



# Illinois School Counselor Association

a state branch of the American School Counselor Association

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Illinois Counseling Association

## ISCA Guidance on transgender students' rights under Title IX

School counselors across Illinois may be wondering how The U.S. Department of Justice (DOJ) and Department of Education (DOE) action this past week that rescinded the guidance on transgender students' rights under Title IX issued to school districts nationwide in May will affect how schools may support Transgender, gender non-conforming, and gender expansive students. The Obama administration's guidance had confirmed that the DOJ and DOE interpreted a student's "sex" to include gender identity, or that person's subjective or internal gender. The previous guidance had said that prohibiting transgender students' use of bathrooms that align with their gender identity violates Title IX. The DOE and DOJ now state they will not rely on the views expressed in the prior guidance.

The letter issued this past week on February 22 states that the withdrawal of the prior transgender guidance does not diminish the protections from bullying and harassment available to all students. According to the letter, "schools must ensure that all students, including LGBT students, are able to learn and thrive in a safe environment." In addition to federal law, Illinois law protects students from bullying on the basis of gender-related identity or expression.

Withdrawing the prior guidance does not preclude school districts from allowing bathroom or locker room access to transgender students, but indicates that the DOE and DOJ will not require or enforce access under Title IX. Also, it does not prevent parents or students from pursuing private litigation asserting that Title IX or state law requires schools to allow bathroom or locker room access.

(Summary report from February 23, 2017 Franczek & Radelet statement)

### **What resources exist for schools that want to support all students, including transgender students?**

[National Center for Transgender Equality](#) NCTE's School Action Center includes many resources for transgender students, their parents, and their allies, as well as school officials.

### **Schools can also consult the following resources:**

- [Schools in Transition](#), a practical guide to help schools create safe and supportive environments for trans students
- NCTE and GLSEN's [Model School District Policy](#), which includes policies on a range of issues affecting trans students
- This [FAQ on trans students and restrooms](#), which addresses common questions school officials may have about restroom access

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