

To: ISU Community
From: Katie Butwin, General Counsel
Re: Update on Compliance with Title IX for Transgender Students and Employees
Date: June 16, 2016

On May 13, 2016, the U.S. Department of Education issued a Dear Colleague letter outlining a school's obligations to transgender students under Title IX. Title IX prohibit sex discrimination in educational programs and activities operated by recipients of Federal financial assistance. The Department of Education has interpreted Title IX's prohibition on sex discrimination to encompass discrimination based on a student's gender identity, including discrimination or harassment based on a student's transgender status. Specifically, the guidance provides that a school must not treat a transgender student differently from the way it treats other students of the same gender identity. Once a student identifies as a transgender male or transgender female, the school should begin treating the student consistent with the student's gender identity, including use of the student's preferred name and gender.

The ISU non-discrimination statement and policy make it clear that discrimination and harassment based on gender identity and gender expression in educational programs and activities are prohibited. ISU has reviewed the Department's guidance and our current policies and procedures to develop the following compliance initiatives.

For Students

- The Equal Opportunity and Title IX Office is responsible for compliance with ISU's Title IX obligations. Complaints or concerns about discrimination and harassment, ISU's compliance obligations, and requests for training should be directed to ISU's Title IX Director, Dr. Leah Reynolds. Dr. Reynolds can be reached at (812) 237-8954 or Leah.Reynolds@indstate.edu.
- Dr. Elonda Ervin and the LBGT Resource Center will provide ongoing information to transgender students about resources available at ISU and in the local community. For more information, please see <https://www.indstate.edu/student-affairs/msp/resourcecenters/lgbtresource-center/about>.
- A student who wishes to change gender identity and preferred name may complete a declaration that will be privately maintained by the Office of Registration and Records (ORR). Completion of the declaration will trigger additional preferred name changes that may impact reporting, the student's Sycamore Login, Sycamore ID Card, and Sycamore email address.

- Transcripts, diplomas, and pay records will continue to refer to a student's legal name. As has been allowed in the past, a student may modify legal name by providing documentation establishing the legal name change to the Office of Registration and Records.
- The Office of Financial Aid will continue to maintain a student's sex assigned at birth for financial aid verification purposes related to selective service registration. Access to sex assigned at birth information for individual students will be restricted to the Financial Aid Office.
- The Office of Registration and Records, the Office of Information Technology, and the Office of Institutional Research will continue to work to streamline reporting requirements and limit access to gender identity information.
- Of note, gender is not directory information under ISU's FERPA Policy. An individual's preferred gender identity and sex assigned at birth are protected by the Family Educational Rights and Privacy Act (FERPA) and will only be released consistent with institutional policy.
- Dr. Reynolds, as the Title IX Director, will work closely with Residential Life to ensure housing policies continue to comply with the guidance.
- Once a student has completed the declaration to change the student's gender identity, the student may use bathroom and locker room facilities consistent with the student's gender identity. All students are welcome to use gender neutral bathroom and locker room facilities throughout campus.
- Recognized student organizations should not segregate on the basis of sex, including gender identity. Title IX does not apply to the membership practices of social fraternities and sororities.
- Sycamore Express and the Office of Registration and Records websites will contain links with information on how to request a change in gender identity and additional information about resources available to transgender students.

For Employees

The EEOC recently issued guidance on transgender bathrooms for employees. The guidance is located at <https://www.eeoc.gov/eeoc/publications/fs-bathroom-access-transgender.cfm>.

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- Consistent with existing practice, ISU will not restrict bathroom use by employees to only those bathrooms consistent with sex assigned at birth. Transgender employees who wish to discuss workplace bathroom use should contact the Office of Human Resources for assistance.
- ISU cannot currently change official records for employees – such as legal name – without official documentation. Various federal regulations require legal name and information on an employee's gender or sex, such as completion of criminal background checks, I-9 and E-Verify requirements, pay reporting, tax withholding, and review of disbarment status.
- Transgender employees may contact the Office of Human Resources for individual requests for preferred name modifications.