

# School Law Update

March 6, 2017

## U.S. Supreme Court Sends Student Transgender Case Back to Court of Appeals

The United States Supreme Court will not decide the issue of whether Title IX bars discrimination in schools on the basis of gender identity in *Gloucester v. G.G.*, which had been scheduled for oral arguments this month. The *Gloucester* case involved a transgender student's right to access bathrooms consistent with his gender identity. Today, the Supreme Court vacated the decision of the Fourth Circuit Court of Appeals and sent the case back to the Fourth Circuit for further consideration in light of the guidance issued by the Departments of Education and Justice on February 22, 2017. Because the Supreme Court vacated the Fourth Circuit's earlier decision, that decision no longer has any legal effect and there are now no Federal Court of Appeals decisions addressing the rights of transgender students under Title IX. Accordingly, the legal landscape for transgender students under Title IX remains uncertain. This could change after the Seventh Circuit decides a case scheduled for oral arguments at the end of this month involving a transgender student in the Kenosha Unified School District. School districts are advised to continue monitoring the developing law in this area.

The Supreme Court decision and the withdrawal of the guidance issued by the Departments of Education and Justice do not have any direct impact on issues of the rights of transgender employees. That area is also ripe for further development under Title VII and Title IX.

For additional information on the issue of transgender students' rights, see our February *School Law Update* found at: <http://www.boardmanclark.com/publications/federal-transgender-guidance-withdrawn/>. For questions or more information about this topic, please contact one of the attorneys listed below.

---

**Disclaimer:** Boardman & Clark LLP provides this material as information about legal issues. It does not offer legal advice with respect to particular situations and does not purport that this newsletter is a complete treatment of the legal issues surrounding any topic. Because your situation may differ from those described in this Newsletter, you should not rely solely on this information in making legal decisions. In addition, this material may quickly become outdated. Anyone referencing this material must update the information presented to ensure accuracy. The use of the materials does not establish an attorney-client relationship, and Boardman & Clark LLP recommends the use of legal counsel on specific matters.

---

M. Tess O'Brien-Heinzen | (608) 283-1798  
JoAnn M. Hart | (608) 286-7162  
Brian P. Goodman | (608) 283-1722

Michael J. Julka | (608) 286-7238  
Douglas E. Witte | (608) 286-7529  
Eileen A. Brownlee | (608) 822-3251

Steven C. Zach | (608) 283-1736  
Richard F. Versteegen | (608) 286-7233