, single-occupancy bathrooms or privacy curtains and stalls in locker rooms — without scapegoating transgender youth.

Fears about transgender students infringing on cisgender students’ privacy also conflate sexual orientation with gender identity. Advocates of the privacy argument effectively reduce the issue to a fear

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**The founders decided that the only way of guaranteeing freedom of religion and freedom from religion was to prevent future generations from enshrining their personal religious ideals into secular law.**



**Accommodating the needs and rights of transgender students should be accompanied by pedagogical efforts addressed to the entire school community to raise consciousness about the importance of creating a school environment that ensures the safety, dignity, and comfort of all students.**

**While transgender students are small in number, a mark of a civilized society is precisely its ability to protect the rights of minority and historically marginalized populations.**

that desirous biological boys may see girls' genitalia or vice versa. However, gender identification must be divorced from sexual orientation: The former refers to one's internal sense of one's gender, while the latter describes individuals' romantic, physical, or emotional attractions. Transgender people can be gay, straight, or bisexual, just like cisgender people. Since schools have not been in the business of regulating bathroom use by sexual orientation (nor should they be), presuming that transgender youth pose a threat to the bodily privacy of cisgender students demonstrates an ignorance of the differences between sexual orientation and gender.

#### **#5. Transgender students can just use a separate facility, such as the faculty restroom.**

While calls to accommodate transgender students with a third, separate bathroom option may have benevolent intentions, this solution is misguided. In this scenario, transgender students lose the crucial opportunity to choose the facility that matches their identity. By directing transgender students to specific facilities, the students are dehumanized by authorities who purport to better understand the needs of transgender youth. This arrangement also creates an unwarranted binary between "trans" and "nontrans" students, causing transgender students to be "otherized" as a separate transgender group. In order to maintain the full humanity of transgender youth, schools should avoid actions that curb students' agency or relegate them to the normative margins.

At a legal level, the courts already have weighed in on the creation of separate bathrooms for transgender individuals in *Cruzan v. Special School District #1* (2002). Originally decided by a federal district court in Minnesota and later upheld at the appellate level, the courts denied a teacher's claims of facing religious discrimination and a hostile work environment that she said resulted from having to share a restroom with a transgender librarian. The court noted that if the plaintiff, Cruzan, hoped to avoid her transgender colleague, she already had several unisex bathrooms available to her. This landmark case set an important precedent for school bathroom privacy issues, affirming the rights of transgender employees to use the restroom of their choosing. Symbolically, the decision also reoriented what was considered "normal" for bathroom use. Normal in this case was made to become the provision of special accommodations for cisgender employees who are uncomfortable using the same restroom as transgender people — rather than assigning transgender students and employees to separate restrooms, which would serve only to further their marginalization.

#### **#6. Given the small number of students who are transgender, creating gender-neutral facilities is too costly for cash-strapped schools.**

We recognize that the financial realities of many U.S. school systems make school renovations of any kind fiscally challenging. However, as demonstrated by one Los Angeles-area high school, creating a gender-neutral restroom could require as minimal an investment as changing the restroom's exterior sign to say "All-gender restroom" (Kohli, 2016). More complex renovations could begin small, starting with a single gender-neutral restroom or changing room and progressing from there.

On an ethical level, while transgender students are small in number, a mark of a civilized society is precisely its ability to protect the rights of minority and historically marginalized populations. Just as installing physical accommodations following the passage of the Americans with Disabilities Act or integrating schools after the *Brown v. Board of Education* decision both necessitated financial and logistical considerations, altering school facilities in the service of protecting historically underserved groups justifies the costs. In fact, we see the cash-strapped-schools argument against creating gender-neutral bathrooms as evidence of the need for increased funding for schools. It is not an excuse for denying students the full safety and dignity that schools should provide.

Further, accommodating the needs and rights of transgender students should be accompanied by ped-

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agogical efforts addressed to the entire school community to raise consciousness about the importance of creating a school environment that ensures the safety, dignity, and comfort of *all* students — particularly in bathrooms and locker rooms.

### **#7. The decision should be made at the local level, either by the state or local school board.**

The state or local school boards have historically controlled schools so the reasoning goes that they should control these decisions as well. The main problem with this argument is that it denies that transgender rights are human and civil rights and as such they transcend state and local jurisdictions (International Commission of Jurists, 2007).

Human rights are accorded to people by virtue of being human. Limiting the choices of transgender and gender nonconforming individuals from accessing a facility of their choice denies them a basic sense of dignity as human beings. Civil rights are accorded to people by virtue of living in a particular nation or state. In the U.S., the federal government has the duty of protecting the rights of vulnerable minorities and ensuring that every individual receives equal protection under the law. Leaving antidiscrimination legislation up to individual states would result in some states universally protecting human rights while others ignore the issue or even legalize discrimination, as in North Carolina's HB2.

Parallel to this discussion is the fact that "states' rights" has long been code for opposing federally mandated human equality measures — from civil rights and racial desegregation to gay marriage (Frank, 2015). The same states that oppose transgender rights also supported the federally mandated but now defunct 1996 Defense of Marriage Act (DOMA), which legalized marriage only between a man and woman. Ultimately, the federal government and the U.S. Constitution serve as powerful guarantors to ensure that the majority does not infringe upon the rights of minority groups.

### **Next steps**

For schools to meet their obligation to educate *all* children, they must be equitable, accessible, and safe. What does this mean in practice? The 2016 U.S. Departments of Education and Justice Guidelines on Transgender Students offer a clear route on how to proceed: "A school may provide separate facilities on the basis of sex but must allow transgender students access to such facilities consistent with their gender identity." The guidelines endorse single-occupancy options for "all students who voluntarily seek additional privacy" but prohibit schools from assigning

transgender students to a particular facility (p. 3).

The Equal Protection Clause of the Constitution's 14th Amendment makes schools liable for failing to protect the best interests, rights, and safety of their students, including transgender students. Even when states pass oppressive and regressive laws, such as North Carolina's HB2, a growing body of case law shows that schools are legally held to a higher standard. As U.S. Attorney General Loretta Lynch said, this issue is about more than bathrooms. "[It] is about the dignity and respect we accord our fellow citizens . . . it's about the founding ideals that have led this country — haltingly but inexorably — in the direction of fairness, inclusion, and equality for all Americans" (2016).

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"Together We Learn"

## SCHOOL DISTRICT No. 23

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### NON-SEXIST ENVIRONMENT

As per Article E.1 of the Collective Agreement, the Central Okanagan Teachers' Association and School District No. 23 (Central Okanagan) declare their commitment to a non-sexist environment.

The Employer does not condone and will not tolerate any written or verbal expression of sexism.

A non-sexist environment is defined as that in which there is no discrimination against females or males by portraying them in gender stereotyped roles or by omitting their contributions.

Susan Bauhart  
President  
Central Okanagan Teachers' Association

Kevin Kaardal  
Superintendent of Schools/CEO  
School District No. 23 (Central Okanagan)

Dated: September 6, 2016