



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Support Services Group

I.3.

2/20/2024

Subject:

Approval of BCC-62 - Restrooms and Changing Facilities in County Buildings, to comply with section 553.865, Florida Statutes.

Fiscal Impact:

No fiscal impact is expected.

Dept/Office:

Facilities/Human Resources

Requested Action:

Approve a new Brevard County policy, BCC-62 - Restrooms and Changing Facilities in County Buildings.

Summary Explanation and Background:

The proposed BCC-62 was developed through a collaborative effort by the County Attorney's Office and Human Resources. CS/HB 1521 (Safety in Private Spaces Act) was passed by the Florida Legislature, approved by the Governor on May 17, 2023, and subsequently was enacted in section 553.865, Florida Statutes.

BCC-62 is intended to address the requirements under section 553.865, Florida Statutes regarding restrooms and changing facilities in County buildings. The language in the proposed policy implements and closely tracks the statute, which primarily affects County buildings as follows:

1. A member of the public who willfully enters a restroom or changing facility designated for the opposite sex at a County building and refuses to depart when asked to do so commits the offense of trespass; and
2. A County employee who willfully enters a restroom or changing facility designated for the opposite sex at a County building and refuses to depart when asked to do so by another employee may be subject to discipline pursuant to the Merit System Policies, up to and including termination.

The statute provides certain exceptions, which are incorporated in the policy. As proposed, BCC-62 is consistent with the County's Merit System Policies and Procedures on employee discipline that are based on the underlying philosophy of fairness and due process for all employees, as well as the County's collective bargaining agreements.

Clerk to the Board Instructions:

Please forward signed original to the County Manager's Office.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

February 21, 2024

M E M O R A N D U M

TO: Frank Abbate, County Manager

RE: Item I.3., Approval of BCC-62 - Restrooms and Changing Facilities in County Buildings, to Comply with Section 553.865, Florida Statutes

The Board of County Commissioners, in regular session on February 20, 2024, approved a new Brevard County Policy, BCC-62 – Restrooms and Changing Facilities in County Buildings to comply with Section 553.865, Florida Statutes; and authorized, although not a requirement, for the elected County Officials including Clerk of the Court, Property Appraiser, Sheriff, Supervisor of Elections, Tax Collector, and any other agency occupying or co-located in a County building, to install signage on or near the doors of restrooms under their control, indicating that such restrooms have been designated for exclusive use by males or females.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

/sm

cc: County Manager
County Attorney
Clerk of the Circuit Court
Sheriff
Property Appraiser
Tax Collector
Supervisor of Elections



BOARD OF COUNTY COMMISSIONERS

Review:

POLICY

Number: BCC-62

Cancels: N/A

Approved: February 20, 2024

Originator: Facilities/Human Resources

Review: _____, 2027

TITLE: Restrooms and Changing Facilities in County Buildings

I. Objective

To promulgate the requirements of section 553.865, Florida Statutes (CS/HB1521, known as "Safety in Private Spaces Act") regarding restrooms and changing facilities in public buildings.

II. Definitions and References

- A. "Changing facility" means a room in which two or more persons may be in a state of undress in the presence of others, including, but not limited to, a dressing room, fitting room, locker room, changing room, or shower room.
- B. "County building" means a building comfort-conditioned for occupancy which is owned or leased by the County.
- C. "Developmental disability" means a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.
- D. "Disability" means a person has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment.
- E. "Elderly person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired.
- F. "Governmental entity" means the Board of County Commissioners or a County officer (Clerk of the Court, Sheriff, Property Appraiser, Supervisor of Elections, Tax Collector) or other government agency occupying or collocated in a County building.
- G. "Female" means a person belonging, at birth, to the biological sex which has the specific reproductive role of producing eggs.
- H. "Male" means a person belonging, at birth, to the biological sex which has the

specific reproductive role of producing sperm.

- I. "Restroom" means a room that includes one or more water closets. This term does not include a unisex restroom.
- J. "Sex" means the classification of a person as either female or male based on the organization of the body of such person for a specific reproductive role, as indicated by the person's sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth.
- K. "Unisex changing facility" means a room intended for a single occupant or a family in which one or more persons may be in a state of undress, including, but not limited to, a dressing room, fitting room, locker room, changing room, or shower room that is enclosed by floor-to-ceiling walls and accessed by a full door with a secure lock that prevents another individual from entering while the changing facility is in use.
- L. "Unisex restroom" means a room that includes one or more water closets and that is intended for a single occupant or a family, is enclosed by floor-to-ceiling walls, and is accessed by a full door with a secure lock that prevents another individual from entering while the room is in use.
- M. "Water closet" means a toilet or urinal.
- N. Section 553.865, Florida Statutes – "Safety in Private Spaces Act"

III. Directives


- A. All County buildings in which a water closet is maintained must, at a minimum, have a restroom designated for exclusive use by females and a restroom designated for exclusive use by males, or a unisex restroom.
- B. All County buildings in which a changing facility is maintained must, at a minimum, have a changing facility designated for exclusive use by females and a changing facility designated for exclusive use by males, or a unisex changing facility.
- C. Pursuant to section 553.865(6), Florida Statutes, a person may only enter a restroom or changing facility designated for the opposite sex under the following circumstances:
 - a. To accompany a person of the opposite sex for the purpose of assisting or chaperoning a child under the age of 12, an elderly person, or a person with a disability or a developmental disability;
 - b. For law enforcement or governmental regulatory purposes;
 - c. For the purpose of rendering emergency medical assistance or to intervene in any other emergency situation where the health or safety of another person is at risk;
 - d. For custodial, maintenance, or inspection purposes, provided that the restroom or changing facility is not in use; or
 - e. If the appropriate designated restroom or changing facility is out of order or

under repair and the restroom or changing facility designated for the opposite sex contains no person of the opposite sex.

- D. Pursuant to section 553.865(11)(b), Florida Statutes, a person who willfully enters, for a purpose other than those listed in subsection C., a restroom or changing facility designated for the opposite sex at a County building and refuses to depart when asked to do so by an employee of the governmental entity for the County building commits the offense of trespass as provided in section 810.08, Florida Statutes. This paragraph does not apply to employees of governmental entities for such County building.
- a. If a County employee asks that a person depart from a restroom or changing facility designated for the opposite sex and the person refuses to do so, the employee shall inform their department director or other person designated by the department director to manage the control and use of the County building. The department director or designee may make a report to the law enforcement agency with jurisdiction for the County building if appropriate.
 - b. Under no circumstance shall an employee detain any person pursuant to this policy. Violations of section 553.865(11)(b), Florida Statutes, are to be enforced only by a law enforcement officer whose agency has jurisdiction for the County building.
- E. A County employee who willfully enters, for a purpose other than those listed in subsection C., a restroom or changing facility designated for the opposite sex at a County building and refuses to depart when asked to do so by another employee, or who otherwise violates this policy, may be subject to discipline pursuant to the Merit System Policies, up to and including termination.

IV. Reservation of Authority

The authority to issue and/or revise this policy is reserved to the Board of County Commissioners.



Rachel Sadoff, Clerk
Board of County Commissioners



Jason Steele, Chair

As approved by the Board on February 20, 2024.



District 3 Commission Office

2539 Palm Bay Rd. NE, Suite 4

Palm Bay, FL 32945

Phone: (321) 633-2075

Fax: (321) 633-2196

Inter-Office Memo

DATE: 02/14/2024
TO: Frank Abbate, County Manager
FROM: John Tobia, County Commissioner, District 3
SUBJECT: District 3 Proposed Edit to BCC-62

Mr. Abbate,

I would like to formally request that the attached proposed amendment to Policy BCC-62, Restrooms and Changing Facilities in County Buildings, be added as an attachment to agenda item I.3., "Approval of BCC-62 - Restrooms and Changing Facilities in County Buildings, to comply with section 553.865, Florida Statutes," on the February 20, 2024 regular meeting agenda.

The attached draft is related to the agenda item in subject, however, is unique to the County proposed draft as it was generated by the District 3 Commission Office, with the guidance and suggestion of Blaise Trettis, the Brevard County Public Defender.

Sincerely,

A handwritten signature in blue ink, appearing to read 'j. tobia'.

John Tobia
District 3 Commissioner

District 3 Includes:

Palm Bay, Melbourne Beach, Melbourne, Malabar, Grant-Valkaria, West Melbourne, Micco



BOARD OF COUNTY COMMISSIONERS

Review:

POLICY

Number: BCC-62

Cancels: N/A

Approved: _____, 2024

Originator: Facilities/Human Resources

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TITLE: Restrooms and Changing Facilities in County Buildings

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- C. "Developmental disability" means a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.
- D. "Disability" means a person has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment.
- E. "Elderly person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired.
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specific reproductive role of producing sperm.

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- J. "Sex" means the classification of a person as either female or male based on the organization of the body of such person for a specific reproductive role, as indicated by the person's sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth.
- K. "Unisex changing facility" means a room intended for a single occupant or a family in which one or more persons may be in a state of undress, including, but not limited to, a dressing room, fitting room, locker room, changing room, or shower room that is enclosed by floor-to-ceiling walls and accessed by a full door with a secure lock that prevents another individual from entering while the changing facility is in use.
- L. "Unisex restroom" means a room that includes one or more water closets and that is intended for a single occupant or a family, is enclosed by floor-to-ceiling walls, and is accessed by a full door with a secure lock that prevents another individual from entering while the room is in use.
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 - b. For law enforcement or governmental regulatory purposes;
 - c. For the purpose of rendering emergency medical assistance or to intervene in any other emergency situation where the health or safety of another person is at risk;
 - d. For custodial, maintenance, or inspection purposes, provided that the restroom or changing facility is not in use; or
 - e. If the appropriate designated restroom or changing facility is out of order or

under repair and the restroom or changing facility designated for the opposite sex contains no person of the opposite sex.

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Under no circumstance shall an employee detain any person pursuant to this policy. Violations of section 553.865(11)(b), Florida Statutes, are to be enforced only by a law enforcement officer whose agency has jurisdiction for the County building.

- E. A County employee who willfully enters, for a purpose other than those listed in subsection C., a restroom or changing facility designated for the opposite sex at a County building and refuses to depart when asked to do so by another employee, or who otherwise violates this policy, ~~may be subject to discipline pursuant to the Merit System Policies, up to and including termination~~ shall be terminated from their County employment.

IV. Reservation of Authority

The authority to issue and/or revise this policy is reserved to the Board of County Commissioners.

Rachel Sadoff, Clerk
Board of County Commissioners

Jason Steele, Chair
As approved by the Board on _____