

## U.S. Supreme Court Remands Transgender Case Back to Lower Court

On March 6, 2017, the U.S. Supreme Court vacated the Fourth Circuit Court of Appeals' judgment in the case of Gavin Grimm, a 17-year-old transgender student from Virginia who sought to use the bathroom that corresponds with his gender identity, and remanded the case back to the Fourth Circuit Court of Appeals. The U.S. Supreme Court determined that further consideration by the Fourth Circuit Court of Appeals was necessary in light of the guidance document issued by the Department of Education and the Department of Justice on February 22, 2017 that rescinded the Departments' earlier guidance regarding bathroom access. This means that, at this time, the U.S. Supreme Court will not make a decision regarding whether federal policy requires a school district to allow a transgender student to use the bathroom of the student's choice.

The impact of the U.S. Supreme Court's order, and the Trump administration's withdrawal of the Obama administration's guidance concerning transgender students, is limited for school districts in New York because these districts continue to be bound by state law. New York State Attorney General, Eric Schneiderman, and New York State Commissioner of Education, MaryEllen Elia, have made it clear in a February 23, 2017 press release that "irrespective of the federal government's decision [New York school districts] have independent duties under state and local law to protect transgender students from discrimination and harassment..."

Specifically, the mandates of the Dignity for All Students Act ("DASA") continue to remain in effect to protect students from discrimination, bullying and harassment. Furthermore, the July 2015 guidance memorandum from the New York State Department of Education that mirrored the Obama administration's view on bathroom access remains in effect.

If you have any questions about this Information Memo, please contact [Candace J. Gomez](#), or any of the [attorneys](#) in our [School Districts Practice](#), or the attorney in the firm with whom you are regularly in contact.



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