

September 30, 2025

VIA ELECTRONIC MAIL

Mr. Edwin Birch
Freedom of Information Officer
Kansas City, Kansas Public Schools
2010 N. 59th Street
Kansas City, KS 66104
edwin.birch@kckps.org

Re: Request Pursuant to Kansas Open Records Act for Records Concerning Kansas City, Kansas Public Schools' Policies and Practices Concerning Gender Identity

Dear Mr. Birch:

As a member of the public who is interested in compliance by state and local education authorities with the prohibition of sex-based discrimination in federally funded education programs and activities under Title IX of the Education Amendments of 1972 (“Title IX”) and records-access requirements under the Family Educational Rights and Privacy Act of 1974 (“FERPA”), I am sending this request pursuant to the Kansas Open Records Act (“KORA”) to learn more about the policies of Kansas City, Kansas Public Schools Unified School District No. 500 (“KCKPS”) regarding access to sex-separated intimate facilities in KCKPS’s education programs and activities and parents’ access to the records of their minor children enrolled in KCKPS schools.

Background

KCKPS Guidelines

KCKPS has developed a document—most recently revised in October 2016—entitled “Guidelines for Transgender and Gender Non-Conforming Students at School” (“KCKPS Guidelines”).¹ KCKPS’s then Superintendent of Schools Dr. Cynthia Lane presented this document to the KCKPS Board at a September 18, 2017, meeting as part of the board’s discussion of “the District Plan for supporting our Transgender and Gender Non-Conforming Students,”²

¹ KAN. CITY KAN. PUB. SCHS., KANSAS CITY KANSAS PUBLIC SCHOOLS GUIDELINES FOR TRANSGENDER AND GENDER NON-CONFORMING STUDENTS AT SCHOOL (rev. 2016) (hereinafter “KCKPS Guidelines”), *available at* [https://go.boarddocs.com/ks/kckps/Board.nsf/files/AR8NN95EEAD2/\\$file/District%20Transgender%20Guidelines.6.7.17.pdf](https://go.boarddocs.com/ks/kckps/Board.nsf/files/AR8NN95EEAD2/$file/District%20Transgender%20Guidelines.6.7.17.pdf).

² Memorandum from Dr. Cynthia Lane, Superintendent of Schs., Kan. City Kan. Pub. Schs., to Kan. City Kan. Bd. of Educ. (Sep. 18, 2017), *available at* [https://go.boarddocs.com/ks/kckps/Board.nsf/files/AR8NP45F4208/\\$file/Transgender%20and%20Gender%20Non-Comforming%20Students%20memo%20091817.pdf](https://go.boarddocs.com/ks/kckps/Board.nsf/files/AR8NP45F4208/$file/Transgender%20and%20Gender%20Non-Comforming%20Students%20memo%20091817.pdf).

part of “a comprehensive plan” developed by the Kansas City, Kansas Professional Workforce Development Department and the University of Missouri-Kansas City “to support our transgender and gender non-conforming students in our district.”³

The KCKPS Guidelines provide that “[s]tudents shall have access to the restroom that corresponds to their gender identity consistently asserted at school.”⁴ As for locker rooms, the KCKPS Guidelines provide that “[t]he use of locker rooms by transgender students shall be assessed on a case-by-case basis with the goals of maximizing the student’s social integration and equal opportunity to participate in physical education classes and sports, ensuring the student’s safety and comfort, and minimizing stigmatization of the student.”⁵ The document then clarifies that, “[i]n most cases, transgender students should have access to the locker room that corresponds to their gender identity consistently asserted at school.”⁶

According to the KCKPS Guidelines, “[s]chool personnel should not disclose information that may reveal a student’s transgender status or gender nonconforming presentation to others, including parents and other school personnel, unless legally required to do so or unless the student has authorized such disclosure.”⁷ The document provides that “[w]hen contacting the parent or guardian of a transgender or gender nonconforming student, school personnel should use the student’s legal name and the pronoun corresponding to the student’s gender assigned at birth unless the student, parent, or guardian has specified otherwise.”⁸

The KCKPS Guidelines explain that the school district “is required to maintain a mandatory permanent pupil record . . . that includes a student’s legal name and legal gender.”⁹ Under the guidelines, KCKPS amends this “official record” for the purpose of “reflect[ing] a change in legal name or legal gender upon receipt of documentation that such change has been made pursuant to a court order.”¹⁰ Notably, outside of the school district’s official records, the KCKPS Guidelines provide that school records “may be amended to reflect the student’s preferred name and gender identity.”¹¹

Absent a change to the school’s official records, the guidelines state that “[a] student has the right to be addressed by a name and pronoun that corresponds to the student’s gender identity,” and “[t]he intentional and persistent refusal to respect a student’s gender identity” by, for instance, not referring to a student by his or her chosen name or pronouns, “is a violation of these

³ *Id.*

⁴ KCKPS Guidelines, *supra* note 1, at 3.

⁵ *Id.* (emphases added).

⁶ *Id.*

⁷ *Id.* at 2 (emphasis added).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

guidelines.”¹² For a KCKPS student in nearly any grade level, engaging in such “harassment” banned by the guidelines is classified as an offense that “seriously jeopardize[s] school order and security” and can result in discipline up to and including out-of-school suspension.¹³ For a teacher, it appears that the KCKPS Board of Education could consider such “harassment” to be just cause for his or her termination.¹⁴

Trump Administration’s Enforcement of Title IX

On March 19, 2025, the U.S. Department of Education’s (“Department”) Office for Civil Rights (“OCR”) issued a letter (“March 19 Letter”) to the Commissioner of the Maine Department of Education (“MDOE”) informing her of OCR’s determination that MDOE had not complied with Title IX because public K–12 school districts throughout Maine maintain policies or practices “that allow boys to participate in girls’ athletics programs and/or deny female students access to female-only intimate facilities”¹⁵ Pointing to MDOE’s statewide guidance to schools requiring gender identity-based participation in school athletics programs and also indicating that “students must be permitted to use the bathroom and other sex-separated facilities in accordance with or corresponding most closely to their gender identity,”¹⁶ OCR concluded that “Title IX simply does not permit the bait-and-switch of promising female student-athletes a girls’ competition *and a girls’ locker room* while actually permitting males to participate in the activity *or access the space*.”¹⁷ Because MDOE “has elected to direct and advise [school districts] to allow boys and men to participate in sports programs *and access intimate facilities* designated for girls and women,” OCR concluded that the state educational authority did not comply with Title IX.¹⁸

On April 11, 2025, the Department announced that it had referred its investigation of MDOE’s continuing noncompliance with Title IX to the U.S. Department of Justice “for further enforcement

¹² *Id.*

¹³ *Student Code of Conduct*, KAN. CITY KAN. PUB. SCHS., <https://www.kckschools.org/families-students/student-code-of-conduct> (last visited June 9, 2025) (“Class III Definitions, Explanations and Resolutions”).

¹⁴ *Article VIII: Suspension, Nonrenewal, Termination*, KAN. CITY KAN. PUB. SCHS., <https://www.kckschools.org/hr/2024-25-negotiated-agreement/article-viii> (last visited June 9, 2025) (“For just cause, the Board may terminate any teacher’s contract or non-renew a non-probationary teacher’s contract. Just cause is defined as any reason put forward by the administration or Board in good faith and which is not arbitrary, irrational, unreasonable or irrelevant to the district’s right to maintain and operate an efficient school system.”).

¹⁵ Letter from Bradley Burke, Reg’l Dir., Off. for C.R., U.S. Dep’t of Educ., to Pender Makin, Comm’r, Me. Dep’t of Educ. 1 (Mar. 19, 2025) (hereinafter “March 19 Letter”), *available at* <https://www.ed.gov/media/document/letter-of-finding-maine-doe-109602.pdf?source=email>.

¹⁶ *Id.* at 7 (citing *LGBTQ+ School Resources*, ME. DEP’T OF EDUC., <https://www.maine.gov/doe/LGBTQ/staff> (last visited Mar. 21, 2025)).

¹⁷ *Id.* at 8 (emphases added).

¹⁸ *Id.* at 9 (emphasis added).

action” and that it would “initiate an administrative proceeding to adjudicate termination of MDOE’s federal K–12 education funding, including formula and discretionary grants.”¹⁹

On July 25, 2025, OCR concluded its investigation of five school districts in Northern Virginia, finding that each school district maintained policies that violate Title IX because they “allow students to access intimate, sex-segregated facilities based on the students’ subjective ‘gender identity.’”²⁰ At the time, OCR proposed to the school districts resolution agreements that would require them to “[r]escind the policies and/or regulations that allow students to access intimate facilities based on their ‘gender identity’ rather than their sex;” “[i]ssue a memorandum to each . . . school explaining that any future policies related to access to intimate facilities must be consistent with Title IX by separating students strictly on the basis of sex, and that Title IX ensures women’s equal opportunity in any education program or activity including athletic programs;” and “[a]dopt biology-based definitions of the words ‘male’ and ‘female’ in all practices and policies relating to Title IX.”²¹

The Northern Virginia local education agencies declined to sign OCR’s proposed resolution agreements by OCR’s deadline of August 15.²² In response, OCR placed these agencies on high-risk status “with the condition that all federal funding flowing to these districts is done by reimbursement only,” and OCR commenced administrative action “seeking suspension or termination of federal financial assistance” to the districts.²³

SPPO Dear Colleague Letter

On March 28, 2025, the Department’s Student Privacy Policy Office (“SPPO”) issued a Dear Colleague Letter (“SPPO DCL”) as part of its legally required annual notification of federal funding recipients regarding their obligations under FERPA and the Protection of Pupil Rights

¹⁹ Press Release, U.S. Dep’t of Educ., U.S. Department of Education Announces Consequences for Maine’s Title IX Noncompliance (Apr. 11, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-announces-consequences-maines-title-ix-noncompliance>.

²⁰ Press Release, U.S. Dep’t of Educ., U.S. Department of Education Finds Five Northern Virginia School Districts in Violation of Title IX (July 25, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-finds-five-northern-virginia-school-districts-violation-of-title-ix>.

²¹ *Id.*

²² Press Release, U.S. Dep’t of Educ., U.S. Department of Education Places Five Northern Virginia School Districts on High-Risk Status and Reimbursement Payment Status for Violating Title IX (Aug. 19, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-places-five-northern-virginia-school-districts-high-risk-status-and-reimbursement-payment-status-violating-title-ix>.

²³ *Id.*

Amendment (“PPRA”).²⁴ The SPPO DCL described some of the formal and informal policies and practices of school districts that thwart parental rights under FERPA:

For example, schools often create “Gender Plans” for students and assert that these plans are not “education records” under FERPA, and therefore inaccessible to the parent, provided the plan is kept in a separate file and not as part of the student’s “official student record.” While FERPA does not provide an affirmative obligation for school officials to inform parents about any information, even if that information is contained in a student’s education records, FERPA does require that a school provide a parent with an opportunity to inspect and review education records of their child, upon request. Additionally, under the current regulatory framework, FERPA does not distinguish between a student’s “official student record” or “cumulative file.” Rather, all information, with certain statutory exceptions, that is directly related to a student and maintained by an educational agency or institution, is part of the student’s “education records” to which parents have a right to inspect and review.²⁵

Based on SPPO’s awareness of these policies that conflict with parental FERPA rights, it requested that every state education agency submit to SPPO documentation “to provide assurance that the SEA and their respective LEAs are complying with the provisions of FERPA and PPRA”²⁶

OCR and SPPO Investigations of KCKPS and Other Kansas School Districts

On August 14, 2025, OCR and SPPO announced investigations of KCKPS and three other Kansas school districts to determine whether policies requiring access to intimate facilities on the basis of gender identity instead of sex and preventing school officials from disclosing minor students’ gender-transitioning processes to their parents violate Title IX and FERPA, respectively.²⁷ In a statement on this announcement, U.S. Secretary of Education Linda McMahon declared, “From day one, the Trump Administration promised to protect students and parents by restoring Title IX and parental rights laws My offices will vigorously investigate these matters to ensure these practices come to an end.”²⁸

²⁴ Letter from Frank E. Miller Jr., Acting Dir., Student Priv. Pol’y Off., U.S. Dep’t of Educ., to Chief State School Officers and Superintendents (Mar. 28, 2025), *available at* https://studentprivacy.ed.gov/sites/default/files/resource_document/file/Secretary_Comb_SPPO_DCL_Annual%20Notice_0.pdf.

²⁵ *Id.* at 1–2.

²⁶ *Id.* at 3.

²⁷ Press Release, U.S. Dep’t of Educ., U.S. Department of Education Launches Investigations into Four Kansas School Districts for Alleged Title IX, FERPA Violations (Aug. 14, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-launches-investigations-four-kansas-school-districts-alleged-title-ix-ferpa-violations>.

²⁸ *Id.*

Notably, despite the Department's enforcement posture on these issues and its investigation of KCKPS for violations of Title IX and FERPA, it does not appear that KCKPS has taken steps to modify or abrogate its guidelines for transgender and gender non-conforming students. If this is in fact the case, then KCKPS is requiring its schools to treat students and families in a manner that risks sanctions from the Department, including the cessation of federal funding across the school system and other potential enforcement actions at the disposal of OCR and SPPO.

For these reasons, I am interested in obtaining records of KCKPS policies and communications relating to its guidance regarding gender identity in light of its obligations under Title IX and FERPA and the recent developments described above.

Requested Records

As an interested member of the public, I request that KCKPS produce the following records pursuant to KORA:²⁹

1. The most recent version of the KCKPS document entitled "Guidelines for Transgender and Gender Non-Conforming Students at School."
2. Any records, including training materials, policies, and guidance, maintained by KCKPS from November 5, 2024, through the date of the search, aside from that described in Item 1, relating specifically to the treatment of transgender and gender nonconforming students, including but not limited to policies regarding access to intimate facilities on the basis of gender identity or regarding school staffs' recognition of students' transgender or gender nonconforming status.
3. Electronic copies of all communications and correspondence (including but not limited to electronic mail ["email"], email attachments, texts, letters, memoranda, and other documentation), both internal and external, to or from KCKPS regarding the treatment of transgender or gender nonconforming students, accessing intimate facilities on the basis of gender identity, or school staffs' recognition of students' transgender or gender nonconforming status from November 5, 2024, through the date of the search.
4. Electronic copies of all communications and correspondence (including but not limited to electronic mail ["email"], email attachments, texts, letters, memoranda, and other documentation), both internal and external, to or from KCKPS regarding the enforcement by any federal agency, including the Department, of Title IX or FERPA from November 5, 2024, through the date of the search.

²⁹ KAN. STAT. ANN. § 45-215 *et seq.*

5. Electronic copies of all communications and correspondence (including but not limited to electronic mail [“email”], email attachments, texts, letters, memoranda, and other documentation) to or from the Kansas Association of School Boards dated on or after November 5, 2024, that reference treatment of transgender or gender nonconforming students.
6. Electronic copies of all communications and correspondence (including but not limited to electronic mail [“email”], email attachments, texts, letters, memoranda, and other documentation) to or from NEA-Kansas City, Kansas, Inc., dated on or after November 5, 2024, that reference treatment of transgender or gender nonconforming students.
7. Electronic copies of all communications and correspondence (including but not limited to electronic mail [“email”], email attachments, texts, letters, memoranda, and other documentation) to or from Kansas NEA dated on or after November 5, 2024, that reference treatment of transgender or gender nonconforming students.

For purposes of this request:

“Department” means the United States Department of Education.

“FERPA” means the Family Educational Rights and Privacy Act of 1974, as amended.

“Intimate facilities” means any location designated for individuals to dress or undress with a reasonable expectation of privacy, including but not limited to bathrooms, locker rooms, showers, changing rooms, and lactation spaces.

“Kansas Association of School Boards” means the Kansas Association of School Boards and its employees, contractors, consultants, attorneys, agents, and representatives.

“Kansas NEA” means the Kansas National Education Association and its employees, contractors, consultants, attorneys, agents, and representatives.

“KCKPS” means Kansas City, Kansas Public Schools Unified School District No. 500; its employees, contractors, consultants, attorneys, agents, and representatives; and members of the Kansas City, Kansas Public Schools Unified School District No. 500 Board of Education.

“NEA-Kansas City, Kansas, Inc.” means the National Education Association - Kansas City, Kansas, Inc., and its employees, contractors, consultants, attorneys, agents, and representatives.

“Title IX” means Title IX of the Education Amendments of 1972, as amended.

KORA provides that “[a]ny person may . . . obtain copies of any public record to which such person has access under this act.”³⁰ The law defines “public record” accessible by members of the public as “any recorded information, regardless of form, characteristics or location, that is made, maintained or kept by or is in the possession of . . . [a]ny public agency; or . . . any officer or employee of a public agency pursuant to the officer’s or employee’s official duties and that is related to the functions, activities, programs or operations of any public agency.”³¹

I request the following regarding the provision of the requested records:

- I request that you provide any public record identified in the following electronic format, instead of in paper format: PDF format or all Microsoft Office formats, including Word, Excel, Access, and PowerPoint. If it helps speed production and eases KCKPS’s administrative burden, I welcome provision of the records on a rolling basis.
- KCKPS should immediately act to protect and preserve all records potentially responsive to this request, notifying any and all responsible officials of this preservation request and verifying full compliance with the preservation request.
- KCKPS should search all record systems that may contain responsive records, promptly consulting with its information technology (“IT”) officials to ensure the completeness of the records search by using the full range of KCKPS’s IT capabilities to conduct the search. To constitute an adequate search for responsive records, KCKPS should not rely solely on a search of a likely custodian’s files by the custodian or representations by that likely custodian but should conduct the search with applicable IT search tools enabling a full search of relevant agency records, including archived records, without reliance on a likely custodian’s possible deletion or modification of responsive records.
- KCKPS should search all relevant records and information retention systems (including archived recorded information systems) which may contain records regarding KCKPS’s business operations. Responsive records include official business conducted on unofficial systems which may be stored outside of official recording systems and are subject to KORA. KCKPS should directly inquire, as part of its search, if likely custodians have conducted any such official business on unofficial systems and should promptly and fully acquire and preserve those records as KCKPS official records. Such unofficial systems include, but are not limited to, governmental business conducted by employees using personal emails, text messages or other direct messaging systems (such as iMessage, WhatsApp,

³⁰ KAN. STAT. ANN. § 45-219(a).

³¹ KAN. STAT. ANN. § 45-217(l)(1).

Signal, or X direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.

- KCKPS should provide entire records responsive to this request by the end of the third business day after the date this request is received,³² broadly construing what information may constitute a “record” and avoiding unnecessarily omitting portions of potentially responsive records,³³ as they may provide important context for the requested records (*e.g.*, if a particular email is clearly responsive to this request, the response to the request should include all other emails forming the email chain, to include any attachments accompanying the emails).
- KCKPS should narrowly construe and precisely identify the statutory basis for any constraint which it believes may prevent disclosure.
- If KCKPS contends that this request does not contain “the information necessary to ascertain the records” requested and my “right of access to the records,”³⁴ I request that KCKPS promptly assist by eliciting additional information that will clarify this request and more clearly identify the records I am seeking or identify my right to access them.
- If KCKPS determines that any portions of otherwise responsive records are statutorily exempt from disclosure, I request that KCKPS disclose reasonably segregable portions of the records.³⁵
- For any responsive records withheld in whole or part by KCKPS, KCKPS should provide a clear and precise enumeration of those records in index form presented with sufficient specificity and should identify the specific statute section/exemption that authorizes the withholding of the records.³⁶

³² See KAN. STAT. ANN. § 45-218(d).

³³ See KAN. STAT. ANN. § 45-216(a) (“It is declared to be the public policy of the state that public records shall be open for inspection by any person unless otherwise provided by this act, and this act shall be liberally construed and applied to promote such policy.”).

³⁴ KAN. STAT. ANN. § 45-220(b).

³⁵ See KAN. STAT. ANN. § 45-221(d) (“If a public record contains material that is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record that is subject to disclosure pursuant to this act.”).

³⁶ See KAN. STAT. ANN. § 45-218(d) (“If the request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester . . .”).

Conclusion

I appreciate KCKPS's prompt attention to this request for records pursuant to KORA, which will provide important information regarding KCKPS policies relating to gender identity and sanctions KCKPS may be subject due to any failure to comply with federal law.

If you have any questions or I can further clarify my request, please contact me at your earliest convenience at pfzimmerman@gmail.com.

Sincerely,

Paul Zimmerman

