

Obama Holdouts in the Department of Education Still Pushing Transgender Agenda

There's a new threat to public school districts that most probably don't even know about, led by Obama administration holdouts in the Department of Education, that is almost as ridiculous as the last transgender mandate letter.

Earlier this month, Acting Assistant Secretary of Education for Civil Rights Candice Jackson—an Obama appointee who is currently responsible for enforcement of Title IX in public education—wrote an internal memo to regional civil rights managers. In the letter, she asserts that a number of actions by schools deemed to be anti-transgender should trigger Office of Civil Rights investigations.

She noted that on Feb. 22, the May 13, 2016, “Dear Colleague” letter had been rescinded. Also, on March 3, the multi-state lawsuit challenging the letter had been dismissed, and on March 6, the Supreme Court remanded the Virginia case of a student suffering from gender dysphoria back to a lower court. She wrote that there are still opportunities for OCR to push the transgender agenda. She instructed the managers that they should “rely on Title IX and its implementing regulations, as interpreted in decisions of federal courts and OCR guidance documents that remain in effect” to evaluate cases of “transgender sexual discrimination.”

These include:

- failure to promptly and equitably resolve a transgender student's complaint of sex discrimination
- failure to assess whether sexual harassment or gender-based harassment of a transgender student created a hostile environment

- failure to take steps reasonably calculated to address sexual or gender-based harassment that creates a hostile environment
- retaliation against a transgender student after concerns about possible sex discrimination were brought to the recipient's attention
- different treatment based on sex stereotyping.

What is "sex stereotyping," you ask? Here's the definition, according to the OCR:

acts of verbal, nonverbal, or physical aggression, intimidation, or hostility ... such as refusing to use a transgender student's preferred name or pronouns when the school uses preferred names for gender-conforming students or when the refusal is motivated by animus toward people who do not conform to sex stereotypes

In other words, if you call boys "boys" and girls "girls" based on their biological sex, you're engaging in sex stereotyping.

There's little doubt this new instruction to the regional managers has much of the same effect as the 2016 "Dear Colleague" letter, except it's not directed at schools, who are likely to be caught unaware. The memo asserts that Jackson's instructions were coming at the behest of Secretary of Education Betsy DeVos:

It is the goal and desire of this department that OCR approach each of these cases with great care and individualized attention before reaching a dismissal conclusion. Please evaluate each allegation separately, searching for a permissible jurisdictional basis for OCR to retain and pursue the complaint. It is permissible, for example, for one allegation in a complaint, such as harassment based on gender stereotypes, to go forward while another allegation, such as denial of access to restrooms

based on gender identity, is dismissed.

DeVos' office has not responded to requests for comment. However, she has repeatedly stated that, by rescinding the "Dear Colleague" letter, she was not removing "protections" for transgender students. But as this memo clearly directs, those protections could infringe upon the religious liberties of others and certainly invalidates President Donald Trump's assertion that such decisions are best made at the local level. {eo}