



Michael D. Silverman
Executive Director

December 26, 2012

**VIA EMAIL, FAX
& FIRST CLASS MAIL**

Cheryl Serrano
Superintendent of Schools
Fountain-Fort Carson School District #8
10665 Jimmy Camp Road
Fountain, Colorado 80817

Re: Coy Mathis

Dear Ms. Serrano:

We have been retained by Kathryn and Jeremy Mathis, the parents of Coy Mathis, who is enrolled as a first grader at Eagleside Elementary School in the Fountain-Fort Carson School District #8. We write regarding Coy's access to the girls' restrooms at Eagleside.

Coy is a transgender girl. She was assigned the sex of male at birth, but has a female gender identity and has attended school as a girl since December 2011, when she was in kindergarten. Coy wears girls' clothing, and the students and staff use female pronouns to refer to her. Since December 2011, she has used the girls' restrooms at Eagleside without incident. Coy's doctors and therapist have recognized that Coy has Gender Identity Disorder and that refusing to allow her to express who she is – as she has been able to do for the past year at school – would be psychologically damaging and disruptive to her education.

Despite this, on December 12, 2012, Eagleside principal Jason Crow informed Coy's parents during a meeting that he had convened that following winter recess, Coy

would no longer be allowed to use the girls' restrooms at school. Her only options, he informed them, would be to use the boys' restrooms or a single-user staff restroom. In a December 14th email message, Principal Crow clarified that Coy could also use the single-user restroom in the health room.

We request that Principal Crow and the District reconsider the decision to deny Coy access to the girls' restroom. This decision will needlessly harm Coy when she returns to school without any justification or gain for the school or school district. The decision to deny her access also runs afoul of, among other things, Colorado law protecting transgender students from discrimination.

The Colorado Anti-Discrimination Act ("CADA") prohibits schools from discriminating against transgender students. Specifically, CADA states that it is a:

discriminatory practice and unlawful for a person, directly or indirectly, to refuse, withhold from, or deny to an individual or a group, because of ... sexual orientation ... the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation....

Colo. Rev. Stat. § 24-34-601(2). CADA defines "public accommodation" to include "an educational institution" like Eagleside. Colo. Rev. Stat. § 24-34-601(1). It defines "sexual orientation" to include "transgender status." Colo. Rev. Stat. § 24-34-301(7). Regulation further clarifies that transgender "means having a gender identity or gender expression that differs from societal expectations based on gender assigned at birth." 3 Colo. Code Regs. § 708-1:81.2(B). In short, Colorado law protects Coy and other transgender students from anti-transgender discrimination at Eagleside and other public schools in the state.

Indeed, the Colorado Civil Rights Commission has issued rules that implement CADA's protections for transgender students. Those rules specifically require that schools allow transgender students to use restrooms that match their gender identity. Rule 81.11 on Gender-Segregated Facilities provides:

All covered entities shall allow individuals the use of gender-segregated facilities that are consistent with their gender identity. Gender-segregated facilities include, but are not limited to, restrooms, locker rooms, dressing rooms, and dormitories.

3 Colo. Code Regs. 708-1:81.11(B). In this case, those rules require that Eagleside allow Coy to use the girls' restrooms.

In addition to Colorado law, federal law, through Title IX's prohibition on sex discrimination in education, and even the school district's own antidiscrimination policy,

point to the same result. The District should and must allow Coy to use the girls' restrooms.

We would be happy to provide you with our analysis of the ways in which Title IX and the District's own policies are violated by the decision to deny Coy access to the girls' restroom. But Colorado law is already clear on this point. Equally importantly, our goal in writing is to resolve this amicably and promptly so that Coy may return to school after winter recess without incident. We believe that that result is in her best interest, and in the best interest of the school and of the District.

While we recognize that school is closed for winter recess, we request that you provide us with a response as soon as you are able in order that we may properly advise Coy and her family about her imminent return to school. At a minimum, we request that Coy be allowed to use the girls' restrooms at Eagleside until we have had an opportunity to discuss this matter with you or your designated school or district representatives. We are available to discuss this matter at your convenience, and thank you for your attention to it.

Very truly yours,



Michael D. Silverman

Cc: Kathryn and Jeremy Mathis (by email only)
John Fogarty, Director of Human Resources, Fountain-Fort Carson School
District #8
Jason Crow, Principal, Eagleside Elementary School