



TRANSGENDER STUDENT LITIGATION CHART

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Available at <http://www.nsba.org/transgender-litigation-chart>

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STATE	CASE CAPTION	PROEDURAL HISTORY	CURRENT STATUS	COMMENTS
CA	Student v. Arcadia Unified Sch. Dist., Nos. 09-12-1020 (OCR)/169-12C-70 (DOJ)	<p>In July 2013, Arcadia Unified School District (AUSD) entered into a resolution agreement with the U.S. Department of Education, Office for Civil Rights (OCR) and the U.S. Department of Justice, Civil Rights Division (DOJ), which ended the federal agencies' investigation into allegations of discrimination against a transgender student. Under the resolution agreement, AUSD agreed to continue accommodations it began providing over a year before.</p> <p>Under the agreement, AUSD agreed to continue to treat the student like all other male students. The agreement also provides that AUSD will: 1) work with a consultant to create a safe, nondiscriminatory learning environment for students who are transgender or do not conform to gender stereotypes; 2) amend its policies to designate gender identity as a form of discrimination; and 3) provide annual training on preventing gender-based discrimination.</p> <p>The provision in the agreement related to the student will remain in place until he leaves the district. The other district-wide provisions are in place until the end of the 2015-2016 school year.</p> <p>In July 2015, OCR/DOJ issued a press release announcing that OCR and DOJ had approved AUSD's policy on transgender students.</p> <p>AUSD's policy "Guidelines" state: "The school shall accept the gender identity that each student asserts. There is no medical or mental health diagnosis or treatment threshold that students must meet in order to have their gender identity recognized and respected. The assertion may be evidenced by an expressed desire to be consistently recognized as the sex consistent with their gender identity."</p>	Resolved/No Appeal	<p>Legal Clips background information: The student, who has attended Arcadia schools since kindergarten and is now entering ninth grade, has identified as a boy from a young age, according to the agencies. He began the transition to living as a male during fifth grade. The school district provided a gender neutral bathroom for the student's use. In 2011, DOJ received a complaint because the district did not allow the student to use the boys' restrooms and locker rooms.</p> <p>In February 2012, the student obtained a judicially approved revised birth certificate identifying his sex as "male." At that point, the school district began allowing the student to use the boys' bathrooms and to treat him in all respects as a male. Mr. David Vannasdall, Deputy Superintendent for the Arcadia Unified School District, reports that everything went very smoothly, the student and parents seemed very happy with the changes, and the matter was viewed as resolved.</p> <p>About a year and a half after AUSD began letting the student use the boys' facilities, OCR/DOJ contacted AUSD announcing that they were travelling to the district to follow up on the original 2011 complaint. After discussions between the district and the agencies, the resolution agreement was adopted.</p>

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CO	Mathis v. Fountain-Ft. Carson Sch. Dist., 8, No. P20130034X (Colo. Dep't Reg. Agen., Div. of Civil Rights Jun. 17, 2013)	The Colorado Civil Rights Division made a determination of probable cause that the school district discriminated against a transgender student by refusing to allow her to use the girls' restroom at school in violation of the state's anti-discrimination laws.	Decided/No Appeal	First administrative/judicial ruling to recognize the right to use restroom facilities on the basis of gender identity.
FL	ACLU-FL v. Marion Cnty. Sch. (U.S. Dep't of Educ. Office for Civil Rights filed May 12, 2016)	Florida chapter of the ACLU filed a complaint with the U.S. Department of Education's Office for Civil Rights on behalf of an unidentified transgender student who is barred from using the boys' restroom at school because the school board has adopted a policy restricting student access to restrooms based on their biological gender at birth. The ACLU asserts that the board's policy is in violation of Title IX.	Pending	ACLU-FL's administrative complaint cites <i>G. G. ex rel. Grimm v. Gloucester Cty. Sch. Bd.</i> , ___ F.3d ___, No. 15-2056, 2016 WL 1567467 (4th Cir. Apr. 19, 2016) and <i>Glenn v. Brumby</i> , 663 F.3d 1312 (11th Cir. 2011), recognizing that federal anti-discrimination laws extend protection to transgender individuals based on their gender identity.
FL	Isaac v. Duval Cnty. Pub. Sch., No. ___, (Duval Cnty., Fla. Cir. Ct. filed May 17, 2016)	Wes White, a Republican candidate for state attorney, filed suit against Duval County Public Schools (DCPS) on behalf of plaintiff Wryshona Isaac and her four children, who attend public school in Duval County. The suit is seeking "declaratory and injunctive relief against Defendants for adopting and establishing a policy of allowing students an unfettered right to use the bathroom or changing facility of their choice based on 'gender identity,' [which] denies her children a safe and supportive environment." It alleges the district is no longer providing Isaac's children a "safe and supportive environment that would allow them to thrive and grow, and deprives them [of] the right to bodily privacy." The legal complaint asserts that DCPS' policy allowing transgender students access to bathroom and locker room facilities on the basis of gender identity is the result of the school district's "blind adoption as its policy of" ED/DOJ's joint Title IX guidance, which plaintiff claims is "factually and legally baseless and a blatant violation of the privacy rights of children."	Pending	In a Florida Times-Union report on the lawsuit, DCPS Superintendent Nikolai Vitti said there is a misunderstanding in the community that the schools are "doing something differently in response to the directive." Vitti said the district policy regarding gender identity goes back to 2008 and 2012, and the district has accommodated transgender students before. If a need arises at the school level, the principal will reach out to the district for guidance and they work together to find a solution that respects the safety and welfare of all students, Vitti said. Oftentimes, the transgender student prefers a private or gender-neutral restroom, though the district does not steer students in that direction, he said.

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IL	Students and Parents for Privacy v. U.S. Dep't. of Educ., No. 16-4945 (N.D. Ill. filed May 4, 2016)	<p>A group of students and parents who reside in Palatine Township High School District 211, and who are represented by the Alliance Defending Freedom (ADF) and Thomas More Society (TMS), filed suit against the U.S. Department of Education (ED) and the District alleging that ED is illegally forcing local authorities to let children use facilities that correspond to their gender identity. The suit alleges that the federal government has violated students' fundamental right to privacy and parents' constitutional right to instill moral standards and values in their children.</p> <p>The legal complaint seeks to block implementation of a settlement agreement between ED and the district that allowed a transgender student who identifies as a girl to use a private changing area in the girls' locker room. The complaint contains six counts under federal law, alleging violations of: (1) the Administrative Procedure Act; (2) the right to privacy; (3) the substantive due process right of parents to direct their children's education; (4) Title IX; (5) the Religious Freedom Reformation Act; and (6) the First Amendment's Free Exercise of Religion Clause.</p>	Pending	<p>Argument rescheduled for August 15, 2016 on the motion for a preliminary injunction. Parties are submitting supplemental briefs addressing Seventh Circuit's decision in <i>Hively v. Ivy Tech Community College</i>, No. 15-1720, 2016 WL 4039703 (7th Cir).</p> <p>The memorandum supporting ADF/TMS's motion makes three arguments: (1) ED's action violates the requirements of the Administrative Procedure Act; (2) the policies violate the fundamental right to privacy in one's unclothed body and also minors' fundamental right to be free from a state compelled risk of intimate exposure to the opposite sex; and (3) the policies violate Title IX.</p> <p>On July 15, 2016, the district court heard arguments on the motion for the preliminary injunction. Legal Clips summarized the Chicago Tribune report on the hearing.</p>
ME	Doe v. Regional Sch. Unit 26, No. 12-582 (Me. Jan. 30, 2014)	<p>The Maine Supreme Judicial Court, in a 6-1 split, ruled that a school district violated a transgender student's rights under the Maine Human Rights Act (MHRA) when it prohibited her from using the girls' communal restroom at school.</p> <p>The six justice majority vacated the lower court's decision, resting its ruling on its analysis of two state laws, the MHRA and a state statute in the Sanitary Facilities subchapter of the code that regulates restroom facilities in schools. The court rejected the school district's argument that the statute concerning sanitary facilities in schools superseded the MHRA. It stated:</p> <p>"The determination that discrimination is demonstrated in this case rests heavily on Susan's gender identity and gender dysphoria diagnosis, both of which were acknowledged and accepted by the school."</p>	Decided/No Appeal	<p>In December 2014, The Portland Press Herald reported that Penobscot County Superior Court had ordered Orono school district to pay \$75,000 to Gay and Lesbian Advocates and Defenders (GLAD) and attorney Berman Simmons, who represented transgender student Nicole Maines in her discrimination suit. The order, which was mutually agreed upon by the parties, prohibits the district from denying transgender students access to school restrooms that are consistent with their gender identity.</p>

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MD	M.A.B. v. Board of Educ. of Talbot Cnty., No. 16-02622 (D. Md. Jul. 19, 2016)	<p>A transgender student, identified as M.A.B. who attends St. Michaels Middle High School, has filed suit against Talbot County Board of Education, claiming he has been barred from using the boys' locker room at school. The suit alleges that school officials are violating Title IX by denying the student access to the locker room.</p> <p>The legal complaint contains four counts: (1) violation of Title IX; (2) violation of the Fourteenth Amendment's Equal Protection Clause; (3) violation of Article 24 of the Maryland Declaration of Rights; and (4) violation of Article 46 of the Maryland Declaration of Rights – Equal Rights Amendment.</p> <p>August 16, 2016: On a joint motion for a stay, the district court issued a "Memorandum To Counsel" administratively closing the case, subject to being reopened, if necessary, by either party.</p>	Administrative closure of case, subject to being reopened by either party.	
MI	Tooley v. Van Buren Pub. Sch., No. 14-13466 (E.D. Mich. filed Sept. 5, 2014)	<p>A transgender student filed suit against a number of school districts in Michigan where he had attended school. His suit claims he was discriminated against based on his status as a transgender male in violation of Title IX and the U.S. Constitution's Equal Protection Clause.</p> <p>The legal complaint contains a number of counts alleging violations of federal law, including substantive due process, Title IX, Title IV, Fourteenth Amendment Equal Protection Clause, First Amendment Free Speech Clause, and § 1983 Monell municipal liability.</p>	A hearing is pending on defendants' motion to dismiss.	In February 2015, the U.S. Department of Justice filed a "Statement of Interest" in support of the student's Title IX/Equal Protection Clause claims. In its Statement, DOJ argued: (1) Title IX and the Equal Protection Clause prohibit sex discrimination against all persons, including transgender individuals; (2) Title IX and the Equal Protection Clause prohibit discrimination against an individual based on that individual's gender identity or transgender status; and (3) Title IX and the Equal Protection Clause prohibit discrimination against an individual, including a transgender individual, on the basis of sex stereotypes. The federal government is asking the court to "hold that the prohibition of sex discrimination under Title IX and the Equal Protection Clause encompasses discrimination on the basis of transgender status, gender identity, and sex stereotyping."

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MN	Privacy Matters v. U.S. Dep't of Educ., No 16-03015 (D. Minn. Filed Sept. 7, 2016)	<p>Privacy Matters (PM), a student/parent group, has filed suit challenging Indep. Sch. Dist. No. 706's policy of allowing transgender students access to gender specific school facilities, including locker rooms, based on gender identity. ED and DOJ are also named as defendants because the school district's policy relies on ED/DOJ's joint Title IX guidance on accommodating transgender students.</p> <p>The legal complaint contains seven causes of action, alleging the policy and guidance violate: (1) the APA; (2) Title IX; (3) the fundamental right to privacy; (4) parents' fundamental right to direct the upbringing of their children; (5) the First Amendment's guarantee of free exercise of religion; (6) the Minnesota Constitution; (7) the Religious Freedom Restoration Act.</p>	Pending	<p>The legal complaint makes specific allegations of inappropriate behavior by the transgender student, identified as Student X, including:</p> <p>Student X commented on girls' bodies while in the girls' locker room, including asking Girl Plaintiff F her bra size and asking her to "trade body parts" with him both while he and Girl Plaintiff F were in the girls' locker room and outside the locker room in the gym.</p> <p>Student X dances to loud music with sexually explicit lyrics in the locker room while "twerking," "grinding," and lifting up his skirt to reveal his underwear.</p>

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NE	State of Nebraska v. United States, No. 16-03117 (D. Neb. filed Jul. 8, 2016)	<p>Nebraska, along with Arkansas, Kansas, Michigan, Montana, North Dakota, Ohio, South Carolina, South Dakota and Wyoming, have filed suit in federal district court in Nebraska challenging the ED/DOJ's Title IX guidance regarding accommodating transgender students. Like the Texas suit, the suit contends, "The recent action by these two federal agencies to require showers, locker rooms, and bathrooms be open to both sexes based solely on the student's choice, circumvents this established law by ignoring the appropriate legislative process necessary to change such a law."</p> <p>The legal complaint makes seven claims for relief: (1) relief under 5 U.S.C. § 706 (APA) that the new Rules, Regulations, and Guidance at issue are being imposed without observance of procedure required by law; (2) relief under 5 U.S.C. § 706 (APA) that the new Rules, Regulations, and Guidance at issue are unlawful by exceeding Congressional authorization; (3) relief under 5 U.S.C. § 706 (APA) that the new Rules, Regulations, and Guidance at issue are arbitrary and capricious; (4) relief under 5 U.S.C. § 706 (APA) that the new Rules, Regulations, and Guidance at issue are unlawful by exceeding Congressional authorization; (5) relief under 28 U.S.C. §§ 2201 and 2202 (DJA) and 5 U.S.C. § 706 (APA) that the new Rules, Regulations, and Guidance at issue are unlawful and violate Constitutional standards of clear notice; (6) declaratory judgment under 28 U.S.C. §§ 2201 and 2202 (DJA) and 5 U.S.C. § 706 (APA) that the new Rules, Regulations, and Guidance at issue are unlawful and unconstitutionally coercive; (7) declaratory judgment under 28 U.S.C. §§ 2201 and 2202 (DJA) and 5 U.S.C. § 611 (RFA) that the new Rules, Regulations, and Guidance were issued without a proper regulatory flexibility analysis.</p>	Pending	<p>Politico, reporting on the suit, included a statement from Nebraska's Attorney General Doug Peterson, which reads in part: "The recent action by these two federal agencies to require showers, locker rooms, and bathrooms be open to both sexes based solely on the student's choice, circumvents this established law by ignoring the appropriate legislative process necessary to change such a law. It also supersedes local school districts' authority to address student issues on an individualized, professional and private basis."</p>

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NC	Carcano v. McCrory, No. 16-236 (M.D. N.C. filed Mar. 28, 2016)	<p>Two transgender men, one of whom is employed by the University of North Carolina at Chapel Hill and the other, a student at University of North Carolina at Greensboro, and a lesbian professor joined the American Civil Liberties Union and Equality North Carolina filing suit challenging North Carolina’s HB2 on the grounds that the law’s restricting use of public bathrooms on the basis of birth gender violates the U.S. Constitution and Title IX. The suit names the state’s university system as well as North Carolina Gov. Pat McCrory and State Attorney General Roy Cooper as defendants.</p> <p>The legal complaint contains five counts detailing alleged violations of the Fourteenth Amendment’s Equal Protection Clause, the right to privacy under the Fourteenth Amendment, liberty interest and right to bodily integrity under the Fourteenth Amendment, and violation of Title IX as to the two transgender plaintiffs. The complaint asks the court to require:</p> <p style="padding-left: 40px;">Defendants in their official capacities to allow individuals, including transgender people, to use single-sex facilities in accordance with their gender identity in all public schools and universities, executive branch agencies, and public agencies; and requiring Defendants in their official capacities to allow local governments to enact and to continue to enforce anti-discrimination protections for LGBT people.</p> <p>Aug. 1: Court heard oral argument</p> <p>Aug. 26: Court granted plaintiffs’ motion for preliminary injunction barring enforcement of HB2, Part I’s restriction on use of public facilities based birth gender at the University of North Carolina. It concluded the plaintiffs have shown a substantial likelihood of succeeding on the merits of their Title IX claim. However, court denied the plaintiffs’ motion as to the equal protection claim, and reserve ruling on the due process claims pending additional briefing from the parties.</p>	Pending	<p>Sen. Phil Berger, president pro tempore of the N.C. Senate, and Rep. Tim Moore, speaker of the N.C. House, have intervened as defendants.</p> <p>See Legal Clips summary of The Courier-Times report on Aug.1 oral argument.</p>

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NC	<p>McCrorry v. United States, No. 16-00238 (E.D. N.C. filed May 9, 2016)</p>	<p>The dispute between the U.S. Department of Justice (DOJ) and North Carolina Gov. Pat McCrory over the state's new law restricting access to restrooms, locker rooms and changing rooms escalated dramatically when each party filed suit against the other. DOJ issued a written warning to the governor not to enforce the law, and McCrory responded with a lawsuit, filed in federal district court, accusing DOJ of "a baseless and blatant overreach" stemming from a "radical reinterpretation" of the Civil Rights Act of 1964. The state General Assembly's Republican leaders also filed a similar suit against DOJ.</p> <p>McCrorry's legal complaint asks for a declaratory judgment finding that: (1) NC is in compliance with Title VII; and (2) NC is in compliance with the Violence Against Women Act.</p>	Pending	<p>A Middle District judge issued orders granting motions to consolidate with <i>Berger v. U.S. Dep't of Justice and North Carolinians for Privacy v. U.S. Dep't of Justice</i>.</p> <p>An Eastern District judge entered an order on June 30, 2016 denying the motions to consolidate, noting that Middle District judge lacked the authority to consolidate the cases.</p>
NC	<p>Berger v. U.S. Dep't of Justice, No. 16-00240 (E.D. N.C. filed May 9, 2016)</p> <p>Note: case transferred to M.D. of N.C.</p>	<p>Sen. Phil Berger, president pro tempore of the N.C. Senate, and Rep. Tim Moore, speaker of the N.C. House, filed their own lawsuit against DOJ, arguing that the federal agency was violating the 10th Amendment by trying to "impose novel and unforeseen interpretations" of civil rights statutes.</p> <p>The legal complaint makes five claims: (1) HB2 does not facially violate Title VII; (2) HB2 does not facially violate Title IX; (3) HB2 does not facially violate VAWA; (4) DOJ's actions violate the U.S. Constitution's Separation of Powers Clause; and (5) DOJ's actions violate the U.S. Constitution's federalism guarantees.</p>	Pending	<p>The court issued an Order denying Berger's motion to consolidate suit with McCrorry v. United States. Court sua sponte transferred case to U.S. District Court for the Middle District of North Carolina.</p>

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NC	United States v. State of North Carolina, No. 16-00425 (M.D. N.C. filed May 9, 2016)	<p>DOJ's lawsuit, filed in a different federal court in North Carolina, argues that the state's law (HB2), which prohibits people from using public restrooms that do not correspond with the gender listed on their birth certificates, compels "public agencies to follow a facially discriminatory policy."</p> <p>DOJ's legal complaint asks for a declaratory judgment finding that by complying with and implementing HB2, (1) NC is engaged in a pattern or practice of violating Title VII; (2) NC is engaged in a pattern or practice of violating Title IX; and (3) NC is discriminating on the basis of sex and gender identity in violation the VAWA. The complaint asks for a preliminary and permanent injunction to prevent further violations of federal law.</p> <p>DOJ's motion for a preliminary injunction seeks a court order barring the state from enforcing HB2 on grounds that DOJ is likely to succeed on the merits of its Title IX, Title VII, and VAWA claims.</p>	Pending	Sen. Phil Berger, president pro tempore of the N.C. Senate, and Rep. Tim Moore, speaker of the N.C. House, have a pending motion to intervene as defendants.

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NC	<p>North Carolinians for Privacy v. U.S. Dep't of Justice, No. 16-235 (E.D. N.C. May 10, 2016)</p> <p>Note: case transferred to M.D. of N.C.</p>	<p>A coalition of public school students, public university students, and their parents, who are unidentified individually and collectively as North Carolinians for Privacy (NCP), have filed suit against the U.S. Department of Justice (DOJ) and the U.S. Department of Education (ED). The Alliance Defending Freedom (ADF) is representing NCP. The suit urges the district court to reject ED/DOJ's interpretation of Title IX as applying to gender identity so public schools in the state will not lose federal funding for abiding by HB2.</p> <p>The legal complaint states three causes of action: (1) ED/DOJ's redefinition of the term "sex" in Title IX as including gender identity violates the federal Administrative Procedure Act; (2) maintaining gender specific restrooms and locker rooms does not violate Title IX; and (3) DOJ's reliance on the federal Violence Against Women Act as authority to issue its "ultimatum" and violate the plaintiffs' rights is misplaced.</p>	Pending	<p>The court issued an order denying NCP's motion to consolidate the suit with <i>McCrorry v. United States</i>. Court sua sponte transferred case to the U.S. District Court for the Middle District of North Carolina.</p> <p>Politico reports that following a federal court order allowing North Carolina to consolidate its suit against the U.S. Department of Justice (DOJ) with North Carolina Gov. Pat McCrory's suit against DOJ, in defense of the state's so-called "bathroom law," the Alliance Defending Freedom (ADF) is also seeking to consolidate its suit with the governor's. ADF filed the lawsuit, <i>North Carolinians v. U.S. Department of Justice</i>, on behalf of parents and students in federal district court earlier this year, challenging the Obama administration's interpretation of Title IX.</p> <p>According to DOJ, students in ADF's lawsuit allege that the Obama administration's Title IX interpretation "violates their constitutional right to privacy, while the parents argue that it violates their right to direct the upbringing of their children. Both parents and students contend that the policy infringes upon their right to the free exercise of religion, and unduly burdens that right in violation of the Religious Freedom Restoration Act." DOJ argues that none of those claims appears in McCrory's case or the case brought by state lawmakers.</p>

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OH	Board of Educ. of Highland Local Sch. Dist. v. U.S. Dep't. Educ., No. 16-524 (S.D. Ohio filed Jun. 10, 2016)	<p>Highland Local School District (HLSD) filed suit against the federal government in federal district court after the U.S. Department of Education (ED) threatened to begin an enforcement action unless the school district allowed a transgender grade school student to use the restroom that reflects the student's gender identity. The suit, which was filed by the Alliance Defending Freedom (ADF) on behalf of HLSD, is seeking a court order prohibiting ED officials from taking action.</p> <p>The legal complaint claims that the federal government's actions violate: (1) the Administrative Procedure Act; (2) the Spending Clause (Article 1, Section 8 of the U.S. Constitution); (3) the federalism guarantees of the U.S. Constitution; (4) the Separation-of-Powers Guarantees of the U.S. Constitution; and (5) the Regulatory Flexibility Act.</p>	Pending	<p>ADF's press release announcing filing of the suit points out that the school district has been allowing the transgender "student to use single-use restrooms and has acceded to nearly all of the request[s] from the student's guardian to respect that student's professed gender."</p>
SC	U.S. Dep't of Educ. v. Dorchester Cnty. Sch. Dist., No. 11-15-1348 (OCR settled Jun. 16, 2016)	<p>Dorchester County School District Two entered into a Resolution Agreement with the U.S. Department of Education's Office for Civil Rights (OCR) to allow a transgender student to use the bathroom of her choice and will revise its policies to bar discrimination based on gender identity. The settlement came after OCR issued a Letter of Findings.</p> <p>OCR's Jun 21, 2016 Letter of Findings stated: "The District acknowledged that it denied the Student access to the restrooms designated for girls, and confirmed that it provided her access only to private bathrooms located in the nurse's station, the assistant principal's office, and the room formerly used for behavior intervention purposes. Accordingly, OCR concludes that the District treated the Student differently, on the basis of sex in determining whether she satisfies any requirement or condition for the provision of benefits, or services; by providing her different benefits or benefits in a different manner; and by subjecting her to separate or different rules of behavior, or otherwise limiting her in the enjoyment of rights, privileges or opportunities, in violation of the Title IX regulation, at 34 C.F.R. § 106.31. OCR further determined that there was insufficient evidence to conclude that the District violated the Title IX regulations at 34 C.F.R. §§ 106.8(a) and (b), and 106.9(a)."</p>	Settled	<p>The Resolution Agreement provides:</p> <p>"1) The District will revise all existing policies, procedures, regulations, and related documents and materials (e.g., complaint forms, handbooks, notices to students and parents, website information) related to discrimination to:</p> <p>(a) Include gender-based discrimination as a form of discrimination based on sex; (b) state that gender-based discrimination includes discrimination based on a student's gender identity, gender expression, gender transition, transgender status, or gender nonconformity."</p>

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TN	ACLU-TN v. Sumner Cnty. Sch. (U.S. Dep't of Educ. Office for Civil Rights filed May 19, 2016)	<p>The American Civil Liberties Union of Tennessee (ACLU-TN) filed a complaint with the U.S. Department of Education's Office for Civil Rights stating that Sumner County Schools' (SCS) policy prohibiting transgender students from using restrooms that correspond with their gender identity violates the requirements of federal anti-discrimination laws and the United States Constitution.</p> <p>The complaint asserts that SCS' policy denying transgender students access to restrooms and locker rooms on the basis of gender identity violates Title IX as detailed in ED/DOJ's transgender student guidance.</p>	Pending	<p>ACLU-TN's press release announcing the filing states: "The complaint filed with the Office for Civil Rights calls for the district to be required to permit the student to use the girls' restrooms and locker rooms at school, and to create a new policy ensuring that transgender students be treated the same as other students."</p>

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TX	State of Texas v. United States, No. 16-00054 (N.D. Tex. filed May 25, 2016)	<p>Texas, along with Alabama, Georgia, Louisiana, Oklahoma, Tennessee, Utah, West Virginia and Wisconsin, as well as the Arizona Department of Education and Maine Gov. Paul LePage, a school district in Texas and one in Arizona, filed suit against the federal government and several federal departments and agencies, including the U.S. Departments of Education and Justice. The suit seeks injunctive and declaratory relief with regard to the guidance provided in a "Dear Colleague Letter," issued jointly by the U.S. Departments of Education (ED) and Justice (DOJ), instructing schools to allow transgender students to use restrooms and other facilities based on gender identity. The suit contends that the guidance "has no basis in law" and could cause "seismic changes in the operations of the nation's school districts."</p> <p>The states' legal complaint contains ten counts. They allege the ED/DOJ guidance is being imposed contrary to several provisions of the Administrative Procedure Act (APA), such as the guidance exceeds Congressional authority in violation of 5 U.S.C. §706 of the APA.</p> <p>Plaintiffs' have filed a motion for a preliminary injunction seeking to bar the enforcement of ED/DOJ's guidance on a nationwide basis.</p> <p>DOJ on behalf of the defendants has filed a brief in opposition to the motion for a preliminary injunction.</p> <p>The states of Washington, New York, California, Connecticut, Delaware, Illinois, Maryland, Massachusetts, New Hampshire, New Mexico, Oregon, Vermont and the District of Columbia have filed an amicus brief in support of the defendants' opposition to the motion for a preliminary injunction.</p> <p>On Aug. 21, 2016, the district court issued an order granting the plaintiffs' motion for a preliminary injunction barring the federal government from enforcing ED/DOJ's joint guidance instructing schools to allow transgender students to access restrooms and other facilities based on gender identity. It also concluded the injunction should apply nationwide.</p>	Pending	<p>Mississippi and Kentucky have joined the suit.</p> <p>On Aug. 12, 2016, the district court held arguments on plaintiffs' motion for a preliminary injunction. Legal Clips summarized the Times Record News report on the hearing.</p>

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VA	G.G. v. Gloucester Cnty. Sch. Bd., No. 15-2056, (4th Cir. Apr. 19, 2016)	<p>Apr. 19, 2016: A U.S. Court of Appeals for the Fourth Circuit three-judge panel ruled, in a 2-1 split, that the U.S. Department of Education (ED) Title IX implementing regulation, 34 C.F.R. § 106.33, should be given <i>Auer</i> deference because the Title IX section allowing schools to provide segregated bathroom facilities based on sex is “silent as to how a school should determine whether a transgender individual is a male or female for the purpose of access to sex-segregated restrooms” and the Department of Education’s interpretation of the regulation, which it outlined in a letter dated January 7, 2015, indicates that Title IX should be applied to transgender students and that “when a school elects to separate or treat students differently on the basis of sex...the school must generally treat transgender students consistent with their gender identity.”</p> <p>The majority also found that the novelty of ED’s interpretation was not a sufficient reason to deny it <i>Auer</i> deference.</p> <p>In sum, the panel’s majority held: “We conclude that ED’s interpretation of its own regulation, § 106.33, as it relates to restroom access by transgender individuals, is entitled to <i>Auer</i> deference and is to be accorded controlling weight in this case. We reverse the district court’s contrary conclusion and its resultant dismissal of G.G.’s Title IX claim.”</p> <p>A Panel, 2-1, denied GCSB’s motion for a stay of the court’s mandate pending the school board filing a petition for certiorari with the U.S. Supreme Court.</p> <p>On remand, the district court issued an order granting G.G.’s motion for a preliminary injunction allowing him to use the boys’ bathroom at school pending a decision on the merits.</p> <p>District court issues order denying GCSB’s motion to stay enforcement of preliminary injunction.</p> <p style="text-align: center;">See entry below for further developments</p>	<p>GCSB filed a petition for certiorari with the U.S. Supreme Court.</p> <p>Fourth Circuit panel’s mandate issues on denial of the motion to stay and case is remanded to district court for further proceedings per the panel decision’s instructions.</p> <p>Preliminary injunction issued in district court allowing transgender student’s use of boys’ bathroom.</p>	<p>The Fourth Circuit briefly stayed the panel’s decision while it considered GCSB’s petition for a rehearing en banc.</p> <p>The District court’s order granting the preliminary injunction granted access to bathroom, but not locker room.</p>

STATE	CASE CAPTION	PROCEDURAL HISTORY	CURRENT STATUS	COMMENTS
VA	G.G. v. Gloucester Cnty. Sch. Bd., No. 16-1733 (4th Cir. filed Jul. 4, 2016)	<p>Jul. 6, 2016: GCSB filed emergency motion with the Fourth Circuit to stay enforcement of the district court's order granting G.G.'s motion for a preliminary injunction allowing G.G. to use the boys' restroom at school.</p> <p>Jul. 12, 2016: Fourth Circuit panel, in a 2-1 split, denied GCSB's emergency motion seeking to stay enforcement of the district court's preliminary injunction pending GCSB's interlocutory appeal to the Fourth Circuit of the district court's issuance of the preliminary injunction.</p> <p>Jul. 13, 2016: Following the Fourth Circuit panel's denial of the emergency motion, GCSB filed an emergency petition with the U.S. Supreme Court seeking a stay of the preliminary injunction and the Fourth Circuit panel's April ruling.</p> <p>Jul. 26, 2016: ACLU-VA, on behalf of G.G., has filed a brief in opposition to GCSB's U.S. Supreme Court emergency petition, asking the Court to deny the petition and leave the injunction and Fourth Circuit rulings undisturbed.</p> <p>Aug. 3, 2016: U.S. Supreme Court, 5-3, issued order granting GCSB's emergency petition seeking a stay of the Fourth Circuit panel's April 2016 mandate and the district court's preliminary injunction allowing G.G. to use the boys' restroom at school. The stay will be in effect pending the timely filing and disposition of GCSB's petition for certiorari. If the petition for certiorari is denied, the stay will automatically terminate, If the petition for certiorari is granted, the stay will terminate upon the issuance of the judgment of the Supreme Court.</p> <p>Aug. 16, 2016: U.S. Supreme Court per Chief Justice Roberts, without comment, denied GCSB's application for extension of time to file petition for certiorari.</p> <p style="text-align: center;">Continue Below</p>	<p>The Fourth Circuit denied GCSB's emergency motion for a stay.</p> <p>GCSB has filed an emergency petition with the U.S. Supreme Court seeking to stay enforcement of the district court's injunction and the Fourth Circuit's April ruling.</p> <p>The U.S. Supreme Court issued an order staying the Fourth Circuit's April mandate and the district court's order granting preliminary injunction.</p>	<p>Following remand of <i>G.G. v. Gloucester Cnty. Sch. Bd.</i>, No. 15-2056, from the Fourth Circuit to the U.S. District Court for the Eastern District of Virginia, the district court granted G.G.'s motion for a preliminary injunction. The district court subsequently denied GCSB's motion to stay enforcement of the injunction. GCSB has filed a new interlocutory appeal challenging the district court's order granting the injunction.</p>

STATE	CASE CAPTION	PROCEDURAL HISTORY	CURRENT STATUS	COMMENTS
VA	G.G. v. Gloucester Cnty. Sch. Bd., No. 16-1733 (4th Cir. filed Jul. 4, 2016)	<p>Aug. 29, 2016: GCSB filed a petition for certiorari with the U.S. Supreme Court requesting the Court review the Fourth Circuit panel's April 19 decision.</p> <p>The petition presents three questions:</p> <ol style="list-style-type: none"> 1. Should this Court retain the Auer doctrine despite the objections of multiple Justices who have recently urged that it be reconsidered and overruled? 2. If Auer is retained, should deference extend to an unpublished agency letter that, among other things, does not carry the force of law and was adopted in the context of the very dispute in which deference is sought? 3. With or without deference to the agency, should the Department's specific interpretation of Title IX and 34 C.F.R. § 106.33 be given effect? 	GCSB filed petition for cert. with U.S. Supreme Court	

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WI	Whitaker v. Kenosha Unified Sch. Dist., U.S. Dep't of Educ. Office for Civil Rights (filed May 12, 2016)	<p>The Transgender Law Center (TLC) filed a complaint with the Office for Civil Rights (OCR) on behalf of Ashton Whitaker, a transgender student attending Tremper High School, who has been barred from using the boys' restroom by the Kenosha Unified School District (KUSD). Whitaker had been using the boys' restrooms without incident since the beginning of the school year, until school administrators intervened and threatened him with disciplinary action if he continued to use the boys' restroom. The complaint states that the school singled out Ashton from all the other boys by requiring that he use an out-of-the-way bathroom to which no other student has access.</p> <p>TLC previously sent KUSD a letter explaining the school district's legal obligations and demanding that Whitaker be permitted to resume using the boys' restroom, or else face legal action. When KUSD refused, TLC filed the administrative complaint. It is also considering bringing a federal lawsuit against the district.</p> <p style="text-align: center;">Federal court suit filed (see below)</p>	Pending	<p>TLC's letter to KUSD states:</p> <p>The District's policy that denies transgender students like Ashton access to facilities consistent with their gender identity is unlawful, discriminatory, and harmful. Singling him out with a policy that excludes him from the facilities used by all other boys is humiliating to Ashton, subjects him to serious risk of harassment and bullying, violates his right to privacy by revealing his transgender status to others without his consent, and has placed him in serious emotional distress, physical discomfort, and risk of physical health problems.</p>
WI	Whitaker v. Kenosha Unified Sch. Dist., No. 16-00943 (E.D. Wis, filed Jul. 19, 2016)	<p>Ashton Whitaker's suit claims he has been denied access to male-designated restrooms at his high school, subjected to daily surveillance and threatened with disciplinary action if he continued using the boys' restrooms. It also alleges that discriminatory actions, including a proposal that all transgender students be made to wear bright green wristbands in order to monitor their restroom use, school administrators' insistence on using Whitaker's birth name and female pronouns and the school's repeated isolation of Whitaker from his peers on overnight school trips, violate Title IX.</p> <p>The legal complaint contains two counts: (1) violation of Title IX; and (2) violation of the Fourteenth Amendment's Equal Protection Clause.</p>	Pending	