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April 10, 2026

Bradley R. Burke
Regional Director
Office for Civil Rights

Frank E. Miller
Acting Director
Student Privacy Policy Office

U.S. Department of Education
District of Columbia Office
400 Maryland Avenue, SW
Washington, D.C. 20202-1475

Re: Shawnee Mission School District - OCR Case No. 07251503; SPPO Case No. 25-0739

Dear Mr. Burke and Mr. Miller:

Thank you for taking the time to talk last week about the ongoing Department of Education (the “Department”) investigations of our client, the Shawnee Mission School District (“SMSD”). We write today to produce several additional documents responsive to your Data Request and to provide additional information about the issues at stake in this matter in the continuing hope that we can resolve the investigation in a mutually satisfactory manner.

From the prior correspondence between our client and the Department and our recent phone conversation, we understand that your investigation of SMSD involves three distinct issues, all related to the accommodation of transgender students within SMSD schools. More specifically, the Department informed SMSD that OCR and SPPO are investigating SMSD’s approach to sports participation, restroom and locker room access, and parental access to educational records. We write to provide further information about SMSD’s approach to all three issues, which at all times has been entirely consistent with state and federal law. We also describe the production of documents provided along with this letter.

At the outset, we feel compelled to state that SMSD has at all times attempted to comply with the various provisions of state and federal law which govern access provided to transgender students and information available to parents. As outlined below, SMSD has historically prepared and updated guidance for its school administrators with the sole intention of ensuring compliance with



current law and respecting the rights of all students. Given the uncertainty surrounding the scope of federal law and the evolution of Kansas state law, that guidance has evolved over time.

Federal case law has been and remains unsettled with regard to the rights of transgender students under Title IX vis-a-vis the rights of cisgender students. A majority of federal appellate courts that have faced this issue have ruled that transgender students are protected under Title IX, and federal appellate courts have generally ruled that cisgender students' rights are not violated by policies that accommodate transgender students. Given this legal landscape which strongly indicates that SMSD would violate Title IX if it denied accommodation requests by transgender students, SMSD reasonably guided its administrators to work with transgender students and their parents on an individual basis and to develop individualized plans for facility access and any requested name change.

SMSD's approach to transgender student access changed in 2026 with the passage of a new Kansas state law that prohibits transgender individuals from using private spaces in public buildings in accordance with their gender identity. Upon the enactment of this new Kansas law, the SMSD promptly updated its guidance to ensure compliance with its terms. SMSD has always complied with Kansas law regarding participation in sports, and SMSD has always complied with FERPA and honored parents' right to access education records and information regarding their student. We are and will always be guided by the fundamental principle that public school districts must comply with relevant provisions of federal and state law and adjust to changes to such law as they evolve.

I. Procedural History

On August 14, 2025, SMSD received a letter from the Department of Education's Kansas City Office for Civil Rights ("OCR") and the Student Privacy Policy Office ("SPPO") regarding OCR Case No. 07251503 and SPPO Case No. 25-0739 (the "Notification Letter"). The Notification Letter indicates that a complaint was filed with OCR alleging that SMSD has a policy that "permits male students to participate in interscholastic and intramural athletic programs designated for female students, and allows students to use restrooms and locker rooms designated for the opposite sex based on a student's 'gender identity,'" in violation of Title IX of the Education Amendments of 1972 ("Title IX"). According to the Notification Letter, the complaint also alleged that SMSD "has a policy that prevents school officials from disclosing a student's 'transgender status' to the student's parents unless authorized by the student," in violation of the Family Educational Rights and Privacy Act ("FERPA"). The Notification Letter does not identify the complainant or whether the complaint was made on behalf of any individual SMSD student or parent or in regard to any



specific incident at SMSD.¹ On August 22, 2025, the Department subsequently issued SMSD a Data Request.

On September 19, 2025, SMSD submitted a response letter and accompanying documents to OCR. In that letter, counsel for SMSD outlined the district's compliance with state and federal law and requested a meeting to explore a voluntary resolution of the pending investigations. SMSD produced to OCR its "Transgender Practices & FAQ" document (the "FAQ") which stated, among other things:

The SMSD Board of Education has not adopted a transgender-specific policy. The current practice in SMSD is for the administration to evaluate requests for accommodations on a case-by-case basis, and to develop an individual plan for each student. Board of Education Policy AC, the District's non-discrimination/non-harassment policy . . . confirms the District's commitment to comply with Title IX, which prohibits discrimination on the basis of gender identity.

The FAQ also stated that transgender students "must be provided access to facilities consistent with their gender identity," but "schools must provide reasonable alternative arrangements for any student who expresses a need or desire for increased privacy." The FAQ also stated that SMSD will follow the Fairness in Women's Sports Act, K.S.A. § 60-5601, *et seq.*, which prohibits transgender students from participating in sports based on their gender identity.

On February 5, 2026, OCR requested that SMSD inform them as to whether they would like to discuss a voluntary resolution agreement. In response, SMSD reiterated its commitment to compliance with the law and requested that OCR and SPPO stay the investigation until they received more clarity on Title IX, FERPA, and the rights of transgender students and their parents. OCR and SPPO declined that request on February 17.

On February 26, a week after the passage of a Kansas state law that bears directly upon the restroom and locker room issues at stake in the instant matter, SMSD notified the Department that

¹ On June 24, 2025, the Defense of Freedom Institute ("DFI") published on its website a "federal civil rights complaint" that it sent to the Department alleging that SMSD and other Kansas school districts had written and unwritten policies that violate Title IX and FERPA. See <https://dfipolicy.org/wp-content/uploads/2025/06/DFI-Title-IX-Complaint-Notice-KS-Districts-06.24.2025-1.pdf>. The complaint references a lawsuit filed by an SMSD teacher asserting that SMSD "unlawfully disciplined her for exercising her First Amendment right to oppose its diversity, equity, and inclusion ("DEI") training sessions, and, subsequently, for allegedly referring to a student by the student's legal name and pronouns reflecting the students biological sex instead of that student's 'gender identity.'" *Id.* In September 2025, the court dismissed Sullivan's First Amendment claims. *Sullivan v. Unified School District No. 512 et al.*, Case No. 24-2491-DDC-BGS (D. Kan.), ECF No. 59. The only remaining claims against SMSD are the Title VII claim, § 1983 free exercise of religion claim, Kansas Preservation of Religious Freedom Act claim, and breach of contract claim. *Id.*



the district adopted a new guidance document titled “Guidelines for Transgender Student Matters” which replaced the FAQ. Specifically, the revised guidance restricts restroom and locker room access to students’ gender assigned at birth, consistent with the new Kansas law. OCR responded stating that “recipients of federal funding cannot rely on state statutes to ensure compliance with federal requirements, although in this situation, a cursory review of Kansas law seems to indicate state law appears to conform to many of the federal requirements that apply in this case.” OCR also noted its interest in obtaining additional information in the investigation and asked if SMSD was interested in “enter[ing] into negotiations to resolve any violations and areas of concern that OCR and SPPO have identified.”

In an April 1, 2026, telephone conversation to which we refer above, OCR indicated that it was ready to conclude its investigations and invited SMSD to submit any additional information to the Department by April 10, 2026. SMSD submits this letter in response to that invitation, reiterating its compliance with state law and the Department’s interpretation of Title IX and requesting to resolve this matter.

II. Student Participation in Sports

The August 14 Notification Letter indicates that OCR is investigating whether or not “Shawnee Mission School District policy permits male students to participate in interscholastic and intramural athletic programs designated for female students” The answer to that question is no, as it has been since the onset of the instant investigation. SMSD complies with the rules governing interscholastic sports in Kansas public schools, which preclude the participation of transgender girls in women’s sports.

A. Kansas Law

The “Fairness in Women’s Sports Act” was passed by the Kansas legislature and became law on July 1, 2023. That provision of state law prohibits transgender girls from participating in women’s sports. Consistent with this binding provision of state law, the Kansas State High School Athletic Association (“KSHSAA”) has adopted the Policies for Transgender Student Participation which state:

Kansas interscholastic activities under the jurisdiction of the KSHSAA shall be expressly designated as one of the following based on biological sex: 1. Males, men, or boys, 2. females, women, or girls; or 3. coed or mixed. Athletic teams or sports designated for females, women or girls shall not be open to students of the male sex. Biological sex means the biological indication of the male and female in the context of reproductive potential or capacity such as sex chromosomes, gonads and nonambiguous internal and external genitalia present at birth, without regard to an individual’s psychological, chosen or subjective experience of gender.



This law makes clear that athletics participation in Kansas public schools is limited to a student's gender assigned at birth. Kansas law prevents transgender girls in Kansas from participating in girls' athletics programs.

B. Federal Law

The United States Supreme Court recently heard a case that bears upon the issue of transgender participation in interscholastic sports. In *W. Virginia State Bd. Of Educ. v. B.P.J.*, a transgender girl challenged a state law precluding her participation in girls' sports. That case will provide clarity on whether Title IX and the Equal Protection Clause of the Fourteenth Amendment prevent a state from limiting participation on school sports teams to a student's sex assigned at birth. The Supreme Court heard oral argument on January 13, 2026, but has yet to render a decision.

C. SMSD's Compliance with KSHSAA Policy and Kansas Law

As a KSHSAA member, SMSD must, and does, comply with the Policies for Transgender Student Participation. SMSD's Policy JH titled "Student Activities" states that "students who participate in any school activity **shall meet . . . all applicable KSHSAA regulations,**" and "[a]ny student who meets the requirements . . . shall be permitted to participate in any activities, including any District-sponsored events, ceremonies, programs, or other functions directly related to such District activity, offered by the District that are regulated, supervised, promoted and developed by [KSHSAA]." SMSD's "Guidelines for Transgender Student Matters" state that the Kansas Fairness in Women's Sports Act "requires all interscholastic and intramural athletic teams that are sponsored by the public educational entities to be expressly designated as one of the following, based on the biological sex of the team members: males, men or boys; females, women, or girls; or coed or mixed. The law further specifies that athletic teams or sports designated for females, women, or girls shall not be open to students of the male sex."²

SMSD has not received any formal complaints from students or parents alleging noncompliance with these policies. SMSD complies with the KSHSAA policy and Kansas state law regarding student participation in sports, which aligns with the Department's interpretation of Title IX. Accordingly, we see no basis for a voluntary resolution agreement to include any change to this policy or other provision regarding transgender sports participation. An enforcement action regarding sports participation would be similarly meritless, given SMSD's compliance with the KSHSAA policy.

² SMSD's former guidance document "Transgender Practices & FAQ" also stated that it will follow KSHSAA policy and the Fairness in Women's Sports Act.



III. Student Access to Facilities

The August 14 Notification Letter indicates that OCR is investigating “whether the Shawnee Mission School District . . . policy permits students to use restrooms and locker rooms designated for the opposite sex” As above, the answer to that question is no. SMSD never adopted any policy given the unsettled state of the federal law but rather provided informal guidance to school administrators and teachers in an effort to ensure compliance with Title IX as interpreted by a majority of federal courts. As of February 26, 2026, SMSD modified that guidance to comply with the requirements of the recently-passed Kansas state law limiting restroom and locker room status to students’ gender assigned at birth.

A. State and Federal Law

1. Kansas Senate Bill 244 and Kansas Code § 77-207

Kansas Senate Bill 244 (“SB 244”) was signed into law on February 18, 2026, after the Kansas legislature overrode Governor Laura Kelly’s veto. SB 244 modifies Kansas Code § 77-207, which now states:

(a) Notwithstanding any provision of state law to the contrary, with respect to the application of an individual’s biological sex pursuant to any state law or rules and regulations, the following shall apply: (1) An individual’s “sex” means such individual’s biological sex, either male or female, at birth; (2) a “female” is an individual whose biological reproductive system is developed to produce ova, and a “male” is an individual whose biological reproductive system is developed to fertilize the ova of a female; (3) the terms “woman” and “girl” refer to human females, and the terms “man” and “boy” refer to human males; (4) the term “mother” means a parent of the female sex, and the term “father” means a parent of the male sex; (5) with respect to biological sex, the term “equal” does not mean “same” or “identical”; (6) with respect to biological sex, separate accommodations are not inherently unequal; and (7) an individual born with a medically verifiable diagnosis of “disorder/differences in sex development” shall be provided legal protections and accommodations afforded under the Americans with Disabilities Act applicable Kansas statutes.

SB 244 will also create a new section in the Kansas Code stating that “an individual may enter a multi-occupancy private space designated for use only by individuals of the opposite sex,” as defined by § 77-207, for “custodial purposes; for maintenance or inspection purposes; to render medical or other emergency assistance; to accompany and provide assistance to an individual who needs assistance using the facility; for law enforcement purposes; to render assistance in preventing a serious threat to proper order or safety; or to provide coaching or athletic training



during athletic events” The statute will also allow children under nine years old to enter a space designated for the opposite sex if accompanied by an individual caring for the child.³

2. Title IX

The status of transgender students under Title IX and other provisions of federal law is less clear than the Kansas state law. There is an unresolved federal circuit split regarding whether Title IX protects transgender individuals from discrimination based on gender identity. *Compare Grimm v. Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020) (holding that a policy that prohibits a transgender student from using facilities that corresponds to their gender identity and instead forces them to use the opposite sex facilities or a separate unisex facility is discriminatory under Title IX in the Fourth Circuit); *Parents for Priv. v. Barr*, 949 F.3d 1210, 1227 (9th Cir. 2020) (affirming dismissal of lawsuit brought by plaintiffs who alleged a school district’s policy permitting students to use facilities that match their gender identity violated Title IX and holding that a transgender student’s normal use of facilities alone does not constitute actionable “harassment” under Title IX even if some students felt subjectively harassed); *Doe ex rel. Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 533 (3d Cir. 2018) (rejecting argument that a school district’s policy allowing transgender students to use facilities that align with their gender identity violated Title IX because the policy treated all students equally irrespective of sex); *Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1046–50 (7th Cir. 2017) (holding that a policy requiring students to use a bathroom that conforms with their gender identity punishes those students for their gender nonconformance and therefore violates Title IX); *with Adams ex rel. Kasper v. Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791, 816 (11th Cir. 2022) (en banc) (holding that a policy disallowing transgender students from using the bathroom that aligned with their gender identity did not violate Title IX). *See also Tennessee v. Dep’t of Educ.*, 104 F.4th 577, 610–11 (6th Cir. 2024) (interpreting Title IX regulations “[w]ithout deciding any substantive merits questions”).

SMSD is governed by Tenth Circuit law, which is unresolved on this precise issue. Courts in this jurisdiction have issued divergent opinions on federal protections of gender identity. In *Kansas v. United States Department of Education*, 739 F. Supp. 3d 902 (2024), the United States District Court for the District of Kansas enjoined the prior Department of Education’s “Final Rule” requiring recipients of federal educational funding to provide restroom and locker room access to students consistent with their gender identity. The Court specifically found that “the Final Rule’s interpretation of sex and discrimination are therefore contrary to the statute and historical context

³ The ACLU, on behalf of two anonymous plaintiffs, filed a lawsuit challenging the constitutionality of SB 244. *Doe v. State of Kansas*, Case No. DG-2026-CV-000112 (Dist. Ct. Douglas Cty, Kan.). The lawsuit charges that SB244 violates Kansas Constitution’s protections for personal autonomy, privacy, and equality under the law, due process, and freedom of speech. An evidentiary hearing is scheduled for September 29, 2026.



of Title IX.” *Id.* at 923. In enjoining the Biden Department of Education’s policy requiring students be provided access to restrooms consistent with gender identity, the district court distinguished the case of *Bostock v. Clayton County*, 590 U.S. 644 (2020), in which the United States Supreme Court found that Title VII protects individuals from adverse employment actions on the basis of their transgender status. *Id.* at 919–23. The district court specifically found that the Supreme Court’s interpretation of Title VII in *Bostock* did not apply to Title IX. *Id.* The United States Court of Appeals for the Tenth Circuit applied a very different interpretation of *Bostock* in *Fowler v. Stitt*, 104 F.4th 770 (10th Cir. 2024). In *Fowler*, the Tenth Circuit relied on *Bostock* in support of its ruling invalidating the restriction of transgender individuals from obtaining birth certificates and driver’s licenses consistent with their gender identity. *Id.* at 788–91. The Tenth Circuit specifically found that the restrictive ID policy at issue discriminated against transgender individuals in violation of the Equal Protection Clause.⁴ *Id.* at 797. These cases reflect the uncertain status of the protection of gender identity under federal law—uncertainty that is likely to be resolved by the Supreme Court as these and other cases evolve.

B. SMSD’s Compliance with State and Federal Law

The uncertainty surrounding the applicable provisions of federal law has no bearing on the instant investigation, as SMSD complies with both Kansas state law and OCR’s current interpretation of federal law, all of which restrict facilities access to students’ gender assigned at birth. The SMSD Board of Education has never adopted a transgender-specific policy. When this investigation was launched in August of 2025, SMSD evaluated requests for accommodations on a case-by-case basis and allowed transgender students to use the restrooms, locker rooms, or changing rooms (“facilities”) consistent with their gender identity asserted at school. SMSD also provided alternative arrangements including single occupancy restroom, use of a private area, or a separate changing schedule for students who expressed a need or desire for increased privacy. This policy complied with state law that applied at the time and consistent with the federal authority cited above that viewed gender identity as protected under Title IX and the Equal Protection Clause.

SMSD changed its approach to the issue of facilities access with the passage of Kansas Senate Bill 244, which restricts use of these facilities to students’ gender assigned at birth. On February 26, 2026, just days after SB 244 became law, SMSD issued a new guidance document titled “Guidelines for Transgender Student Matters” which superseded the previous FAQ. The new guidance document outlines the terms of SB 244 and requires compliance, specifically the law’s directive that students be limited to using facilities that align with their sex assigned at birth.

SMSD has not received any formal complaints from students or parents about students’ use of facilities in their schools. SMSD complies with SB 244, which aligns with the Department’s

⁴ The holding in *Fowler v. Stitt* has been vacated and the case remanded to the United States District Court for further proceedings after the Supreme Court’s ruling in *United States v. Skrametti*, 605 U.S. 495 (2025).



interpretation of Title IX. Accordingly, we see no basis for inclusion of this issue in a voluntary resolution agreement. As SMSD's current guidance document is in compliance with the Department's interpretation of Title IX, there is no evidence to support an enforcement action on the issue of restroom and locker room access.

IV. Parental Access to Student Records

The August 14 Notification Letter states that SPPO is investigating a complaint that alleges that SMSD "has a policy that interferes with the right of parents to inspect and review their minor children's education records." The letter cites an inapplicable and since-withdrawn guidance document indicating that schools are legally required under Title IX honor a transgender student's request to change his or her name in the event of a dispute with parents. SMSD requires parental consent to student gender or name changes in official records. SPPO has provided no evidence that SMSD has violated FERPA nor any indication that the district's approach to parental access to educational records is deficient.

A. FERPA

FERPA is a federal law that affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 years old, or enters a post-secondary institution at any age, the rights under FERPA transfer from the parents to the student. 20 U.S.C. § 1232g(a)(1) states:

(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. . . . (B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.



B. SMSD's Compliance with FERPA

SMSD Policy IDAE titled "Student Privacy Policy" states: "Any student data submitted to and maintained by a statewide longitudinal student data system shall only be disclosed by the District in accordance with the Student Data Privacy Act. Disclosure of all other student data or student record information maintained by the District shall be governed by [FERPA]." SMSD's Policy JR titled "Student Records" states: "Pursuant to [FERPA], student records maintained in this school district are of a confidential nature. Access to student records, excluding student data submitted to or maintained in a statewide longitudinal data system in accordance with board policy IDAE, shall be permitted as set forth in administrative guidelines. Requests for amendment of student records shall be handled as set forth in administrative guidelines."

As reflected in the Notification Letter, SPPO's concern with FERPA compliance stemmed from the FAQ, which is no longer in effect. That document stated:

All students have the right to be addressed by the name and pronouns that correspond to the gender identity they assert at school. School staff and peers are expected to respect a student's name and pronouns once they have been made aware. The building Administrator, in consultation first with the student, will be responsible for ensuring that the student's request is honored while working to engage and include the family. . . . Students who are 18 or older have FERPA rights and can make the decision about what name appears on their diploma. Ideally, any changes will be agreed on by both parents/guardians and students. In the event of a dispute between a parent and student that cannot be resolved, the student's request will be honored a) where the student is 18 and/or b) where the student identifies as transgender.

Even while the FAQ was in effect, it did not violate FERPA, as it did not restrict parental access to student records in any way. To the contrary, the FAQ allowed parental access to all educational records, regardless of any conflict between students and their parents. In fact, it explicitly directed school officials to "**work[] to engage the family**" of transgender students. The direction to accommodate student preference with respect to names did not violate FERPA, which simply provides parental access to information.

As indicated above, the FAQ document cited by SPPO is no longer in effect. With the passage of SB 244, SMSD has issued new guidance to schools requiring compliance with Kansas state law. That guidance specifically replaces the FAQ. While the February 26, 2026 Guidelines do not address student records, they refer to SB 244 and require compliance with state law.⁵

⁵ KS 244 requires that state-issued driver's licenses and birth certificates conform to an individual's gender assigned at birth. It does not make any changes to state law regarding access to educational records, a matter controlled by federal law.



SMSD's compliance with FERPA and its mandate of parental access to educational records is illustrated by the SMSD Preferred Name & Gender Consent Form, which we are producing with this letter. See SMSD000027–28. This form has been used by SMSD since 2020 and must be submitted by students who express the desire to have their name and/or gender changed in public-facing SMSD publications like yearbooks, newspapers and the website. To effectuate a name or gender change, the student must obtain parental consent, as reflected on the face of the form. The form explicitly provides that “Students wishing to have their name and/or gender officially changed . . . must have this form filled out and signed by a legal guardian.” This makes clear that SMSD is committed to involving parents in decisions regarding students' gender identity and actually requires parental consent to name and gender identity changes.

During our recent telephone conversation, you expressed the belief that SMSD maintains “shadow files” of educational records that have not been provided to parents. You did not cite any specific student and were unwilling to identify the evidence supporting that allegation. We have made inquiries regarding this specific allegation of FERPA non-compliance and found no such evidence to support it. SMSD does not maintain “shadow files” or otherwise prevent parents of minor children from accessing student records. SMSD has not received any formal complaints from parents regarding access to student records. SMSD has not and will not withhold documents from parents, and SMSD continues to comply with FERPA, as stated in their Policy IDEA and Policy JR. Accordingly, we see no basis for a resolution agreement to require any changes to SMSD policy regarding FERPA. We see no basis for any enforcement action absent specific evidence of FERPA violations, which we have not identified.

V. Documents

Since our recent telephone conversation, we have searched SMSD records for documents regarding the three issues discussed in this letter. You indicated, for example, that parents had expressed concerns about student restroom use in a particular elementary school. We have researched that issue and attempted to identify others. As a result, we are producing a number of internal communications that involve communications between parents and SMSD personnel about one specific situation involving restroom access in an SMSD elementary school. These documents are Bates stamped SMSD000001–26.

We do not believe these documents constitute “complaints” regarding restroom access. There is a specific process in place for parents to register complaints, and as we have stated repeatedly, SMSD has received no such complaints. Nonetheless, we provide these documents reflecting communications between SMSD officials and parents regarding the issue of facilities access. SMSD has not located any further documents reflecting communications with parents on this issue or others implicated by the instant investigation.

We are also producing an additional document that pertains to the SPPO investigation—the SMSD Preferred Name & Gender Consent Form described above. While we do not believe that this



document is responsive to any specific provision of the Data Request, we are providing it to SPPO as a manifestation of SMSD's commitment to FERPA compliance and parental involvement in issues surrounding student naming and gender identity.

VI. Conclusion

As indicated in prior correspondence with the Department and in our recent telephone conversation, SMSD would like to resolve this investigation voluntarily. We believe that the district is in full compliance with state law that governs these issues and adheres to the Department's interpretation of federal law. State law and KSHSAA policy do not allow students to participate in sports teams that align with their gender identity, and SMSD at all times complies with that and other provisions of state law. SMSD does not have a policy that allows students to access facilities that align with their gender identity, but rather complies with Kansas law restricting access to students' gender assigned at birth. SMSD does not restrict parental access to student records, in accordance with FERPA. Given SMSD's compliance with the law, any finding that SMSD has violated Title IX or FERPA is unwarranted. Accordingly, we see no basis for enforcement action on these issues.

From our review of the correspondence in this matter, it appears that OCR and SPPO initiated this investigation prior to the dispositive changes in Kansas state law outlined above. The situation described in the documents produced today, which may form the basis of OCR's original complaint, is inconsistent with SMSD's current practice, given the change in Kansas law. While OCR may have taken issue with the district's prior approach to facilities access for transgender students, the enactment of SB 244 has fundamentally changed that approach. The "policies" at issue in the Notification Letter are no longer operative, and the SMSD Board of Education has no intention of adopting any policy that conflicts with state or federal law. Moreover, SMSD has not received any formal complaints from students or parents about the current or former guidance documents regarding transgender students. Unless and until state or federal law changes with respect to Title IX, SMSD's current guidance will remain in effect.

Again, SMSD is willing to voluntarily resolve this matter with the Department, though the district does not see how its approach to these issues must change to ensure compliance with law. We understand that you will prepare and send us a draft voluntary resolution agreement, which we will review and send a response. SMSD is of course willing to commit to compliance with state and federal law, as it is consistent with the district's approach in all civil rights and FERPA issues. As you are aware, those provisions of law are currently subject to litigation, which may change the relevant standards going forward. Again, SMSD does and will always follow controlling provisions of state and federal law when it comes to sports participation, facilities access and parental access to information. As those provisions remain subject to litigation, we believe SMSD's current approach is both appropriate and lawful.

Thank you in advance for your consideration.



1717 Rhode Island Ave. NW, Suite 610
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(202) 739-8450

Sincerely,

/s/ Timothy J. Heaphy

Timothy J. Heaphy
Heaphy, Smith, Harbach & Windom, LLP
THeaphy@hshw.com
PH: (202) 739-8475

cc:

Rachel England, General Counsel

SMSD Preferred Name & Gender Consent Form

The following guidelines apply to all Shawnee Mission School District student publications. Certain guidelines may apply broadly. Specific guidelines are designated underneath each publication section.

- It is not the intention of student publication staff or adviser to cause intentional harm to any SMSD student.
- As minors, any student wishing to have their name changed for the people section of the yearbook may request a Preferred Name & Gender Consent Form from the Student Services Office or administrators.
- Questions about the form or other related topics may be directed to the publications adviser.
- The reality of any publication is that mistakes will happen, despite levels of proofing and double-checking. When mistakes do happen, a solution will be determined by the adviser, student editors and the party involved, on a case-by-case basis.

Yearbook

By default, students shall be referred to by their legal name as it appears in the SMSD Skyward system when their headshot is placed in the people section of the yearbook. Other names, like preferred names, will not be used in the people section without a legal guardian-signed Preferred Name & Gender Consent Form.

Proofs of all grade levels' people section page designs will be displayed in a public space, for a minimum of one week and maximum of two weeks and will also be shared in English classes. Students can check these proofs for mistakes, misspellings and other inaccuracies. All questions or concerns will be directed to the yearbook adviser and/or people section editor.

All other references to students in the yearbook, including but not limited to the following sections — Academics, Clubs & Organizations, Group Photos, Sports, Student Life and Tributes — will refer to the student either by their preferred name they go by or by the name they provide to the student reporter or photojournalist.

A school yearbook can be used as a secondary source of identification when applying for a passport or other legal documentation. If a student uses a preferred name rather than a legal name, the yearbook will not be an acceptable form of identification.

Newspaper and Website

In all published references, print or online, students shall be referred to by the name they provide to the student reporter or photojournalist.

The newspaper staff will make every effort to refer to students in stories, photo captions, and other publication material by their preferred name they go by in their day-to-day lives at school. If the staff is unable to confirm the preferred name of a student, in-person with said student, they will default to using the legal name found in the SMSD Skyward system.

For office use only.

Signed form sent to:

_____ Computer Clerk to add "Other Name" in Skyward and ID card change.

_____ Publications Adviser for yearbook and newspaper changes.

_____ Notify nurse to document health records of gender change.

_____ Dr. McKinney, Dir. of Student & Family Services, Google platform change.

SMSD Preferred Name & Gender Consent Form continued

Students wishing to have their name and/or gender officially changed for any of the following reasons must have this form filled out and signed by a legal guardian. Please read all sections carefully.

Potential Reasons to Request Form

- Student is transitioning gender and no longer uses or goes by their birth name. Their legal name in Skyward does not reflect their preferred name.
- Student exclusively goes by a middle name.
- Requests will not be granted for nicknames or shortened names.
- Forms will be handed out at the discretion of the Administration/Counselor/Social Worker.

You may elect to request a name change in one category and not in the others. **Students may revoke the form at any time with the understanding that the yearbook may already be in production and the name cannot be changed at that time. Student must put in writing that they do not want to go by the preferred name or have their gender changed any longer.**

Student legal name _____ Grade level _____

Preferred name _____ ID number _____

A. Request to change name in yearbook and other student publications

_____ YES By checking yes, I understand that I give my permission for the yearbook staff to change my student's name in the people section and other student publications to reflect the student's preferred name, rather than the name reflected in the district's Skyward system. I understand the yearbook will not be able to be used as a secondary form of identification. ***Request must be completed by Feb. 15 to meet yearbook deadline.***

_____ NO By checking no, I understand my student will be identified in the yearbook by their legal name used in the district's Skyward system.

B. Request to change name in SMSD Skyward system.

_____ YES By checking yes, I understand that I give permission for the district to update my student's Skyward profile to reflect the "other name" my student goes by.

_____ NO By checking no, I understand that my student's Skyward profile will still display their legal name.

C. Request to change name on student ID card

_____ YES By checking yes, I understand that my student will receive a new printed student ID badge which reflects the student's preferred name.

_____ NO By checking no, I understand my student will not receive a new printed student ID badge with the aforementioned changes.

D. Request to change name in Google platform to student ID number

_____ YES By checking yes, I understand that my student will have their student ID number used in the Google platform rather than their legal Skyward name. Other students and teachers will see ID number rather than name.

_____ NO By checking no, I understand my student's legal name will be used in the Google platform.

E. Request to change the student's gender in Skyward.

_____ YES By checking yes, I understand that my student's gender will be change from _____ to _____ in Skyward. I understand my student's preferred gender will also be reflected in the Health Section of Skyward; however, biological gender information will be available to healthcare professionals.

_____ NO By checking no, I understand that my student's gender will stay the same in Skyward.

By signing below, I acknowledge that I have read the SMSD Preferred Name & Gender Consent Form and fully understand my yes or no decisions in the five areas. I understand that this is NOT a legal name change in the eyes of the courts or state, but only pertains to these areas in SMSD. I also understand that my transcript, diploma and graduation program will have my legal name on them. The only way these can be changed is through a court-approved legal name change.

Student name _____ Student signature _____ Date _____

Parent name _____ Parent signature _____ Date _____

Guidelines for Transgender Student Matters¹

Adopted: February 26, 2026

These guidelines are to be read consistent with federal law, including but not limited to, Title IX, Title VI, Title VII, and the Americans with Disabilities Act.

A. Kansas Senate Bill 244

1. House Substitute for Senate Bill 244 was passed by the Kansas Legislature on January 28, 2026. Governor Kelly vetoed the bill on February 13, 2026. The Legislature overrode the veto, and the bill became law upon publication in the Kansas Register on February 26, 2026.
2. Pursuant to the new law, "each public building shall designate each multiple-occupancy private space in such building for use only by individuals of one sex."
3. Public building means "a building owned or leased by a government entity."
4. A multiple-occupancy private space is defined as "a facility designed or designated for simultaneous use by more than one individual and in which an individual may be in a state of undress in the presence of another individual, regardless of whether this facility provides curtains or partial walls for privacy" and "includes, but is not limited to, a restroom, locker room, changing room or shower room."
5. Individuals using multiple-occupancy private spaces shall use the room designated for use by that individual's sex as defined by K.S.A. § 77-207, unless one of the following exceptions applies:
 - a. For custodial purposes;
 - b. for maintenance or inspection purposes;
 - c. to render medical or other emergency assistance;
 - d. to accompany and provide assistance to an individual who needs assistance using the facility;
 - e. for law enforcement purposes;
 - f. to render assistance necessary in preventing a serious threat to proper order or safety;

¹ This document replaces the previous guidance document titled "Transgender Practices and FAQ."

- g. to provide coaching or athletic training during athletic events, provided such individual is a member of the coaching or athletic training staff and such individual ensures that no individual of the opposite sex is in a state of undress prior to entering such multiple-occupancy private space; or
 - h. a child who is under nine years of age may enter a multiple-occupancy private space designated for use only by individuals of the opposite sex if accompanied by an individual caring for such child.
- 6. These guidelines do not apply to single-occupancy private spaces, including restrooms.
- 7. In accordance with Senate Bill 244, only the Board of Education or its designee may receive complaints. Complaints may be submitted to the Board of Education clerk. Anonymous complaints will not be accepted. In order to be valid, a complaint must be in writing and specify the following: name of the complainant; name and biological sex at birth of the individual who allegedly entered a multiple-occupancy private space in violation of Kansas law; date, time, and location of the multiple-occupancy private space where the alleged violation occurred; and any other relevant information which may aid in reaching a determination as to whether the identified individual violated SB 244. All investigations and appeals of investigation determinations shall be conducted by District administrators as designated by the Board of Education.
- 8. All multiple-occupancy private spaces in the SMSD's buildings are designated for use by one sex.
- 9. K.S.A. § 77-207(1) defines an individual's sex as "such individual's biological sex, either male or female, at birth."
- 10. K.S.A. § 77-207(2) defines a female as "an individual whose biological reproductive system is developed to produce ova". The definition of female includes the terms "woman" and "girl."
- 11. K.S.A. § 77-207(2) defines a male as "an individual whose biological reproductive system is developed to fertilize the ova of a female". The definition of male includes the terms "man" and "boy."
- 12. All existing multiple-occupancy private spaces in SMSD buildings already designated as male or female are hereby designated for use only by individuals of one sex, the sex currently identified, consistent with Senate Bill 244.
- 13. Individuals are advised that repeat offenses of this Senate Bill 244 may lead to civil penalties and criminal charges.

B. Interscholastic and Intramural Athletic Programs

1. The Kansas Fairness in Women's Sports Act, K.S.A. § 60-5601, *et seq.*, requires all interscholastic and intramural athletic teams that are sponsored by public educational entities to be expressly designated as one of the following, based on the biological sex of the team members:
 - Males, men, or boys;
 - Females, women, or girls; or
 - Coed or mixed.

The law further specifies that athletic teams or sports designated for females, women, or girls shall not be open to students of the male sex.

2. The SMSD is required to follow the [KSHSAA Policies for Transgender Student Participation](#).

C. Overnight Accommodations for Students on School District Sponsored Travel

1. Kansas law, § K.S.A. 72-6286, requires that: "The board of education of each school district shall adopt a policy requiring that separate overnight accommodations be provided for students of each biological sex during school district sponsored travel that requires overnight stays by students. Such policy shall be provided to parents prior to a student's participation in an activity or travel that requires overnight stays by students."
2. SMSD Board of Education Policy IFCC (Overnight Accommodations) states that, during District-sponsored travel that requires overnight stays by students, separate overnight accommodations will be provided for students of each biological sex, as that term is defined under § K.S.A. 72-6286. Policy IFCC is provided to parents prior to a student's participation in such travel.