

Transgender Students

Anti-Discrimination Law

Colorado follows state anti-discrimination and civil rights laws and guidance. In 2008, Colorado passed a law ([S.B. 08-2000](#)) expanding prohibitions against discrimination. The law calls out the need to protect all regardless of “disability, race, creed, color, sex, sexual orientation, marital status, national origin, or ancestry” in all places of public accommodation. This law defines sexual orientation as “a person’s orientation toward heterosexuality, homosexuality, bisexuality or transgender status or another person’s perception thereof.”

In addition, the Colorado Civil Rights Commission issued rules ([3 CCR 708-1](#)) that state “All [public] covered entities shall allow individuals the proper use of gender-segregated facilities that are consistent with their gender identity. Gender-segregated facilities include but are not limited to, restrooms, locker rooms, dressing rooms and dormitories.” The term “gender identity” is in turn defined by the rules as follows: “Gender identity” means an innate sense of one’s own gender.”

A Colorado court case in 2013 supported the right of a 6 year old transgender student in Fountain School district to use the restroom that aligned with her gender identity.

Federal Guidance

On February 22, 2017, the U.S. Department of Justice and the U.S. Department of Education issued a joint [Dear Colleague Letter](#) withdrawing the statements of policy and guidance reflected in:

- The May 13, 2016 Dear Colleague Letter on Transgender Students that was issued jointly by the U.S. Department of Justice and the Office for Civil Rights
- The January 7, 2015 letter to Emily Prince from James A. Ferg-Cardima, Acting Deputy Assistant Secretary for Policy at the Office for Civil Rights

The February 22, 2017 Dear Colleague Letter provides a brief explanation of recent Title IX interpretation for transgender students and references litigation surrounding sex-segregated bathroom and locker room usage. The letter cites the need to further consider pending legal issues and to provide “due regard” for the role of states and local school districts. The Colorado Department of Education currently recommends that local school districts consult with legal counsel on local policies regarding restroom and locker room facilities.

Safe Learning Environments

Although previous federal guidance regarding restroom and locker room facilities has been rescinded, the February 22, 2017 Dear Colleague Letter emphasizes that withdrawal of previous guidance does not alleviate schools of their responsibility to “ensure that all students, including LGBT students, are able to learn and thrive in a safe environment” (page 2).

In reference to the February 22, 2017 Dear Colleague Letter, U.S. Secretary of Education, Betsy DeVos, issued a [statement](#) emphasizing the responsibility of schools to protect every student and to provide all students with safe learning environments “free of discrimination, bullying and harassment.”

Colorado law also protects students from bullying. [Colorado House Bill 11-1254](#), section 22-32-109 (1)(11)(I) defines bullying as “any written or verbal expression, or physical or electronic act or gesture, or pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student” and states that “bullying is prohibited against any student for any reason” (page 9).

In addition, the [October 26, 2010 Dear Colleague Letter](#) issued by the Office for Civil Rights, states that Title IX protects all students, including transgender students, from sex discrimination prohibited under Title IX and provides examples of types of gender-based harassment that would be considered sex discrimination under Title IX.

For more information on Sex Discrimination and Bullying, see [Sex-Based Harassment](#).

For questions, please contact:

Denver Office for Civil Rights
Region VIII Office
U.S. Department of Education

Phone: 303-844-5695

Email: OCR.Denver@ed.gov

Rebekah Ottenbreit

Title IX State Coordinator
Colorado Department of Education

Phone: 303-866-6285

Email: Ottenbreit_R@cde.state.co.us

Like 0