



Written by [David Kelly](#) on December 6, 2023

School's Transgender Policy Violates Parents' Constitutional Rights

The parents of an 11-year-old girl are questioning a Colorado school district's transgender policies after their daughter, on an overnight educational trip, was assigned to sleep in the same bed with a fifth-grade boy who identifies as transgender — without notifying the girl or her parents.

The girl's parents, Joe and Serena Wailes, through their attorneys at [Alliance Defending Freedom](#) (ADF), sent a demand letter on Monday to Jefferson County Public Schools (JCPS) claiming that the district violated their constitutional rights by failing to notify them of the sleeping arrangements and not providing them with a formal opt-out option.

According to an ADF [post](#), "In June 2023, JCPS sponsored an overnight trip for fifth-grade students to Philadelphia and Washington, D.C." The Waileses "were assured in multiple parent meetings leading up to the trip that male and female students would be staying not only in different hotel rooms but also on completely different floors. And they were told that their daughter would room with three other girls."

The Waileses' daughter was supposed to share a bed with a student from another school. But on the first night, that student identified as transgender. According to the letter, "it then took the girl and her parents multiple requests to get her moved to another room. And even then, chaperones told the girl to lie about the reason for her move because of the district's overnight rooming policy—a policy that violates parental rights and student privacy by rooming students based on gender identity while hiding that information from other parents and students."

The letter continued:

JCPS's [policy](#) states that "students who are transgender should be assigned to share overnight accommodations with other students that share the student's gender identity consistently asserted at school." The policy goes on to command that "[u]nder no circumstance shall a student who is transgender be required to share a room with students whose gender identity conflicts with their own." However, the policy says nothing about a



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girl being required to share a bed with a boy who identifies as transgender.

The ADF cited that JCPS's "policy and practice is to room students based on gender identity rather than sex [i]n most cases." The district's "policy declares that 'the needs of students who are transgender shall be assessed on a case-by-case basis with the goals of maximizing the student's social integration, providing equal opportunity to participate in overnight activity and athletic trips, ensuring the student's safety and comfort, and minimizing stigmatization of the student.'"

By applying the transgender policy the way it did on this trip, the ADF [claimed](#), "JCPS put an 11-year-old girl in an uncomfortable and entirely avoidable situation. And it robbed her parents of the opportunity to exercise their parental rights to make the best decision for their daughter ahead of the trip."

Attorneys at ADF also stated in the letter that JCPS's current "policy and practice violate the constitutionally protected parental rights of the Wailese and other parents in your district," citing Supreme Court precedent on these constitutional protections.

"Parents, not the government, have the right to direct the upbringing and education of their children, and that includes making informed decisions to protect their child's privacy," said ADF Senior Counsel Kate Anderson, director of the ADF Center for Parental Rights, in a [press release](#). "Schools should never hide information from parents, yet that's exactly what JCPS officials did here. And that put the Wailese's 11-year-old daughter in a very challenging situation where she had to choose between sleeping in the same bed with a biological boy and advocating for her privacy in front of her teachers and peers. Understandably, the Wailese family is asking JCPS to cease its practice of intentionally withholding information about rooming accommodations from parents. Every parent should have the information needed to make the best decision for their children."

The letter shared that the Wailese have two fourth-grade children who are registered to attend a trip to New York, Philadelphia, and Washington, D.C. next year.

The ADF is requesting action from the district by December 18, to include:

- Clarification of the policy regarding room assignments for students and stating whether parents of all students will be informed of the sex of their children's roommates on school-sponsored trips prior to the trip.
- Whether parents can opt their children out of any policy that rooms children by gender identity rather than sex.
- Any documents related to JCPS's transgender policy, including related policies, training materials, emails discussing the policy, and documentation of previously granted accommodations.

The ADF expects "assurances that any such clarification be included in the written policy going forward."



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