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VIA CERTIFIED MAIL AND EMAIL

Elk Grove Unified School District Board of Education
9510 Elk Grove Florin Road
Elk Grove, CA 95624
SuptOffice@egusd.net

RE: 2026 Elk Grove School Board Student Bathroom Policy

Esteemed Elk Grove School District Board Members:

This firm represents The American Council and other organizations and families within the Elk Grove Unified District (“District”). This letter serves as formal notice of serious and ongoing legal violations arising from the District’s policies governing student access to locker rooms, restrooms, and changing facilities.

The Board’s adoption and continued enforcement of these policies knowingly deprives students—particularly biological female students—of their legally protected right to bodily privacy in intimate spaces. The District has created a hostile, intimidating, and unsafe educational environment, subjecting students to foreseeable psychological harm, distress, and loss of dignity. These harms are the direct and inevitable result of the Board’s actions.

The District’s conduct constitutes a breach of its duty of care and exposes it to substantial liability under Title IX of the Education Amendments of 1972, which prohibits sex-based discrimination in federally funded educational programs.

Federal appellate courts have repeatedly recognized that privacy interests in sex-separated spaces are substantial and legally cognizable. See, e.g., *Doe v. Boyertown Area School District*, 897 F.3d 518 (3d Cir. 2018); *Grimm v. Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020); *Adams v. School Board of St. Johns County*, 57 F.4th 791 (11th Cir. 2022).

Critically, binding and persuasive authority within the Ninth Circuit and California further underscores the District’s legal exposure. In *Parents for Privacy v. Barr*, 949 F.3d 1210 (9th Cir. 2020), the Ninth Circuit expressly acknowledged the existence of student privacy interests in school locker rooms and restrooms. The Ninth Circuit emphasized that such privacy concerns are legitimate and must be meaningfully addressed—not dismissed or overridden.

California courts likewise recognize robust privacy protections. The California Constitution explicitly guarantees a right to privacy (Cal. Const., art. I, § 1), which extends to protection against unwanted exposure of one's body in sensitive settings. See *Hill v. National Collegiate Athletic Association*, 7 Cal.4th 1 (1994) (recognizing privacy as a fundamental constitutional right); see also *American Academy of Pediatrics v. Lungren*, 16 Cal.4th 307 (1997) (affirming heightened protection for minors' privacy rights). These authorities confirm that students retain enforceable privacy rights under California law, particularly in circumstances involving bodily exposure. The District's current policy fails this legal standard. It disregards well-established privacy protections and places students in circumstances where their constitutional and statutory rights are compromised. This creates significant exposure not only under Title IX, but also under 42 U.S.C. § 1983 for deprivation of constitutional rights, as well as under California state law.

Our client(s) are prepared to initiate immediate legal action. This will include filing formal complaints with the U.S. Department of Education's Office for Civil Rights, seeking temporary restraining orders and preliminary injunctions in federal court, and pursuing all available damages, costs, and attorney's fees. Litigation will likely seek expedited judicial intervention to halt enforcement of the current policy.

The District is now formally notified of its obligation to preserve all documents, communications, and electronically stored information relating to the adoption, implementation, and defense of these policies. Any destruction, alteration, or failure to preserve such evidence will constitute spoliation and will result in additional claims and sanctions.

DEMAND FOR ACTION

The District must, within **10 calendar days** of receipt of this letter:

1. Immediately suspend enforcement of the current policy;
2. Provide written confirmation that sex-separated private spaces will be maintained;
3. Produce all internal communications, legal analyses, and policy deliberations concerning this issue; and
4. Provide a detailed corrective action plan demonstrating full compliance with federal and California law.

Failure to comply with these demands will result in immediate legal action without further notice. I look forward to your response.

Sincerely,

/s/ Caleb M. Stewart

Caleb M. Stewart

Attorney for The American Council