



STATE OF WASHINGTON
HUMAN RIGHTS COMMISSION

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**Washington State Human Rights Commission
Response to Petition to Repeal WAC 162-32-060**

On March 29, 2016, Gary Brown submitted a Petition, per RCW 34.05.330, requesting repeal of WAC 162-32-060, the rule related to gender-segregated facilities. Petitioner argues that the agency failed to hold public hearings, that the rule makes children and others vulnerable to predators, and that no one deserves special rights.

Argument 1: The agency failed to hold public hearings.

Agency Response: This is untrue.

RCW 49.60.120 grants rulemaking authority to the Human Rights Commission. The Human Rights Commission conducted this rulemaking with public input. There were four work sessions held across the state related to creating rules on the subjects of sexual orientation and gender identity. Persons who attended provided input, voiced their concerns and personal experiences, and discussed the issues that they wished to see in the rules. From the information gathered at the work sessions, the draft rules were derived. They were then published in the Washington State Register. A public hearing and public comment period were held regarding the draft rules. From the comments gathered during this public comment period, the final rules were completed, and published in the State Register. During the public comment period, there were no negative comments about transgender individuals using the gender segregated facility with which they identify. In fact, public comment was in favor of expanding the protections found in the draft rules on this issue.

Conclusion: The Human Rights Commission held public hearings as required by law.

Argument 2: This rule makes children and others vulnerable to predators.

Agency Response: There is no evidence that allowing transgender individuals to use the gender segregated facility with which they identify would create behavior or actions that would constitute a risk to property or other persons. There is no evidence that this type of rule has created an increased risk to public safety in any of the jurisdictions which have a similar rule.



The rule does not allow any type of inappropriate or illegal behavior to take place in gender segregated facilities. The rule does not protect someone who engages in inappropriate or illegal behavior, or protect anyone who might falsely claim to be transgender in order to gain access to a gender segregated facility. There are criminal laws in place to protect the public against inappropriate or illegal behavior.

There would be a risk presented if transgender individuals were forced to utilize gender segregated facilities that correspond to their sex assigned at birth. There is statistical and anecdotal evidence that when transgender individuals use the restroom that is inconsistent with their gender identity they are at increased risk of assault.

Conclusion: There is no evidence that this rule promotes predatory behavior.

Argument 3: No one deserves special rights.

Agency Response: The Petitioner failed to identify who is receiving special rights or what these rights are. This rule confers no special rights on any person or protected class. Transgender persons are simply able to use the facility with which they identify, which is the same right that everyone else has.

The Legislature created a fairly broad definition of gender identity in RCW 49.60.040(26): "Gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth. There is no requirement that an individual must have a particular anatomy, medical procedure, or documentation in order to qualify as having a particular gender identity or expression.

Conclusion: Because there is no requirement of certain physical characteristics in order to have the protections of non-discrimination law, the law compels that persons of all gender identities receive equal treatment. No group is receiving special rights.

For the above reasons, the Petition to Repeal Rule 162-32-060 is hereby denied.

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