



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.
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March 20, 2025

VIA EMAIL: OCR@ed.gov and Civil.Feedback@usdoj.gov

United States Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, DC 20202-1100, and

United States Department of Justice
Civil Rights Division
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

Dear Secretary McMahon and Attorney General Bondi:

The Wisconsin Institute for Law & Liberty, Inc. (“WILL”) submits this Title IX complaint against the Westosha Central High School District (“Westosha” or the “District”) in Salem, Wisconsin, for sex discrimination against female high school students. WILL brings this complaint on behalf of two families, each with daughters at Westosha, who have experienced academic penalties, violations of privacy, and verbal assaults because Westosha forced them to change with a biological male in the girl’s locker room. To protect these daughters from further harm, we will refer to them as Jane Doe 1 and Jane Doe 2 in this letter.

Westosha is a public school district that receives federal financial assistance. As described in detail below, Westosha failed to provide safe and private changing spaces for female students and did not handle the reports of the violations of the law, resulting in a denial of educational opportunities and discrimination based on sex, which are violations under Title IX of the Education Amendments of 1972 (“Title IX”).

Summary of Locker Room Issue and District’s Response

In early December 2024, Jane Doe 1 and Jane Doe 2 began their second trimester physical education class. As a class requirement, female students were required to change into gym clothes before class. The designated changing space—the girls’ locker room—was not reserved only for girls, however. Westosha permitted

an older male student, identifying as transgender, to use the same girls' locker room at the same time for changing.

While some girls could use the few available toilet stalls to change in privacy and away from the gaze of the male student, others could not because of the limited time offered for changing. The result was a crowded and uncomfortable environment where many girls felt pressured into an inadequate choice between exposure and tardiness.

Initial Complaints to the School by Affected Students and Parents

The first time Jane Doe 1 saw the male student in the locker room, on December 9, 2024, she felt extreme discomfort and decided to text her mother for guidance. Her mother immediately contacted the school administration, who asked if she would like to leave a message or for the assistant to the principal to go down to the gym class to "handle it." Of course, Jane Doe 1's mother wanted the situation immediately handled, but nothing more came of her complaint and the male student continued to use the girl's locker room.

On about December 9, 2024, Jane Doe 2 told her father about the male in the girl's locker room as well, and when the father called the school, he had an almost identical interaction with the school administration. He asked for the situation to be immediately handled, but nothing more came of his complaint either.

Because of the anxiety surrounding using the locker room and the long wait for the stalls to change in private, Jane Doe 2 and her friends decided to go to their gym teacher for guidance. The gym teacher told the girls "not to worry about it" and that *not* allowing the male student to use the girl's locker room would be considered "bullying." It was clear to Jane Doe 2 that not only was the District not taking her concerns seriously, but they were actively allowing the male student to continue using the girl's locker room.

Academic Penalties for Changing in the Stalls or Skipping Gym to Avoid the Male Student

Despite repeatedly notifying school officials of their concerns, both Jane Doe 1 and Jane Doe 2 continued to experience discomfort and embarrassment at the requirement that they must undress in front of a male student. When Jane Doe 1 attempted to wait for "the stall of the locker room that barely closes,"¹ she would receive tardies to gym class.² Jane Doe 1 eventually told her mother "[I] wasn[']t gonna go if he[']s gonna be in here and yet he still is..."³ True to her word, Jane Doe

¹ Exhibit A.

² Exhibit B.

³ Exhibit A.

1 received multiple unexcused absences attempting to avoid the leering gaze of a male student in the locker room.⁴

Other teachers at Westosha were not sympathetic of the situation in the girl's locker room. On one occasion, on December 12, 2024, Jane Doe 1 attempted to go sit in the general girl's bathroom outside the locker room during her gym class to avoid the male student watching her change. A teacher at Westosha realized that Jane Doe 1 was attempting to skip class. Jane Doe 1 recalled the situation to her mother saying, "[I] was scared to say the reason [I] wasn[']t going [to gym class] because [the teacher] kept yelling and saying he was gonna put us on the no pass list so [I] just said okay and walked in and now [I']m scared to [] move b[e]c[ause] someone[']s gonna catch me."⁵ She went on to say the teacher "followed us and yelled at us again...and he started yelling at us he was going 'now [I] gotta walk you to class like third graders'..."⁶

Jane Doe 2, on the other hand, chose to wait for a stall to change, but this decision likewise caused harm as she was then late for class and marked unexcused on multiple occasions.⁷ Those absences were later excused by her father calling the school, however, Jane Doe 2 still ended with an "F" in the class. Both students reported heightened anxiety and reluctance to attend class because of the male's presence in the girls' locker room.⁸

The District's Response to Continued Complaints

On December 19, Jane Doe 1's mother demanded answers from the school. She asked about the school's official position on male students in the girls' locker room and if the school was prepared to offer any accommodations to female students uncomfortable by the situation. The principal responded saying he was aware of the situation and working on a solution that "was in the best interest of all students."⁹ This response communicated that the principal was concerned with the potential reaction from the male student being banned from the girl's locker room, rather than with the safety of the female students.

On December 20, 2024, Westosha sent an email to parents to inform parents "that there is not and has not been a credible threat to anyone" at school.¹⁰ This email indicated to the families that the District was effectively dismissing the safety concerns they had for their daughters' privacy.

⁴ Exhibit B.

⁵ Exhibit A.

⁶ Exhibit A.

⁷ Exhibit C.

⁸ Exhibit D.

⁹ Exhibit E.

¹⁰ Exhibit F.

During winter break, on December 30, 2024, Westosha sent a letter to all families:

“[t]he district received some questions from parents and students about locker room use. After learning about these concerns, school staff immediately reported them to the administration per the district policy. However, *no reports of inappropriate locker room behaviors were made to school personnel or law enforcement.* Upon learning about the allegations, the administration investigated them. As of today, the investigation has found *no evidence of inappropriate locker room behaviors.* Although the district’s investigation has not yielded evidence of misconduct in the locker rooms, the *district has taken steps to ensure all students feel safe and comfortable in the locker room.*”

Emphasis added.¹¹

This statement by the school to all the families in the District claimed that “no reports” were made of “inappropriate locker room behaviors,” as if a male in the female locker rooms watching female students undress is not “inappropriate.” Additionally, the District did *not* take *any* steps to ensure Jane Doe 1 and Jane Doe 2 felt “safe and comfortable” in the locker room. In fact, the District did quite the opposite: district teachers admonished girls who objected to the locker-room situation, told the girls that prohibiting the male from the girl’s locker room would be “bullying,” and gave the girls academic penalties simply for wanting to protect their privacy. For Jane Doe 2’s family, this was too much. They removed her from the District.

While not included in the school-wide email, Jane Doe 1’s mother received a separate email on December 30, 2024, stating “the [male] student will not be using the girl’s locker room. There is a plan in place for the student to use an alternative area to change, which is not using any part of the girls locker room.”¹²

When the students returned to school after Christmas break, Jane Doe 1 and her friend entered the girl’s locker room. The male student was inside yet again, despite the school’s promises that the male student would no longer be allowed in the girl’s locker room. The male student, upset with Jane Doe 1 and her friend, called Jane Doe 1 “a bitch.”

Jane Doe 1's mother reported the verbal incident to the Kenosha Police Department and the School Resource Officer (“SRO”). The SRO told the mother that

¹¹ Exhibit G.

¹² Exhibit E.

he did not know there was a biological male in the girl's locker room until this report, despite the District claiming in the December 30 school-wide email that the allegations had been "reported" and "investigated."¹³

The District's Actions and Inactions Constitute a Title IX Violation

Sexual harassment under Title IX includes "unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access" to an education program or activity.¹⁴ By failing to address the discomfort and distress of female students and by actively punishing female students, the school created an environment that hindered female student's participation in gym class.

Title IX regulations mandate that schools must "respond promptly and effectively" when they have knowledge of conduct that may constitute sex discrimination.¹⁵ Westosha failed to take meaningful action to accommodate, or even speak to, affected students, despite multiple parental and student complaints and reports. The District even went so far as to tell families that "no reports of inappropriate locker room behaviors" were made to school staff.¹⁶

Title IX also prohibits schools from adopting policies that impose more than "de minimis harm" on a student due to their sex. The school's failure to provide reasonable alternatives forced female students to choose between violating their privacy or suffering academic penalties. While "de minimis harm" is not specifically defined, the regulations state that a complainant does not need "already suffered loss of education before being able to report sexual harassment." Here, the female students have already experienced more than de minimis harm, as they have received academic penalties.

Ultimately, discrimination based on sex at Westosha raises concerns that the District received federal funds in violation of Title IX, which declares that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance."¹⁷

Accordingly, we ask that the Department promptly investigate the allegations in this complaint, act swiftly to remedy unlawful policies and practices, and order appropriate relief. Thank you for your prompt attention to this request for investigation and resolution. Please contact us for further information.

¹³ Exhibit G.

¹⁴ 34 C.F.R. § 106.30.

¹⁵ 34 C.F.R. § 106.44.

¹⁶ Exhibit G.

¹⁷ 20 U.S.C. § 1681(a).

Sincerely,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

A handwritten signature in black ink, appearing to read "Dan Lennington". The signature is fluid and cursive, with the first name "Dan" being more prominent.

Daniel P. Lennington


*Managing Vice President and Deputy
Counsel*

A handwritten signature in black ink, appearing to read "Lauren Greuel". The signature is elegant and cursive, with the first name "Lauren" being the most prominent part.

Lauren Greuel

Associate Counsel

12/12/24, 1:47 PM



i was scared to say the reason i wasnt going because he kept yelling and saying he was gonna put us on the no pass list so i just said okay and walked in and now im scared to like move bc someones gonna catch me but i told you i wasnt gonna go if hes gonna be in here and yet he still is and im still here



i was walking to the bathroom with [REDACTED] because we just werent gonna go into the gym because [REDACTED] been in here still and so we were js gonna sit in there and i got scared because he was yelling and so i just said i was going to the bathroom and then we walked to the bathrooms across from the gym and he followed us and yelled at us again and i was just telling him i was using the bathroom and he started yelling at us he was going "now i gotta walk you to class like third graders" so i said i was just trying to use the bathroom and he was like "i dont care you go to class and get the pass approved by the teacher" and so i just said okay and walked into the locker room and now im just sitting here in the stall of the locker room that barely closes

Exhibit
A



< Back | Attendance Detail

FIT 4 LIFE I

Period Totals

	ABSENT	TARDY
Excused	1	0
Unexcused	4	0
Exempt	0	0
Unknown	0	0

Absences

5	Friday 12/20/2024 Parent Unexcused (>10 days)	UNEXCUSED
5	Tuesday 12/17/2024 Parent Unexcused (>10 days)	UNEXCUSED
5	Thursday 12/12/2024 Unexcused-Truant/Unknown	UNEXCUSED
5	Wednesday 12/11/2024 Unexcused-Truant/Unknown	UNEXCUSED
5	Friday 12/06/2024 Parent Excused	EXCUSED

Exhibit
B

Back | Attendance Detail

FIT 4 LIFE I DROPPED: 01/08/2025		
Period Totals		
	ABSENT	TARDY
Excused	7	0
Unexcused	0	0
Exempt	0	0
Unknown	0	0

Absences		
5	Wednesday 01/08/2025 Parent Excused	EXCUSED
5	Tuesday 01/07/2025 Parent Excused	EXCUSED
5	Monday 01/06/2025 Parent Excused	EXCUSED
5	Friday 01/03/2025 Parent Excused	EXCUSED
5	Thursday 01/02/2025 Parent Excused	EXCUSED
5	Friday 12/20/2024 Parent Excused	EXCUSED
5	Wednesday 12/04/2024 Parent Excused	EXCUSED



Recent Updates: Last Two Weeks



Assignment Scores

Grades (2)

Attendance



FIT 4 LIFE I

DROPPED: 01/08/2025

(Term 2) Trimester Grade

Updated: 03/05/2025 at 1:20 PM

F
(62.5%) >
In-progress

Exhibit
D

Follow-up to your email

3 messages

Kevin Kitslaar <kitslaark@westosha.k12.wi.us>
[REDACTED]

Thu, Dec 19, 2024 at 11:04 AM

Hello-

Thank you for reaching out; I am aware of the situation and working to find a resolution that is in the best interest of all students involved. We certainly hear your concerns and are working to support your daughter. Please know that this is a priority for the school district.

Kevin Kitslaar

--

Kevin Kitslaar

Principal

Westosha Central High School

262.843.2321 x309

@K_KitslaarWCHS

Each and Every Student Prepared for Their Future



[REDACTED]
To: Kevin Kitslaar <kitslaark@westosha.k12.wi.us>

Mon, Dec 30, 2024 at 8:02 AM

Hello,

In follow up to my original email, I am concerned with not having received answers to my questions/concerns pertaining to this matter. My daughter will return to school this week and we have not received a definitive answer as to whether or not the male student will be permitted to continue using the girls facilities. If he is forbidden from doing so, is there a plan in place to enforce this? As I mentioned previously, I contacted the school by phone weeks ago and spoke with the principal assistant to report there was a young man hanging out in the locker room watching the girls change and was assured she would "take care of it." The male student was in the locker room every day following my phone call and there was no follow through in ensuring this would stop. If he is permitted to continue using the girls locker room I will need to be notified of that. We will need to be informed of the plan prior to my student returning to school this week.

Thank you,
[REDACTED]

Kevin Kitslaar <kitslaark@westosha.k12.wi.us>
[REDACTED]

Mon, Dec 30, 2024 at 10:22 AM

Hello-

Mr. Gendron, the superintendent, just sent out a letter to all families. In addition to the letter, I wanted to let you know that the student will not be using the girls locker room. There is a plan in place for the student to use an alternative area to change, which is not using any part of the girls locker room.

Thanks for reaching out and let me know if you have any additional questions,
Kevin

[Quoted text hidden]

Exhibit
E



Update from Westosha Central HS

1 message

messenger@westosha.k12.wi.us <messenger@westosha.k12.wi.us>
Reply-To: messenger@westosha.k12.wi.us

Fri, Dec 20, 2024 at 11:13 AM



Westosha Central Families,

Earlier this morning, we received multiple contacts from parents about concerns over school safety at Westosha Central. We want to inform you that there is not and has not been a credible threat to anyone at our school. Please know that school safety is our number one concern.

All comments from students are taken seriously and a threat assessment is conducted by our administrative team in conjunction with our School Resource Officer for every situation. With that being said, we monitor school safety very closely and address every situation as it arises.

If you have any additional questions, please do not hesitate to reach out to us.

We wish your family a safe and enjoyable holiday break.

Respectfully,

John Gendron	Kevin Kitslaar
District Administrator	Principal

You are receiving this email because you are opted in to receive messages from your school. For more information, please contact your school.





Westosha Central High School

24617 75th Street • Post Office Box 38
Salem, Wisconsin 53168



December 30, 2024

Westosha Central Families,

In recent weeks, Westosha Central High School staff have received numerous questions and concerns over an alleged incident at the high school prior to the holiday break. The purpose of this letter is to respond to these questions.

Due to the confidential nature of student matters, we are limited as to what information we can share with the school community regarding the specifics of any particular event, as student records are protected under the federal Family and Educational Rights and Privacy Act (FERPA) and Wisconsin's pupil records laws. However, please know that school safety remains our number one priority. We take all safety threats seriously, and our administrative team and our School Resource Officer conduct a threat assessment in response to every reported situation.

The district has investigated all comments, and no school safety concerns have been reported. In short, there is not and has not been a credible threat to the students and staff at our school.

Additionally, there have been outside reports of alleged inappropriate behaviors in the locker room at Westosha Central High School.

Before the holiday break, the district received some questions from parents and students about locker room use. After learning of these concerns, school staff immediately reported them to the administration per district policy. However, no reports of inappropriate locker room behaviors were made to school personnel or law enforcement. Upon learning about the allegations, the administration investigated them. As of today, the investigation has found no evidence of inappropriate locker room behaviors.

Although the district's investigation has not yielded evidence of misconduct in the locker rooms, the district has taken steps to ensure all students feel safe and comfortable in the locker room.

Once again, school safety will remain our priority and focus. Any reports of safety are immediately addressed and taken seriously.

If you have any additional questions, please do not hesitate to contact us.

We look forward to seeing students and staff return on Thursday, January 2nd.

Sincerely,

John Gendron
District Administrator

Steve Richter
Board of Education President

