



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
RAÚL R. LABRADOR

January 25, 2023

Misty Swanson, Executive Director
Idaho School Boards Association
199 N. Capitol Blvd., Suite 503
Boise, ID 83702
misty@idsba.org
Delivered via E-mail

Dear Executive Director Swanson:

As I'm sure you know, the Caldwell School District Board of Trustees is considering [Policy 3281](#). That policy would allow biological boys to use girls' locker rooms and bathrooms, force teachers to use pronouns that don't correspond to students' biological sex, and require school employees to conceal students' intimate choices about sex and gender—along with potential gender dysphoria—from their parents. The policy rightly drew criticism from parents and residents of the district at a Board meeting on January 3, 2023, before the Caldwell Board abruptly ended the meeting.¹

As Idaho's Attorney General, it is my job to protect the rights of Idaho residents and safeguard the legal interests of the State. *See* Idaho Code § 67-1401. I have serious concerns that Policy 3281 conflicts with state law, infringes on the fundamental rights of Idaho parents to direct their children's upbringing and education, and violates educators' First Amendment rights. I also worry that the policy will endanger students, as similar policies have in other parts of the country.²

I am also deeply troubled that your organization seems to be the entity peddling these suspect policies. A recent article by "Them,"—a self-described national "platform for all of the bold and rebellious ways that LGBTQ+ people are reshaping our world every day"—stated that

¹ *See, e.g.,* Julie Luchetta, BOISE STATE PUBLIC RADIO, *Heated Caldwell School Board Meeting ends in Chaos*, <https://tinyurl.com/2w7aew27> (Jan. 10, 2023).

² Virginia Aabram, WASHINGTON EXAMINER, *Teenager found guilty in Loudoun County bathroom assault*, <https://tinyurl.com/ynzr276u> (Oct. 25, 2021).

Caldwell Policy 3281 is “a draft *from the Idaho School Boards Association.*”³ Indeed, even the local press and the general public seem to know that the ISBA is the source of this and other, similar policies.⁴

Every page of your website proclaims that you “advocate[] for Idaho students and public education.”⁵ I therefore find it unsettling—and inconsistent with your stated values—that the ISBA would advocate a dangerous policy that actively disenfranchises parents and families, the cornerstone of any schooling system. And to the extent the ISBA provided legal advice to the Caldwell Board regarding the policy, that advice appears to have overlooked the grave federalism concerns Policy 3281 raises. Navigating the important, delicate state-federal balance of power and authority is something a nonprofit organization should refrain from doing.

Accordingly, please answer the following questions:

1. What was ISBA’s involvement with preparing, advocating for, and communicating with Caldwell’s Board of Trustees about Policy 3281?
2. Who, if anyone, associated with ISBA spoke with the Caldwell School District Board of Trustees about Policy 3281? Please include the names of any staff, executive board members, consultants, outside counsel, or any other organizations.
3. Who, if anyone, associated with the ISBA assisted in drafting Policy 3281? Please include the names of any staff, executive board members, consultants, outside counsel, or any other organizations.
4. What advice is the ISBA giving (or has the ISBA given) to school district boards of trustees about Gender Identity policies like Policy 3281?
5. Has the ISBA drafted a generic version of Policy 3281 that it has distributed to school boards in Idaho? Please provide the copy of that draft, and the names of those who worked on it.
6. Has the ISBA drafted or distributed similar policies to other school district boards of trustees?
7. How do national news outlets like *Them* know that Caldwell Policy 3281 is “*from*” the ISBA when nothing on the face of the policy suggests that the ISBA is involved?

³ Samantha Riedel, THEM, *An Idaho School Board Meeting Erupted Over a Pro-LGBTQ+ Proposal*, <https://tinyurl.com/mwk756zz> (Jan. 12, 2023).

⁴ See Carly Flandro, IDAHO CAPITAL SUN, *Proposed LGBTQ rights policy causes fracas at Caldwell School Board meeting*, <https://tinyurl.com/mr2s7pkr> (January 10, 2023).

⁵ <https://www.idsba.org/>.

8. Teton County, Blaine County, and Bonneville Joint School Districts all have comparable gender identity policies.⁶ The Teton Policy says it is a “7/15 ISBA Update.”⁷ What involvement, if any, did the ISBA have in formulating these policies?
9. Has the ISBA received funding or grants from *any* entity that has encouraged the ISBA to promote gender identity policies like Policy 3281?⁸
10. Does the ISBA provide any training to staff, school boards, or educators related to gender identity policies like 3281?

Please respond to these questions in writing no later than Wednesday, February 1, 2023.

Idaho schools should be safe environments where students acquire the basic skills, knowledge, and character that they need to thrive in life. *See, e.g.*, Idaho Code § 33-512(4). Schools are not laboratories where adults can test reckless social policy on students, outside the view of parents and the broader communities

Respectfully,

A handwritten signature in blue ink that reads "Raúl R. Labrador". The signature is written in a cursive, flowing style.

Raúl R. Labrador

ATTORNEY GENERAL OF IDAHO

⁶ *See* Blaine County Sch. Dist. No. 61, *Policy 519.50*, <https://tinyurl.com/fty3ep39>; Bonneville Joint Sch. Dist. 93, *Policy 3281*, <https://tinyurl.com/348u2zmt>; Teton Sch. Dist. No. 401, *Policy 3281*, <https://tinyurl.com/4dy46u29>.

⁷ *See* Teton Sch. Dist. No. 401, *Policy 3281*, at 4, <https://tinyurl.com/4dy46u29>, (listing, at the bottom of the policy “ISBA 7/15 Update”) (emphasis added).

⁸ *See, e.g.*, IDAHO SCHOOL BOARDS ASS’N, “Partners and Affiliates,” <https://www.idsba.org/member-services/partners/>.