

## Department of Education Issues Interpretive Ruling Prohibiting Sex-Based Discrimination Against Gay & Transgender Students Under Title IX

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June 17, 2021

On June 16, 2021, the U.S. Department of Education ("DOE") issued a **"Notice of Interpretation"** expanding protection of gay and transgender students under Title IX to include educational institutions receiving federal monies. The DOE's announcement does not change the process of reporting or investigating individual cases of discrimination. And it remains unclear to what extent this pronouncement will have on legislative attempts within various states requiring athletes to compete in school sports according to their sex at birth.

According to the June 16 interpretive ruling, the Office for Civil Rights within the DOE is required to open an investigation into complaints alleging discrimination based on sexual orientation or gender identity under Title IX. This includes "allegations of individuals being harassed, disciplined in a discriminatory manner, excluded from, denied equal access to, or subjected to sex stereotyping in academic or extracurricular opportunities and other education programs or activities, denied the benefits of such programs or activities, or otherwise treated differently because of their sexual orientation or gender identity." This ruling seemingly aligns with the U.S. Supreme Court's decision in last June's landmark **Bostock case**, in which it was determined that the 1964 Civil Rights Act protects gay, lesbian, and transgender individuals from sex-based discrimination in the workforce.

Educational institutions should continue to take allegations of discrimination made by any of its students seriously, including those from the LGBTQ+ community. Educational institutions are also advised to check their Title IX policies to ensure compliance with this new regulation.

If you need any Title IX assistance, including with issues relating to the new DOE regulation or how the changes impact your school, please consult your **education attorneys** at Miller Canfield.