Transgender Restroom Rights May be Headed to SCOTUS

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On the heels of signing the Transgender Public Accommodations Act in Massachusetts into law, we are reminded that there is much progress to be made for the transgender community elsewhere.

In December of 2014, a Virginia school board voted to approve a policy that prevented a transgender student from using the restroom that aligned with his gender identity. Following the vote, the ACLU of Virginia filed a motion for preliminary injunction that would allow him to use the restroom that aligned with his gender identity. The U.S. District Court for the Eastern District of Virginia denied the injunction and dismissed the student's claim under Title IX.

In April of this year, the U.S. Court of Appeals for the Fourth Circuit ruled in favor of the student and held that Title IX protects the rights of transgender students to use sex segregated facilities that are consistent with their gender identity and remanded the case to the District Court for reevaluation under the appropriate legal standard. In its decision, the Fourth Circuit pointed to a January 7, 2015 opinion letter from the Department of Education's Office of Civil Rights, that a school generally must treat transgender students consistent with their gender identity. The Fourth Circuit's decision was the first time a federal appeals court found that transgender students are protected under federal laws that bar sex-based discrimination.

On June 23, the District Court allowed the student's motion and ordered the school board to allow him to use the boys' restroom at his high school. Following the District Court's order, the school board moved for a stay of the case pending appeal of the order. The District Court denied that request on July 6.

Yesterday, the school board filed an emergency appeal with the Supreme Court of the United States. The emergency appeal was directed to Chief Justice John Roberts, who may either act on the matter himself or refer the matter to all eight justices. Five votes are needed to grant a stay application.

This is the first time that the legal fight over transgender bathroom rights has been put before the Supreme Court of the United States and will be an interesting case to follow.

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