



March 12, 2025

**Via Electronic Mail**

The Honorable Dave Yost  
Office of the Attorney General  
30 E. Broad St., 14th Floor  
Columbus, OH 43215

**Request for Investigation Regarding Violations of OHIO REV. CODE ANN.  
§ 3319.90 et seq. by Kenyon College**

Dear Attorney General Yost:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to promote the rule of law, ensure due process and equal protection for all Americans, and combat invidious discrimination on the basis of race, color, national origin, and sex in America’s schools. As described below, the evidence is Kenyon College (“Kenyon”), located in Gambier, Ohio, has violated OHIO REV. CODE ANN. § 3319.90 et seq. Accordingly, AFL respectfully requests that your office open an investigation of this institution.

**BACKGROUND**

On November 27, 2024, Ohio Governor Mike DeWine signed Ohio Senate Bill 104 into law, which is codified at OHIO REV. CODE ANN. § 3319.90 et seq. The law requires all educational institutions to “designate each student restroom, locker room, changing room, or shower room that is accessible by multiple students at the same time, whether located in a school building or located in a facility used by the school for a school-sponsored activity, for the exclusive use by students of the male biological sex only or by students of the female biological sex only” by February 25, 2025. OHIO REV. CODE ANN. § 3319.90(B)(1).

On February 12, 2025, Kenyon’s President Julie Kornfeld, Provost Jeff Bowman, and Vice President for Student Affairs Celestino Limas published a statement<sup>1</sup> explaining

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<sup>1</sup> *Required Changes to Certain Campus Restrooms*, KENYON (Feb. 12, 2025), <https://perma.cc/K66F-YHPU>.

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Washington, DC 20003

320 South Madison Avenue  
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that Kenyon would designate multi-occupancy gender-neutral restrooms, locker rooms, changing rooms or shower rooms to be for use by either “men” or “women.”

While the statement noted that “[t]he law prohibits Kenyon from knowingly permitting members of the ‘male biological sex’ to use multi-occupancy student restrooms, locker rooms, changing rooms or shower rooms designated for use by members of the ‘female biological sex,’ and vice versa,” the statement affirmed that no changes would be made to multi-occupancy restrooms at Kenyon located in administrative and academic buildings because these restrooms “are not considered student restrooms within the meaning of the Ohio law, as they are not, and cannot be, designated for use exclusively by students.” The statement continued “[s]tudents are permitted to use these restrooms if they choose to do so, but the student restroom requirements outlined above [requiring designating restrooms based on biological sex] do not apply to these facilities.”<sup>2</sup>

### **KENYON’S BATHROOM POLICY VIOLATES OHIO LAW**

Ohio law is clear: “No school shall construct, establish, or maintain a multi-occupancy facility that is designated as nongendered, multigendered, or open to all genders.” OHIO REV. CODE ANN. § 3319.90(B)(3). “Multi-occupancy facility” is defined as “a restroom, locker room, changing room, or shower room that is accessible to multiple individuals at the same time.” § 3319.90(A)(3).

Kenyon is violating Ohio law by allowing multi-occupancy restrooms in administrative and academic buildings to avoid sex-based requirements. Kenyon reasons that it exempts restrooms in these buildings from the new requirements because such facilities “are not, and cannot be, designated for use exclusively by students.” This interpretation of Ohio law is in open defiance of the applicability of the Ohio law to any “restroom ... that is accessible to multiple individuals at the same time,” which must include college nonresidential academic and administrative buildings that students visit every day for class and college administrative questions and services. OHIO REV. CODE ANN. § 3319.90(A)(3). Kenyon’s interpretation of the law is also different from other Ohio schools that comply with the law by applying the biological sex-based entry restrictions to all multi-occupancy restrooms, not just for primary use by students.<sup>3</sup>

By allowing even one of these facilities to remain free from biological sex-based designation, Kenyon is violating the law by “maintain[ing] a multi-occupancy facility that is designated as nongendered, multigendered, or open to all genders.” § 3319.90(B)(3).

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<sup>2</sup> *Id.*

<sup>3</sup> See e.g., *Ohio Law and Campus Restrooms*, OBERLIN, <https://perma.cc/MB2Y-YA3U>.

## **REQUEST FOR INVESTIGATION**

Accordingly, we ask that your office promptly open an investigation into the allegations in the complaint, take all actions necessary to remedy the unlawful practices and procedures, and order all appropriate relief.

Thank you for your attention to this crucial matter, and do not hesitate to contact us for further information.

Sincerely,

/s/ Will Scolinos

America First Legal Foundation