



## Federal government issues strong pronouncement to all public schools on Transgender Student Rights

June 16, 2016

In a bold assertion of their enforcement authority over America's public schools, the U.S. Department of Education and the U.S. Department of Justice have issued what they describe as a "significant guidance" on the rights of transgender students. The pronouncement does not take any new policy positions, and no new laws or regulations have been created. The joint statement is, however, unequivocal in its broad support of transgender student rights—including the full right of restroom access according to students' self-determined gender identity. See [Dear Colleague Letter](#) (USDOE/USDOJ, issued May 13, 2016). The joint statement also incorporates an extensive Q & A document designed to assist public schools with practical advice on the implementation of transgender-friendly practices. [Examples of Policies and Emerging Practices for Supporting Transgender Students](#) (USDOE, May 2016).

As witnessed by recent headlines, public schools nationally continue to be in turmoil over transgender issues. Most notably, the State of North Carolina and the federal government are currently [enmeshed in litigation](#) over transgender rights. It should be noted that statements of policy such as "Dear Colleague" letters do not have the force of law, but are important in that they clarify the position the enforcing agency will take until the courts have established more definitive rules. The primary remedy for a violation of Title IX (in terms of USDOE enforcement) is the withholding of federal funds. However, that extreme penalty does not yet appear to have been implemented in a school transgender enforcement case. Most recently, a spokesperson for the White House has stated that "the administration will not take action to withhold funding while this enforcement process is playing out in the courts." ([White House Press Briefing of May 12, 2016](#)) (in reference to the [North Carolina litigation](#)). Individual litigation claims remain as a more immediate threat.

More detailed information on public school transgender issues can be found [here](#).

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