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Transgender Status Not a "Suspect Classification": Federal Court Dismisses Student Discrimination Claim

MAY 26, 2015

In Johnston v. Univ. v. Pittsburgh of the Commonwealth Sys. of Higher Educ., *et al.*, No. 3:13-213 (March 31, 2015), the United States District Court for the Western District of Pennsylvania found that the University of Pittsburgh at Johnstown did not violate the United States Constitution and federal statutes when it prohibited a transgender male student from using sex-segregated restrooms and locker rooms designated for men on campus, and therefore dismissed all claims against the University.

The Court concluded that transgender status is not a suspect classification under the Equal Protection Clause of the U.S. Constitution, and that the University's policy of segregating its bathroom and locker room facilities on the basis of birth sex is "substantially related to a sufficiently important government interest." Specifically, the Court held that the University had an interest in ensuring the privacy of its students to disrobe and shower outside of the presence of members of the opposite sex, a justification that federal courts have repeatedly upheld.

The Court also found that the school's policy regarding restroom and locker room use did not violate Title IX of the Educational Amendments of 1972 because Title IX, as currently constructed, does not prohibit discrimination on the basis of gender identity. The Court cited to cases from several jurisdictions, which generally held that restricting restroom use on the basis of biological gender rather than gender identity did not constitute impermissible discrimination.

Client Tip: *This case highlights the court's reluctance to extend increased federal constitutional protections to previously unrecognized "suspect classes." But institutions should stay tuned: as gender identity discrimination cases continue to be brought in state and federal courts throughout the country, it is increasingly likely that the U.S. Supreme Court will weigh in on the issue.*