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Proposed Rulemaking

Title

Promulgated by:
Division of Elementary and Secondary Education

Title 6. Education

Chapter I. Division of Elementary and Secondary Education

Subchapter A. Generally

Part 10. Rules Governing Public School Policies Relating to Overnight Travel and Use of Public School Lavatories

Subpart 1. Generally

6 CAR § 10-101. Definitions.

As used in this part:

(1) "Athletic event" means an organized athletic activity that is sponsored by or associated with a public school district or an open-enrollment public ~~charger~~charter school and in which participants are:

(A) Engaged in an athletic game or competition against another team, club, or entity; or

(B) In practice or preparation for an organized athletic game or competition against another team, club, or entity;

(2) "Athletics personnel" means athletic directors and other individuals actively involved in organizing, training, or coaching athletic events for student athletes;

~~(1)~~(3) "Immediate family" means a public school student's:

(A) Parent;

(B) Brother;

(C) Sister; or

(D) Grandparent;

~~(2)~~(4)(A) "Multiple occupancy restroom or changing area" means an area in a public school district or open-enrollment public charter school building:

(i) That is designed or designated to be used by two (2) or more individuals at the same time; and

(ii) In which one (1) or more individuals may be in various stages of undress in the presence of other individuals.

(B) "Multiple occupancy restroom or changing area" includes without limitation the following:

(i) A restroom;

(ii) A locker room;

(iii) A changing room; ~~and~~ and

(iv) A shower room~~.~~; and

~~(C) A multiple occupancy changing area that is designed for dual use as a changing area and as a team meeting venue is not a "multiple occupancy changing area" under this part when:~~

~~(i) The meeting venue is being used to address student athletes participating in athletic activities a reasonable time before, during, or immediately after an athletic event;~~

~~(ii) No person is in a state of undress at any time while the room is used as a meeting venue; and~~

~~(iii) An adult person of the same sex as the student athletes is present; and~~

~~(3)~~(5)(A) "Sex" means the physical condition of being male or female, as defined in Arkansas Code § 6-21-120.

(B) A public school district or open-enrollment public charter school may rely upon a public school student's sex as identified on his or her original birth certificate issued at or near the time of his or her birth.

(a) To ensure privacy and safety, each public school district and open-enrollment public charter school that serves students in prekindergarten through grade twelve (preK-12) in this state shall:

(1) Require each multiple occupancy restroom or changing area to be designated as follows:

(A) For the exclusive use by the male sex; or

(B) For the exclusive use by the female sex; and

(2)(A) Provide a reasonable accommodation to an individual who is unwilling or unable to use a multiple occupancy restroom or changing area designated for the individual's sex.

(B) As provided in Arkansas Code § 6-21-120, a reasonable accommodation shall not include access to a restroom or changing area that is designated for use by members of the opposite sex to an individual while members of the opposite sex of the individual are present or may be present in the restroom or changing area.

(b) The provision of subsection (a) of this section does not apply to an individual who enters a multiple occupancy restroom or changing area designated for use by the opposite sex when he or she enters for at least one (1) of the following circumstances:

(1) For custodial, maintenance, or inspection purposes;

(2) To render emergency medical assistance; ~~or~~

(3) To address an ongoing emergency, including without limitation a physical altercation~~.~~ or

(4) The individual is a coach or other athletics personnel member who enters and is present in the multiple occupancy restroom or changing area to address, supervise, or treat student athletes that the individual is overseeing during a reasonable time before an athletic event, during an athletic event, or immediately following an athletic event if:

(A) The coach or other athletics personnel member verifies that no person is in a state of undress at any time while the coach or other athletics personnel member is present; and

(B) An adult besides the individual who is a coach or other athletics personnel member is present.

(c)(1) A public school district or open-enrollment public charter school may adopt a policy that is necessary to accommodate individuals protected under the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, as it existed on January 1, 2023, or young children who are in need of physical assistance when using a restroom or changing facility that is located in a public school district or open-enrollment public charter school.

(2) However, a public school district or open-enrollment public charter school that serves students in prekindergarten through grade twelve (preK-12) in this state shall not adopt a policy under this part that is contrary to Arkansas Code § 6-21-120.

(3) The provisions of this part shall not apply to nurses, paraprofessionals, or other personnel providing services required by a student's individualized education program.

6 CAR § 10-103. Overnight trips.

(a) Except as provided in Arkansas Code § ~~6-21-120~~ 6-10-137, a public school district or open-enrollment public charter school that sponsors or supervises an overnight trip involving a public school student shall ensure that a public school student attending the overnight trip either:

(1) Shares sleeping quarters with a member or, if necessary, multiple members, of the same sex, as defined in Arkansas Code § 6-21-120; or

(2) Is provided single-occupancy sleeping quarters.

(b) A public school student attending an overnight trip may share sleeping quarters with a member of the opposite sex, as defined in Arkansas Code § 6-21-120, if the member of the opposite sex is a member of the public school student's immediate family.

(c)(1) A public school shall not allow a student who is under the age of eighteen (18) to participate in an overnight trip unless the student's parent, legal guardian, or a person standing in loco parentis to the student provides written authorization to the

school prior to the trip.

(2) A student who is under the age of eighteen (18) may only share sleeping quarters with a member of the opposite sex pursuant to subsection (b) of this section if specifically stated in the written authorization required under subdivision (c)(1) of this section.

6 CAR § 10-104. Enforcement.

(a)(1) An allegation of noncompliance with this part shall be referred to the Professional Licensure Standards Board by filing a formal complaint.

(2) Upon the board finding noncompliance with this part, the following individuals, as applicable, shall be subject to a minimum fine of one thousand dollars ($1,000) and may receive additional sanctions as determined by the board:

(A) The superintendent of a public school district where the noncompliance occurred, if the superintendent is found specifically to be noncompliant with this part;

(B) The principal of a public school where the noncompliance occurred, if the principal is found specifically to be noncompliant with this part;

(C) The director or administrative head of an open-enrollment public charter school where the noncompliance occurred, if the director or administrative head is found specifically to be noncompliant with this part; or

(D) A teacher or supervisor of a classroom or school-sponsored activity, if the teacher or supervisor is found specifically to be noncompliant with this part.

(b) A parent, legal guardian, or person standing in loco parentis to a public school student shall have a cause of action against a public school district or an open-enrollment public charter school if:

(1) His or her public school student:

(A) Encounters a member of the opposite sex in a public school district or open-enrollment public charter school multiple occupancy restroom or changing area that is designated for the public school student's sex if the member of the opposite sex received permission from the public school district or open-enrollment public charter

school superintendent or the public school or open-enrollment public charter school building principal to use the multiple occupancy restroom or changing area; or

(B) Is required by a public school district or open-enrollment public charter school superintendent or the public school or open-enrollment public charter school building principal to share sleeping quarters with a member of the opposite sex who is not an immediate family member of the public school student; or

(2) The public school district or open-enrollment public charter school is found to be noncompliant under 6 CAR § 10-102.

State of Arkansas *As Engrossed: H2/5/25 S2/11/25*
95th General Assembly
A Bill
Regular Session, 2025 HOUSE BILL 1215

By: Representative Bentley
By: Senator J. Bryant

For An Act To Be Entitled

AN ACT TO AUTHORIZE A COACH OR ATHLETICS PERSONNEL MEMBER OF THE OPPOSITE SEX TO ADDRESS, SUPERVISE, OR TREAT STUDENT ATHLETES IN A MULTIPLE OCCUPANCY RESTROOM OR CHANGING AREA UNDER CERTAIN CONDITIONS; AND FOR OTHER PURPOSES.

Subtitle

TO AUTHORIZE A COACH OR ATHLETICS PERSONNEL MEMBER OF THE OPPOSITE SEX TO ADDRESS, SUPERVISE, OR TREAT STUDENT ATHLETES IN A MULTIPLE OCCUPANCY RESTROOM OR CHANGING AREA UNDER CERTAIN CONDITIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-21-120(a), concerning definitions regarding public school restroom and changing area designation requirements, is amended to read as follows:

(a) As used in this section:

(1) "Athletic event" means an organized athletic activity that is sponsored by or associated with a public school district or an open-enrollment public charter school and in which participants are:

(A) Engaged in an athletic game or competition against another team, club, or entity; or

(B) In practice or preparation for an organized athletic game or competition against another team, club, or entity;

(2) "Athletics personnel" means athletic directors and other individuals actively involved in organizing, training, or coaching athletic events for student athletes;

~~(1)(A)~~(3)(A) "Multiple occupancy restroom or changing area" means an area in a public school district or open-enrollment public charter school building that is designed or designated to be used by one (1) or more individuals at the same time and in which one (1) or more individuals may be in various stages of undress in the presence of other individuals.

(B) "Multiple occupancy restroom or changing area" includes without limitation the following:

(i) A restroom;

(ii) A locker room;

(iii) A changing room; and

(iv) A shower room; and

~~(2)(A)~~(4)(A) "Sex" means the physical condition of being male or female based on genetics and physiology.

(B) A public school district or open-enrollment public charter school may rely upon a public school student's sex as identified on his or her original birth certificate issued at or near the time of his or her birth.

SECTION 2. Arkansas Code § 6-21-120(c), concerning exceptions to the requirement that public school restrooms and changing areas be designated based on sex, is amended to read as follows:

(c) This section does not apply to an individual who enters a multiple occupancy restroom or changing area designated for use by the opposite sex when he or she enters for at least one (1) of the following circumstances:

(1) For custodial, maintenance, or inspection purposes;

(2) To render emergency medical assistance; ~~or~~

(3) To address an ongoing emergency, including without limitation a physical altercation; or

(4) The individual is a coach or other athletics personnel member who enters and is present in the multiple occupancy restroom or changing area to address, supervise, or treat student athletes that the individual is overseeing during a reasonable time before an athletic event, during an athletic event, or immediately following an athletic event if:

(A) The coach or other athletics personnel member verifies that no person is in a state of undress at any time while the coach or other athletics personnel member is present; and

(B) An adult besides the individual who is a coach or other athletics personnel member is present.

/s/Bentley

APPROVED: 2/18/25