



CAMPUS COUNSEL

A legal blog written for administrators, HR professionals, in-house counsel, and deans at colleges and universities

U.S. Department of Justice and Department of Education Issue Dear Colleague Letter Regarding Treatment of Transgender Students

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On May 13, 2016, the U.S. Department of Justice and U.S. Department of Education issued a Dear Colleague Letter regarding Title IX and the treatment of transgender students. Title IX prohibits sex discrimination in educational programs and activities by college and universities receiving Federal financial assistance. This protection has been interpreted to cover discrimination based on a student's gender identity, which includes a student's transgender status.

As the letter explains, Title IX requires that schools treat students according to their gender identity, even if their school records or identification documents indicate a different sex. This means schools must use pronouns and names consistent with a student's gender identity; allow students to participate in sex-segregated activities and use of facilities consistent with their gender identity; and take reasonable measures to protect nonconsensual disclosure of personally identifiable information of a student, such as birth name and sex designated at birth.

Client Tip: *Colleges and universities should review their student policies and practices to ensure that transgender students are treated consistent with their gender identity, including the ability to participate in school activities and access facilities. Educating employees about transgender student rights and employee obligations should also be undertaken by schools.*