

**PETRARCA, GLEASON,
BOYLE & IZZO, LLC**
ATTORNEYS AT LAW

OCR ISSUES NOTICE OF INTERPRETATION OF TITLE IX TO PROHIBIT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

The U.S. Department of Education Office for Civil Rights (OCR) has issued a Notice of Interpretation that it will investigate allegations that an individual has been discriminated against in educational programs or activities, including allegations of harassment, disciplinary discrimination, exclusion, or lack of equal access to the school's activities or programs, sex-stereotyping and being treated differently because of sexual orientation or gender identity.

The Notice of Interpretation is available at:

[Federal Register Notice of Interpretation: Enforcement of Title IX of the Education Amendments of 1972 \(PDF\)](#)

OCR concluded that Title IX (which prohibits an individual from being excluded from participation in, denied the benefits of, or subjected to discrimination in any educational program or activity receiving federal funds, *on the basis of sex*), protects students and employees who identify as male, female, nonbinary, transgender or cisgender, intersex, lesbian, gay, bisexual, queer, heterosexual, or in other ways. OCR described its conclusions to be based on:

- Similarities in the language of Title IX and Title VII where the United States Supreme Court has interpreted sex discrimination in employment to include discrimination on the basis of sexual orientation and gender identity;
- Case law finding that differential treatment of students

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based on gender identity or sexual orientation causes emotional and physical harm to those students; and

- Consistent interpretation by the U.S. Department of Justice (DOJ).

The Notice of Interpretation is consistent with the joint OCR and DOJ Dear Colleague Letter issued on May 13, 2016 that was withdrawn by the Trump Administration on February 22, 2017. If you have any questions concerning the Notice of Interpretation or the District's obligations under Title IX, please contact one of our attorneys.

If you have any questions about this important legislation, please do not hesitate to contact one of our attorneys.

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