

Trump administration revokes transgender rights guidance issued by Obama administration

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In May 2016 the Obama administration instructed public schools to allow transgender students to use the bathroom they felt most comfortable using; schools refusing to comply with the instructions risked losing federal funding. The guidelines also included instructions for teachers to use students' preferred names and pronouns in class. On Wednesday, February 22, the Trump administration rescinded the instructions, arguing that states and public schools have a right to discriminate against transgender students without interference from the federal government.

In a new, superseding document that is to be sent to schools throughout the US, both the Justice and Education Departments, under the new administration in Washington, have promised to continue to analyze the legal considerations of the issue. The law at the heart of the issue is known as Title IX, and it prohibits sex discrimination in public schools. Trump and his supporters, however, dispute the meaning of the term sex discrimination. According to Attorney General Jeff Sessions, a longtime advocate of states' rights, the previous guidelines "did not contain sufficient legal analysis or explain how the interpretation was consistent with the language of Title X."

The Obama guidelines were contested by many conservatives associated with the religious right. Texas Attorney General Ken Paxton led thirteen states in a lawsuit against the guidelines. "Our fight over the bathroom directive has always been about former President Obama's attempt to bypass Congress and rewrite the laws to fit his political agenda for radical social change," Paxton crowed triumphantly after Trump's revocation of the guidelines was announced. The new guidelines could grant even broader

permissions to public schools than Paxton's lawsuit argues for, allowing individual schools to set their own rules with no fear of federal "meddling."

According to White House spokesman Sean Spicer, the White House was forced to act on the instructions now, ahead of a pending US Supreme Court case, *G.G. v. Gloucester County School Board*. Gavin Grimm, the Virginia boy at the center of the case, is arguing for the right to use the boy's bathroom at his high school. In addition to revoking the guidelines issued by the Obama administration, the Trump administration's actions on Wednesday withdrew an Education Department letter in support of Grimm's case.

The Supreme Court's decision in the case could have far-reaching ramifications. The Court could bypass the question of whether Title IX protections include transgender students, leaving the decision to lower courts. It is equally capable of defining Title IX protections once and for all. The case raises the longstanding tensions in the United States between those who view education as a federal concern and those who believe that education should be left to states to legislate. For many transgendered persons and their advocates, that dichotomy represents a dangerous gray area in which states could deprive transgender students of equal access to education or protection from bullying.

The conflicts between states' rights and civil rights harkens back to the 1950s and 1960s, when Southern states argued that they had a right to segregate white and black students. Segregationists then quibbled over the definition of "equal" in much the same way that Sessions, an ardent partisan of states' rights for his entire political career, quibbles over the definition of

“discrimination” today. Transgender legal advocates rightly criticize the states’ rights arguments, seeing them as a green light for states to restrict access to education without fear of oversight, opening up vulnerable students to attacks upon their dignity by administrators and teachers who neglect their primary concern—the education of children—in order to police community morality.

That the issue would warrant an executive order demonstrates the decay of social conditions and the Trump administration’s absolute disregard for education. In an era when America’s schools lag behind other advanced countries by almost all measures, Trump’s attacks on education are particularly harmful to the working class. Schools that have already suffered under the policies of the No Child Left Behind and Race to the Top programs of the Bush and Obama administrations are now being picked over by vultures using federalist pretexts to hide their eagerness to subordinate social interests to private profit.

The cloak of “morality” is being used to whip up social backwardness, to be used to attack education and other basic rights. The old cry of “states’ rights” should signal to the working class that the bourgeoisie is preparing new assaults upon workers and their families.



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