

# SCHOOL LAW

## INFORMATION MEMO

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### New York State Commissioner of Education Annuls District Policies Prohibiting Students from Accessing Facilities Aligned with Their Gender Identity

On April 20, 2026, the New York State Commissioner of Education annulled two district policies that prohibited transgender and gender nonconforming students from accessing facilities that correspond with their gender identity. In *Appeal of Jane and John Doe*, Decision No. 18,726, the Commissioner addressed petitioners' appeal of district policies that prohibited transgender and gender nonconforming students from using facilities, including bathrooms and locker rooms, that align with their gender identity. The policies required all students to use facilities that "correspond with the students' sex as defined under Title IX and federal law."

The petitioners, parents of transgender students in the districts, argued that the policies were contrary to New York State law, including the Dignity for All Students Act (the Dignity Act) and the Human Rights Law (HRL). Petitioners further argued that the policies were arbitrary and capricious because they were based on an erroneous interpretation of Title IX, the federal law which prohibits educational institutions that receive federal financial assistance from discriminating on the basis of sex.

In response to the appeal, the districts argued that their policies were facially neutral and did not constitute discrimination under federal or state law. The districts specifically noted that the policies provided for a "reasonable accommodation" by allowing students to request a gender-neutral facility. The Commissioner rejected this argument and reasoned that the policies were inconsistent with both the HRL and the Dignity Act, which prohibit discrimination against students based on their actual or perceived sex and gender identity or expression. The Commissioner stated that the Dignity Act and the HRL do not include a "reasonable accommodation" exception and the offering of gender-neutral facilities "does not excuse [the districts'] discriminatory resolutions."

The districts further asserted that as a federal law, Title IX preempted petitioners' interpretation of New York State law including the Dignity Act and the HRL. The Commissioner reasoned that "no federal law, including Title IX and its implementing regulations, conflicts or excuses noncompliance with the HRL, GENDA or the Dignity Act." The Commissioner also noted that neither Title IX nor its implementing regulations defines "sex."

The Commissioner sustained the petitioners' appeal and annulled the districts' policies. The Commissioner ordered the districts to allow all students to access the school facilities, including bathrooms and locker rooms, that most closely align with their gender identity.

If you have any questions about the information presented here, please contact [Kathryn M. Stiffler](#), any attorney in Bond's [school law practice](#) or the Bond attorney with whom you are regularly in contact.

