

# SNIFFEN & SPELLMAN, P.A.

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**EDUCATION LAW ALERT**  
**Special Alert**  
**February 23, 2017**

**Departments of Education and Justice Withdraw Transgender Guidance Letters**

Late yesterday, the U.S. Department of Education and the U.S. Department of Justice (“Departments”) withdrew their Statements of Guidance (“Guidance”) addressing access to “sex-segregated facilities” based on gender identity. The previously issued Guidance asserted that Title XI’s restriction on discrimination **included** discrimination based on gender identity. This position, in turn, required schools to permit access to certain “sex-segregated” facilities based on an individual’s identified gender, not their biological makeup.

In their “Dear Colleague” letter (“Letter”), the Departments noted that the previously issued Guidance has given rise to significant litigation and conflicting rulings between and amongst the courts. In the Letter, the Departments noted that it is primarily the role of the States and the school districts to craft education policy. The Departments have decided to more thoroughly flesh out and consider the legal issues before they adopt the previously issued Guidance.

Read the Dear Colleague Letter [here](#).

Read the Department of Education’s press release [here](#).