

## DOVER AREA SCHOOL DISTRICT

**Book:** Policy Manual  
**Section:** 200 Pupils  
**Title:** Sex-Based Distinctions in Multi-User Privacy Facilities  
**Code:** Policy 253  
**Status:** DRAFT 1/29/25

### Purpose

This policy is enacted to put into writing the District's practice regarding the purpose and use of privacy facilities. Everyone will have access to multi-user locker rooms, restrooms and changing facilities corresponding to their sex, and everyone will have access to single-user facilities without regard to sex.

The District does not separate any privacy facilities on the basis of race, color, religion, ancestry, national origin, sexual orientation, or gender identity. Even though sex is also a protected class, the District does maintain sex-separated multi-user privacy facilities because they are necessary to achieve important governmental interests of physical privacy, modesty, personal space, and avoidance of sexually harassing environments as it relates to members of the opposite sex.

Both law and history have long recognized the importance of sex-separation when disrobing or attending to personal hygiene precisely because of the difference in anatomy between the sexes that are exposed in such settings. This policy recognizes each student has an interest in his or her own physical privacy, modesty, and personal space as it relates to members of the opposite sex. The privacy interests of our students begin at the door of the multi-user privacy facilities since secondary measures such as stalls or curtains simply provide a minimal level of additional privacy from members of the same sex, not the real privacy expected from members of the opposite sex.

In addition to protecting bodily privacy and avoiding the creation of sexually harassing environments, sex-separated facilities provide reasonable separation between the sexes to prevent sexually inappropriate behavior between males and females as well as false accusations of such behavior between students or between a student and a teacher.

The District is committed to an environment of respect for all students, and this policy provides reasonable accommodations to benefit all students while still protecting each student's bodily privacy.

### Authority

The District is regulated by Pennsylvania law, which requires privacy facilities to be "used separately by the sexes." *See* 24 P.S. § 7-740. Title IX's purpose includes equal educational opportunities for males and females. Its regulations explicitly envision separate locker rooms, showers, and restrooms on the basis of sex. *See* 34 C.F.R. § 106.33. The District policy is enacted to meet its obligation to protect students' right to bodily privacy from members of the opposite sex. This policy complies with § 4(d) of the Executive Order of January 20, 2025, by

ensuring “that intimate spaces designated for women, girls, or females (or for men, boys, or males) are designated by sex and not identity.”

### **Definitions**

“**Sex**” means the biological distinction between male and female based on reproductive biology and genetic makeup. “Sex” and “biological sex” may be used interchangeably.

“**Privacy Facilities**” means restrooms, locker rooms, changing areas, showers, overnight facilities, and other facilities where persons are permitted to be in a state of undress.

“**Multi-User Facilities**” means restrooms, locker rooms, showers, and other privacy facilities that permit multiple people of the same sex into the common space of the privacy facility at the same time and where toilet or shower fixtures are typically separated by stalls or curtains. Multi-user facilities also include overnight facilities, such as hotel rooms or bunkhouses where multiple people sleep in a common room.

“**Single-user facilities**” means changing rooms, restrooms, or shower facilities designed for use by one (1) person at a time with fully enclosed walls and doors sufficient for privacy from the opposite sex. Single-user facilities may be used individually by any person of either sex.

“**Stall**” means any partial dividers and doors in multi-user restrooms or locker rooms intended to provide extra privacy between members of the same sex when toileting, changing, or showering, but are insufficient for privacy between members of the opposite sex.

“**Block Wall**” means fully enclosed walls and doors in restrooms or locker rooms intended to provide the privacy expected from either sex while toileting, changing, or showering, using building materials such as block, drywall, or tile.

“**Euro Wall**” means fully enclosed walls and doors in restrooms or locker rooms intended to provide the privacy expected from either sex when toileting, changing, or showering, using thinner materials similar to airplane bathrooms.

“**State of undress**” refers to any time when a student, as contemplated by Policy 221, Dress and Grooming, is not wearing pieces of clothing on those parts of the body for which they were designed, in connection with toileting, showering and/or changing. **[Pol. 221]**

### **Guidelines**

#### **A. Equal Use of School Privacy Facilities**

1. The District does not separate multi-user privacy facilities on the basis of race, color, religion, ancestry, national origin, sexual orientation, or gender identity.

2. As required by Pennsylvania statute, no person shall enter a restroom, locker room, or shower that is designated for the use of the opposite sex. **[24 P.S. § 7-740]**
3. Single-user privacy facilities may be used individually by any person of either sex who wishes additional privacy.
4. Users are not permitted to change in areas where both sexes are allowed to be present and will be expected to be dressed in these locations in accordance with Policy 221, Dress and Grooming. **[Pol. 221]**.
5. This policy applies to students while they are on district-owned, leased, or controlled property or while attending or engaging in school-sponsored activities.

## **B. Reasonable Accommodations**

1. The District recognizes that some students prefer not to use multi-user facilities. Accordingly, students may use single-user facilities rather than multi-user facilities without permission. No student is required to use only single-user facilities, and all students of one sex may use multi-user facilities consistent with their sex.
2. The district will prioritize and add additional single-user privacy facilities in its buildings for convenient access when new buildings are built or renovations of existing facilities occur.
3. The building principal may authorize temporary closure of a multi-user facility when a single-user facility would not suffice, such as i) for use as a team room by opposite-sex coach/athletic trainers after the team is done changing, ii) to accommodate a disabled student with an opposite sex-caretaker when not in use by others, iii) to accommodate a student identifying gender as different from their sex when not in use by members of the opposite sex, or iv) to allow opposite-sex maintenance employees to complete a task when not in use by members of the opposite sex.
4. Requests to access multi-user privacy facilities designated for use by the opposite sex when the opposite sex is present or could be present shall not be permitted.

## **C. Environment of Respect**

Each facility user shall be responsible for respecting the privacy of his/her fellow facility users as well as fostering an environment of respect. As such, the District does not tolerate any misconduct in privacy facilities, including but not limited to:

1. Creation of harassing environments as to members of the same sex in multi-user privacy facilities, including leering at or recording members of the same sex, assaulting, impeding or blocking movements, verbal abuse of a sexual nature, or graphic verbal commentaries about an individual's body;
2. Entering multi-user privacy facilities of the opposite sex since the presence of the opposite sex in such settings while in use creates a sexually harassing environment;
3. Hazing or bullying for any reason whatsoever, including bullying in privacy facilities based on a student's dress or grooming choices that may depart from those that are stereotypical for that person's sex; or
4. Using cellular telephones and other electronic devices to photograph or record video or audio. Such devices with recording capabilities should not be used in privacy facilities.

The District expects students and parents/guardians who become aware of an act that violates this policy to report it to the building principal for further investigation. Any violation is subject to discipline under both this policy and any other applicable policy including, but not limited to, the Unlawful Harassment and Bullying policies. **[Pol. 103, 103.1, 218, 247, 249]**. Any student who retaliates against another person for reporting violations of this policy shall be subject to disciplinary action.

Each staff member shall be responsible for maintaining an educational environment that respects all students. Staff members who become aware of students violating the bodily privacy of or otherwise sexually harassing other students or bullying students shall immediately intervene. Additionally, staff members shall report the conduct to the building principal for further investigation. This investigation may include: interviews with students, parents/guardians, and school staff, review of school records, and any other appropriate means of investigation.

In addition to the disciplinary action referenced above, a student who violates this policy shall be subject to disciplinary action consistent with the Code of Student Conduct. **[Pol. 218, 233]**

#### **D. District Personnel**

1. Privacy facilities will be supervised as needed by a District staff member of that sex. Such alignment of supervisors and users (most of whom are legal minors) also protects District staff who supervise privacy facilities from observing opposite-sex students in a state of undress, and those students from being observed by opposite-sex adults. This concern is consistent with District policy requiring any bodily searches to be done by a person of the same sex. **[Pol. 226]**.
2. This policy shall not apply to a person who enters a multi-user restroom, locker room, or shower that is designated for the use of the opposite sex i) to render emergency medical assistance; ii) during a natural disaster; or iii) when necessary to prevent a serious threat to good order or student safety.
3. To protect the health, safety, security and welfare of the school population, the District shall maintain master keys to all lockable facilities. The District shall have the right to access any single-user lockable facility, including one currently in use, where building administrators have a reasonable basis to believe that an individual's use of such facility poses an imminent threat to the health, safety, security or welfare of him/herself or others.

#### **E. Privacy Facility Design**

1. Privacy standards for Multi-User privacy facilities - may use stalls, block walls, or Euro walls in the construction and design. Multi-user facilities shall be labeled "male", "boys", or "men", or "female", "girls", or "women". Where the facilities utilize stalls or where changing clothing is permitted in a common area, the privacy expectations from members of the opposite sex begin at the door of the facility.
2. Privacy standards for Single-User privacy facilities - Privacy facilities that either sex may use must utilize fully enclosed doors and fully-enclosed block or Euro walls to

protect the heightened privacy expectations from members of the opposite sex. They shall have locking mechanisms controlled by the user. Single-user facilities must open up to public areas where members of either sex may traverse, such as a hallway, lobby, alcove, or classroom. Each individual unit should be labeled “restroom”, “changing room”, or “shower.” Sinks may be constructed inside or outside the individual units. The privacy expectations begin at the door of each individual unit.