



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS
ADMINISTRATIVE COMPLAINT

November 12, 2025

United States Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100

Via Email: OCR@ed.gov

To Whom It May Concern:

This is a federal civil rights complaint pursuant to the U.S. Department of Education's (Department) Office for Civil Rights' (OCR) discrimination complaint resolution procedures.

Defending Education (DE) brings this complaint against the University of Wisconsin-Madison (UW-Madison) for discrimination on the basis of sex in programs or activities that receive federal financial assistance in violation of both Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et. seq.*, and the Equal Protection Clause of the 14th Amendment to the U.S. Constitution.

DE brings this complaint as an interested third-party organization with members that include parents and students throughout the country. DE and its members oppose, among other things, discrimination on the basis of sex in America's K-12 schools and institutions of higher education. Title IX prohibits discrimination based on sex in any education program or activity receiving federal financial assistance. This includes female students' rights to sex-segregated intimate spaces.¹

UW-Madison hosts nearly fifty thousand students, making it Wisconsin's largest post-secondary educational institution.² UW-Madison's Office of Compliance acknowledges that Title IX prohibits discrimination on the basis of sex.³ But the University's "policy of nondiscrimination and

¹ In *United States v. Virginia*, 518 U.S. 515, 531 (1996), the Supreme Court held that parties who seek to defend sex-based government action must demonstrate an "exceedingly persuasive justification" for that action.

² University of Wisconsin Madison, "About UW-Madison," accessed September 30, 2025, <https://www.wisc.edu/about/facts/>.

³ University of Wisconsin Madison, "Policy UW-146: Sexual Harassment and Violence," accessed September 30, 2025 https://policy.wisc.edu/library/UW-146#Pol146_Def_TitleIXmisconduct.

commitment to inclusion” instead focuses on individuals’ so-called “gender identities” and “gender expressions.”⁴ Gender identity discrimination is not the same as sex discrimination under Title IX, and the Supreme Court has never held otherwise.⁵ Nevertheless, the University prioritizes some students’ subjective *feelings* over all female UW-Madison students’ *rights* to sex-segregated intimate spaces.

UW-Madison’s policy (UW-6009, “Inclusive Facilities Policy and Procedures for All Buildings”) appears to violate Title IX. It also violates Presidential Executive Order 14168 regarding sex discrimination in federally funded programs.⁶ And it contravenes this Department’s stakeholder guidance on Title IX and the prevention of sex discrimination in federally funded programs.⁷

UW-6009 states, “students, staff, faculty, and visitors have the *right to use* the *restroom, locker room, shower, or changing facility* most safe and comfortable for them, without being harassed or questioned, *regardless of gender expression or sex assigned at birth.*” (Exhibit A) (emphasis added).⁸

While UW-6009 outlines a plan for constructing single-use “gender neutral” restrooms open to all students,⁹ the policy also specifies that “[p]atrons may use the *gendered restroom* that is safest and most comfortable for them in *all UW–Madison facilities.*” (Exhibit B) (emphasis added).¹⁰ This policy guarantees that male students may enter female restrooms, and that this right extends to “all UW-Madison facilities.”¹¹

While many female students feel unsafe or uncomfortable sharing restrooms with students of the opposite sex, UW-Madison guidance explicitly dismisses these students’ concerns. The University’s Frequently Asked Questions page states, “If you are uncomfortable sharing a multi-stall restroom with gender nonconforming individuals, please utilize a gender inclusive restroom – a single-

⁴ University of Wisconsin-Madison, “Policy UW-6009: Inclusive Facilities Policy and Procedures for All Buildings,” accessed September 30, 2025, <https://policy.wisc.edu/library/UW-6009>.

⁵ See *United States v. Skrametti*, 145 S. Ct. 1816, 1831-32 (2025). And *Bostock v. Clayton County*, 590 U.S. 644 (2020), does not hold otherwise. Quite the opposite, in fact. *Bostock* confirms that “sex” refers “only to biological distinctions between male and female.” *Id.* at 655. And to the extent *Bostock* could be read to confuse gender identity with biological sex, its logic is confined to Title VII. See, e.g., *Skrametti*, 145 S. Ct. at 1834 (explaining that *Bostock*’s rationale does not necessarily “reac[h] beyond the Title VII context”); *Department of Education v. Louisiana*, 603 U.S. 866, 867 (2024) (“all Members of the Court” agreed to enjoin a federal rule that extended *Bostock*’s reasoning to Title IX).

⁶ See Executive Order 14168, “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,” January 20, 2025, <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>.

⁷ United States Department of Education, Press Release: “U.S. Department of Education to Enforce 2020 Title IX Rule Protecting Women,” accessed September 15, 2025, <https://www.ed.gov/about/news/press-release/us-department-of-education-enforce-2020-title-ix-rule-protecting-women>.

⁸ University of Wisconsin-Madison, “Policy UW-6009: Inclusive Facilities Policy and Procedures for All Buildings,” at § III.1, accessed September 30, 2025, <https://policy.wisc.edu/library/UW-6009>.

⁹ UW-6009 at § I.

¹⁰ UW-6009, at § III.1.

¹¹ *Id.*

occupancy locking restroom.” (Exhibit C).¹² In other words, UW-Madison gives male students and guests the *right* to enter female students’ restrooms, and female students who are uncomfortable with this policy have only one recourse: abandon female spaces and flee to single-occupancy restrooms.

Section 1 of the 14th Amendment to the U.S. Constitution asserts: “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Supreme Court held in *Craig v. Boren* that to withstand equal protection scrutiny, sex distinctions “must serve important governmental objectives and must be substantially related to achievement of those objectives.”¹³

The Education Department’s own guidance on Title IX clarifies that covered educational programs and activities include: “[A]ll the operations of a school that receives financial assistance . . . Title IX applies to all operations of a school, including those that take place in the facilities of the school, on a school bus, or in a class or training program sponsored by the school at another location.”¹⁴

UW-Madison’s restroom and locker room policy appears to violate Title IX and the Equal Protection Clause. Accordingly, we ask that the Department promptly investigate all the allegations in this complaint, act swiftly to remedy unlawful policies and practices, and order appropriate relief.

Thank you for your prompt assistance with this request for investigation and resolution. Please contact me for further information.

Sincerely,



Sarah Parshall Perry
Vice President and Legal Fellow
Defending Education

Encl. Exhibit A, Exhibit B, Exhibit C

¹² University of Wisconsin-Madison, “Frequently Asked Questions – gender inclusive restroom facilities policy,” accessed October 1, 2025, <https://news.wisc.edu/frequently-asked-questions-gender-inclusive-restroom-facilities-policy/>.

¹³ *Craig v. Boren*, 429 U.S. 190, 197 (1976).

¹⁴ Department of Education, “Frequently Asked Questions: Sex Discrimination,” accessed September 16, 2025, <https://www.ed.gov/laws-and-policy/civil-rights-laws/frequently-asked-questions-sex-discrimination>.

Exhibit A

III. Usage Policy

1. In keeping with the University's policy of nondiscrimination and commitment to inclusion, students, staff, faculty, and visitors have the right to use the restroom, locker room, shower, or changing facility most safe and comfortable for them, without being harassed or questioned, regardless of gender expression or sex assigned at birth.
 - A. Whenever practical, an inclusive restroom, locker room, shower, or changing facility will be provided, which all individuals may utilize. No individual, however, shall be required to use such a restroom.
2. The below notes offer additional support to the usage policy.
 - A. Restricting individuals to using only restrooms that are not consistent with their gender identity or segregating them from others by requiring them to use gender-neutral or other specific restrooms, singles those users out and may make them fear for their physical safety. Restroom restrictions can result in individuals avoiding using restrooms entirely while at work, which can lead to potentially serious physical injury or illness. (OSHA Best Practices)
 - B. Inclusive facility policy at UW-Madison helps address campus climate issues experienced by transgender and non-binary members of the campus community by allowing facility access congruent with gender identity.
 - C. For any users uncomfortable with sharing multi-stall restrooms, single-occupancy restrooms as described above are available whenever practical.

Exhibit B

IV. Usage Procedures

1. Usage Policy V.A will be upheld via the following.
 - A. UW–Madison students, employees, and visitors should not assume an individual’s gender identity.
 - B. UW–Madison should presume that an individual is using the correct facility.
 - C. No person will be compelled to use an inclusive restroom facility regardless of gender identity, gender expression, or sex assigned at birth. Patrons may use the gendered restroom that is safest and most comfortable for them in all UW–Madison facilities.

Exhibit C

What do I do if I have a reasonable basis to believe that someone is not using the facility most consistent with their gender identity/expression?

Do not ask anyone to describe their gender, provide ID, or leave a restroom because their gender appears to you not to correspond to the way the restroom is labeled. UW–Madison supports individuals using the restroom in which they feel safe and most comfortable.

If you are uncomfortable sharing a multi-stall restroom with gender nonconforming individuals, please utilize a gender inclusive restroom – a single-occupancy locking restroom. A crowd-sourced map of these facilities may be found at the [UW Campus Map](#).

What do I do if I have a reasonable basis to believe that someone is using a facility for an improper or unlawful activity?

As with any improper or unlawful activity anywhere on campus, you may choose to report the incident. Remember that discomfort with another's gender presentation does not constitute improper or unlawful activity on their part.