

FEDERAL GOVERNMENT REVERSES POSITION ON TRANSGENDER STUDENTS' USE OF SCHOOL FACILITIES

Education Alert
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On February 22, 2017, the Department of Education and the Department of Justice withdrew two guidance letters from January 2015 and May 2016 that explained the former administration's position that discrimination based on gender identity is prohibited under Title IX.

Under the previous guidance, schools receiving federal funding were required to allow transgender students to use the facilities that corresponded with their gender identity. The federal government's recent change in position means that such schools are no longer federally mandated to allow transgender students to use the facilities of their choice. Additionally, schools are no longer at risk of losing federal funds.

However, the shift in position on the federal level does not have any impact on state law. In New York, the Dignity for All Students Act (DASA) specifically prohibits discrimination against students based on gender identity. Accordingly, the Departments' withdrawal of previous federal guidance does not absolve any public schools in New York of the obligation to allow transgender students to use the facilities that correspond with their gender identity.

Despite these recent developments from the federal government, school districts in New York should continue to follow their current policies and practices under DASA with regard to the treatment of transgender students. If you have any questions, please contact any one of our education law attorneys.

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